

2A Witness Recall

**IN THE COURT OF ADD. CHIEF JUDICIAL MAGISTRATE**

**47<sup>TH</sup> COURT AT, ESPLANADE, MUMBAI**

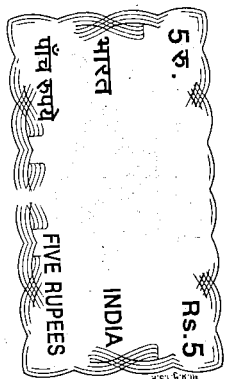
**MISC. APPLICATION NO. OF 2026**

**IN**

**CASE NO. 256/ PW/2023**

**IN**

**C.R. No. 102 of 2002**



THE STATE OF MAHARASHTRA

}... RESPONDENT

Versus

Sanjay Hariram Agarwal

} ...APPLICANT/

ACCUSED

**APPLICATION UNDER SECTION 348 OF**  
**BNSS FOR RECALLING PREVIOUSLY**  
**EXAMINED WITNESSES:-**

**MAY IT PLEASE YOUR WORSHIP**

It is most respectfully submitted on behalf of the above named Accused as under

- 1) That the charge sheet in the present case was filed by the investigating officer in the year 2002, for the offence under section \_\_\_\_\_ of IPC 406, 408, 420, 465, 467, 468, 471, 34
- 2) That the Accused was supplied with the copies of the charge sheet, which include the statement of witness and documents which are the on the record of this Hob'ble Court.

- 3) That on the basis of said charge sheet, statement of witness and documents, this Hon'ble Court was pleased to frame charges against he accused.
- 4) That from October 2023 to November 2025, the evidence of as many as 18 prosecution witnesses, including the complainant (PW-1), has been recorded by this Hon'ble Court.
- 5) The cross-examination of all these witnesses was conducted by the learned counsel for the accused strictly on the basis of the documents and materials referred to and annexed with the charge-sheet supplied to the accused/applicant, in the year 2002.
- 6) That the Investigating Officer (IO) (PW-19) was summoned as a witness by the prosecution and his examination-in-chief has been recorded. During the said evidence, vide letter dated 19.11.2025, the IO has sought to produce more than 36 additional documents/materials (hereinafter referred to as "**the Additional Documents**") which were allegedly in his custody and lying with the Muddamal Department.
- 7) That the documents now sought to be produced by the prosecution are stated to be seized by the Investigating Officer during the course of the investigation under various seizure panchanamas.
- 8) That it is highly pertinent to note that while the said seizure panchanamas form part of the charge-sheet papers originally supplied to the Accused, the actual

documents seized thereunder were never produced along with the charge-sheet. They were withheld by the IO with him for the ground best know to him

- 9) That these seized documents were neither included in the charge sheet nor given to the Accused. It is only recently, through a letter dated 19/11/2025, that the Investigating Officer trying to suggest that these documents as Muddemal and proposed to submit them to this Hon'ble Court.
- 10) That shockingly, none of the aforesaid Additional Documents were ever referred to, mentioned, described, or listed in the original charge-sheet, the list of documents under Section 173 of the erstwhile Code of Criminal Procedure, 1973, or any supplementary report filed by the prosecution at any stage from 2002 till date. These Additional Documents are being sought to be tendered for the first time in November 2025, i.e., over 23 years after the filing of the charge-sheet.
- 11) That the documents withheld from the Accused are not mere formal papers but include several highly important and substantive documents, such as **contract notes, bills, adjustment letters, correspondence, minutes of meetings, and other allied documents.** All of these are material documents having a direct and profound bearing on the facts in issue.

- 12) That the contents of these specific commercial and administrative documents have a direct bearing on the facts in issue and will inherently contradict, corroborate, or materially affect the testimonies of the 18 witnesses already examined.
- 13) That despite these documents having a direct bearing on the facts in issue, neither a physical nor a digital copy has been supplied to the Accused till date.
- 14) That the Accused has strongly objected to the production of these documents. However, without prejudice to the said rights and objections, if this Hon'ble Court is inclined to take the same on record, the Accused asserts their statutory rights under Section 230 of the BNSS.
- 15) That denying the Accused the opportunity to confront these 18 witnesses with these newly produced material documents would result in a grave miscarriage of justice and violate the right to a fair trial.
- 16) That it is a settled principle of law that an accused cannot be expected to defend themselves against material they have not seen.
- 17) Under the circumstances, Accused most respectful submits that accused may be given the opportunity further cross examination of 18 witness to confront these documents to them.

**IT IS THEREFORE PRAYED**

- a) Allow the present application and issue summons to recall the 18 previously examined prosecution witnesses for further cross-examination in light of the newly produced documents, under Section 348 of the BNSS;
- b) Pass any other order(s) as deemed fit in the interest of justice.

AND FOR THE ACT OF THIS KINDNESS APPLICANT SHALL  
PRAY FOR EVER

Date

Mumbai

Adv. For Applicant

**Applicant/accused**