

**IN THE COURT OF HON'BLE 2nd ADD. CHIEF JUDICIAL
MAGISTRATE NAGPUR**

Reg. Cri. Case No. 147/2002

STATE OF MAHARASHTRA

//VERSUS//

SUNIL & OTHERS

**APPLICATION UNDER SECTION 91 OF THE CODE OF
CRIMINAL PROCEDURE, 1973 FOR ISSUANCE OF
SUMMONS / ORDER FOR PRODUCTION OF SEIZED
DOCUMENTS (SEIZURE MEMO NO. 10, CASE PROPERTY
SR. NOS. 1 TO 71) BEFORE THIS HON'BLE COURT.**

The Applicant/Accused No.3 name above most respectfully submits as under:-

1. That the Applicant is facing trial in the present case registered by Ganeshpeth Police Station, Nagpur, wherein charges have already been framed and the prosecution is currently examining its witnesses. The matter is at a critical stage of recording of evidence and the Applicant is required to prepare for cross-examination of the prosecution witnesses.
2. That during the course of investigation, the State CID effected no less than 48 (forty-eight) seizures of documents, data, hardware and other material. One of these, being Seizure Memo No. 10, comprised Case Property Sr. Nos. 1 to 71 seized from the residential premises of the Applicant/Accused No. 3, being Flat

at Kusum Apartment, Vashi, Navi Mumbai (hereinafter referred to as "Seizure No. 10 documents").

3. That the Index of the Charge Sheet, which records the location of all seized property, explicitly states that the documents comprising Seizure Memo No. 10 (Case Property Sr. Nos. 1 to 71) are presently lying at the CID Office, Nagpur. Accordingly, Seizure No. 10 documents are in the custody of the State CID and have never been produced before this Hon'ble Court as part of the chargesheet record.
4. That the Applicant submits that the Seizure No. 10 documents are absolutely necessary and indispensable for the purposes of this trial, for the following reasons:
 - a. It is a matter of record that all 71 documents comprising Seizure No. 10 were seized from the personal residential premises of the Applicant. These documents were in the custody of the Applicant. They include books of accounts, transaction records, correspondence, and other material that directly pertain to his version of events. It would be a fundamental travesty of justice if the investigating agency were to seize documents from the accused's own premises and access to those very documents is denied during his trial.

- b. The prosecution has examined and is continuing to examine witnesses. Effective cross-examination requires that the Applicant be in a position to confront the prosecution witnesses with the documents in the investigating agency's possession that contradict or qualify the prosecution's case. The Seizure No. 10 documents being 71 documents seized from the Applicant's residence contain material that can be put to prosecution witnesses during cross-examination. Without these documents before the Court and in the hands of the Applicant, cross-examination is necessarily incomplete and prejudiced.
- c. The prosecution's case rests substantially upon a forensic audit report. The Applicant's case is that the audit report is based on a selective and partial examination of records; that it ignores several documents which conclusively demonstrate that the funds in question were legitimately deployed for the purchase of Government Securities, backed by proper contract notes, banking trails, securities delivery records and correspondence with regulatory bodies. It is submitted that some of the exculpatory material is in all likelihood part of the 71 documents of

Seizure No. 10. These documents must be placed before the Court so that the truth can emerge.

- d. The Applicant has no independent access to documents that have been seized by the State. Once the State exercises its power of seizure, the documents pass entirely into the custody and control of the investigating agency. The Applicant cannot obtain these documents from any other source. The only mechanism available to ensure their production before the Court is an order under Section 91 of the Cr.P.C.
 - e. The prosecution, in the exercise of its discretion, has chosen not to rely upon or produce the Seizure No. 10 documents before this Court. However, the fact that the prosecution does not rely upon these documents makes them no less relevant or no less necessary for the defence. It is well-settled that documents in the custody of the State that are not relied upon by the prosecution but are relevant to the defence must be produced before the Court.
5. That the present application is specific in its request. The Applicant is seeking production of documents seized with Seizure Memo No. 10, Case Property Sr. Nos. 1 to 71 whose existence, contents (71 documents), location (CID Office,

Nagpur), and the identity of the person from whom they were seized (the Applicant himself) are all recorded in the Index of the Charge Sheet. There is therefore no ambiguity as to what is being sought or where it is. The CID, Nagpur can with ease identify and produce these documents pursuant to an order of this Court.

6. That Section 91 of the Code of Criminal Procedure, 1973 empowers this Hon'ble Court to issue a summons or order to any person in whose possession or power any document or thing is considered necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding, to produce the same before the Court.
7. That the Applicant respectfully submits that the power under Section 91 Cr.P.C. is a tool for the Court to ensure that the truth emerges in the proceedings before it. The withholding of documents seized from the accused's own home from the Court and from the accused during an ongoing trial not only prejudices the defence but also deprives the Court itself of potentially material evidence. An order under Section 91 in the present facts is warranted in the interests of justice and for ensuring a fair and complete trial.
8. The Applicant reserves the right to make a subsequent application or applications, as may be necessary, praying for the

summons to produce other seizure attachments or other appropriate relief that may be subsequently found to be relevant and necessary or come to the knowledge of the Applicant during the pendency of the present proceedings.

9. That the present application is bona fide and made strictly in the interest of justice.

PRAYER:- It is therefore most respectfully prayed that this Hon'ble

Court may be pleased to:

A. Issue appropriate summons / order under Section 91 of the Code of Criminal Procedure, 1973 to the State CID, Nagpur, directing it to forthwith produce before this Hon'ble Court all documents comprising Case Property Sr. Nos. 1 to 71 of Seizure Memo No. 10, as recorded in the Index of the Charge Sheet in RCC No. 3030147/2002;

B. Upon production, the Applicant/Accused No. 3 and his Advocate be provided copies of all the said 71 documents;

Pass such other and further orders as this Hon'ble Court may deem fit in the interest of justice.

ACCUSED NO.3**COUNSEL FOR ACCUSED NO.3****SOLEMN AFFIRMATION**

I SANJAY HARIRAM AGRAWAL, Age 59 years, Occ: Business
Residing at 7 Hari Sava Street, Kidderpore, Kolkata, 700023 do
hereby takes an oath and states on this Solemn Affirmation that the
contents of the above said paras of Application are true and correct to
the best of my knowledge and belief, it read over to me in a vernacular
language known to me. Hence, signed on this th May 2026 at Nagpur
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DEPONENT**I know and identify the deponent****PANKAJ A. TAMBOLI
(ADVOCATE)**