

**IN THE COURT OF ADD. CHIEF JUDICIAL MAGISTRATE
47TH COURT AT, ESPLANADE, MUMBAI
MISC. APPLICATION NO. OF 2026
IN
CASE NO. 255/ PW/2023
IN
C.R. No. 65 of 2002**

THE STATE OF MAHARASHTRA }
Pune, Vishram Baug Police Station }... Complainant
Versus
Sanjay Hariram Agarwal } ... Accused

**APPLICATION UNDER SECTION 94
READ WITH SECTION 230 AND
SECTION 528 OF THE BHARATIYA
NAGARIK SURAKSHA SANHITA, 2023
(BNSS) FOR DIRECTION TO THE
CONCERNED INVESTIGATING OFFICER
TO PRODUCE THE ORIGINAL
DOCUMENTS SEIZED UNDER
PANCHANAMA DATED 10.10.2002 AND
TO SUPPLY CERTIFIED COPIES
THEREOF TO THE ACCUSED :-**

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 406, 409, 420, 465, 467, 468, 471, 109, r/w 34 of IPC. Copies of the charge-sheet were supplied to all the accused persons at the relevant time.

- 2) That the present Applicant/Accused had misplaced his personal set of charge-sheet papers. In order to prepare his defence, the Applicant applied for certified copies of the entire charge-sheet and connected documents from the record of this Hon'ble Court.
- 3) That upon carefully going through the certified copies of the charge-sheet and the entire court record, it is found that the documents seized by the police under the Panchanama dated 10.10.2002 are conspicuously missing and are not on the record of this Hon'ble Court.
- 4) That it is further submitted that in the year 2015 itself, one of the co-accused had brought this serious lapse to the notice of this Hon'ble Court by filing an appropriate application. This Hon'ble Court was pleased to pass an order directing the concerned Clerk of the Court to verify the records and submit a report. As per the said report submitted by the concerned Clerk, the original documents seized under the Panchanama dated 10.10.2002 are not available in the court case papers.
- 5) That the documents seized under the aforesaid Panchanama dated 10.10.2002 include highly material and substantive documents such as original Contract Notes, Promissory Notes, Sale and Purchase documents, Agreements and other allied commercial

records which have a direct and profound bearing on the facts in issue in the present case.

- 6) That in the absence of these original seized documents on the record of the Court, the Applicant/Accused is completely handicapped in preparing his defence and in effectively cross-examining the prosecution witnesses, more particularly the Investigating Officer.
- 7) That the prosecution is duty-bound to produce and place on record all documents seized during investigation, especially when the Panchanama itself forms part of the charge-sheet. The deliberate or negligent withholding/non-production of the original seized documents for the last 23 years has caused grave prejudice to the Applicant/Accused and is violative of his fundamental right to a fair trial guaranteed under Article 21 of the Constitution of India.
- 8) That Section 94 of the BNSS empowers this Hon'ble Court to issue summons to any person (including the Investigating Officer) to produce any document or thing in his possession or power which appears to the Court to be necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding. Section 230 BNSS further mandates supply of copies of all relied-upon documents to the accused. In the facts of the present case, both these provisions are squarely attracted.
- 9) That this Hon'ble Court also possesses inherent powers under Section 528 BNSS to pass necessary orders to

secure the ends of justice and to prevent abuse of the process of law.

- 10) That the Applicant/Accused has no other equally efficacious remedy and the present application is being filed bona fide and in the interest of justice.

IT IS THEREFORE PRAYED

- a) This Hon'ble Court may be pleased to direct the concerned Investigating Officer of the present case to forthwith produce before this Hon'ble Court the original Contract Notes, Promissory Notes, Sale and Purchase documents, Agreements and all other documents seized under the Panchanama dated 10.10.2002, and to place the same on the record of this case; **and**
- b) Upon production of the aforesaid original documents, this Hon'ble Court may be pleased to direct the prosecution to supply legible certified copies of the entire set of documents to the Applicant/Accused free of cost within 7 days;
- c) 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