

IN THE COURT OF HON'BLE 2nd ADDL. CHIEF
JUDICIAL MAGISTRATE, NAGPUR

REG. CRI. CASE NO. 147/2002

STATE OF MAHARASHTRA

*(Through Ganeshpeth Police Station, Nagpur).....***PROSECUTION**

// VERSUS //

SUNIL KEDAR & OTHERS

... ACCUSED

APPLICATION UNDER SECTION 207 OF THE
CRIMINAL PROCEDURE CODE, 1973, SEEKING
SUPPLY OF COPIES OF DOCUMENTS, ELECTRONIC
RECORDS, AND MATERIALS SEIZED DURING
INVESTIGATION.

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

**1. FACTUAL MATRIX AND PENDENCY OF THE SPLIT-
UP TRIAL**

1.1 That the present Applicant/Accused No. 3 is being prosecuted by the Ganeshpeth Police Station, Nagpur, on the

basis of a complaint filed by the Nagpur District Central Co-op Bank (NDCCB) through its auditor, concerning alleged financial irregularities.

1.2 That the investigating agency initially registered Crime No. 97/2002 for offences punishable under Sections 406, 420, read with 34 of the I.P.C., and subsequently registered Crime No. 101/2002 for offences under Sections 406, 409, 468, 471, 120B read with 34 of the I.P.C. The investigating agency clubbed both crimes and submitted a single, consolidated Charge Sheet No. 150/2002 on 21/11/2002 against the present Applicant and several other co-accused persons.

1.3 That the trial concerning nine of the co-accused persons was separated and has since concluded, resulting in a judgment passed by this Hon'ble Court on 23/12/2023. The present Applicant/Accused No. 3 is now independently facing the present split-up trial for offences punishable under Sections 406, 468, 471, 120B read with 34 of the I.P.C.

1.4 That the prosecution has recently moved this Hon'ble Court to commence the examination of its witnesses. The prosecution is currently examining prosecution witnesses in the

matter, and the matter is kept further for examining other witnesses by the prosecution.

1.5 That, as recently affirmed by the Hon'ble Bombay High Court, Nagpur Bench in the Applicant's own writ petition (*Sanjay Hariram Agrawal v. State of Maharashtra*, Cr.WP No. 1009/2024, decided on 21 April 2025), this is a separate trial. The evidence must be proven *de novo*, and the Applicant is entitled to strict compliance with Section 207 of the Cr.P.C., as documents exhibited in the previous trial cannot automatically be read against him.

2. DELIBERATE WITHHOLDING OF SEIZED DOCUMENTS AND ELECTRONIC EVIDENCE

2.1 It is submitted that during the extensive, investigation into the alleged transactions, the State CID and various investigating officers seized voluminous data, corporate records, software, hardware, witness statements, and electronic materials (including CDs and Floppies).

2.2 While these materials were seized by way of formal seizure, panchnamas witnessed by several panch witnesses, and form an intrinsic part of the investigative record in the custody

of the State, the prosecution has completely failed to provide copies thereof to the Applicant.

2.3 Specifically, the Applicant requires the documents filed apart from the charge sheet, and the documents which were seized by way of seizure panchnamas, which include, but are clearly not limited to, the following vital evidentiary materials:

- **(A) Exhibit No. 1362 (from Previous Trial):**
Encompassing Article BB-1 to BB-23, **One (1) CD**, and **Seven (7) Floppies**, seized before Panch witnesses Shri Arun Deshmukh and Shri Rajendra More.
- **(B) Article 3152/A to G:** Seized before Panch witnesses Shri Rumchand Mazi and Shri Ganesh Mahadeo Padwalkar.
- **(C) Exhibit No. 1866 (from Previous Trial):**
Encompassing Article 1866 A-1 to A-32, seized before Panch witnesses Mohd. Iqbal Sheikh and Shri Nirbhay Oza.
- **(D) Exhibit No. 1883 (from Previous Trial):**
Encompassing Article 1883 A-1 to A-27, seized before Panch witnesses Shri Prashant Prabhakar and Shri Arun Joshi.

- **(E) Exhibit No. 1884 (from Previous Trial):**
Encompassing Article 1884 A-1 to A-12, seized before Panch witnesses Shri Anad Sawant and Shri Ratnakar Sirsat.
- **(F)** Voluminous documents seized during investigations by drawing panchanama by panch witnesses carried out by Shri Hirlal Punjaji Tekam and Shri Nana Daulatrao Kadam.
- **(G)** Voluminous documents seized during investigations by drawing panchanama by panch witnesses carried out by Shri Rajkumar Thutheja and Shri Ajay Ashok Datta;
- **(H)** Voluminous documents seized during investigations by drawing panchanama by panch witnesses carried out by Shri Jitendra Shekhar Shetty and Shri Rajesh Pramodhar Chauhan;
- **(I)** Voluminous documents seized during investigations by drawing panchanama by panch witnesses carried out by Shri Ruchchandani Narsingh Manshi and Shri Ganesh Mahadev Padvalkar.

- **(J)** Crucial documents sent by Shri Jinesh Vanzara to the Investigating Officer, Mr. Bele, along with his covering letter.

3. GROUNDS FOR ALLOWING THE APPLICATION AND HALTING CROSS-EXAMINATION:-

The Applicant respectfully submits that he will strictly require all these documents for the preparation of his defence and specifically for the preparation of the cross-examination of the prosecution witnesses who are currently deposing before this Hon'ble Court. If copies of these documents are not supplied to the Applicant, there will not be a fair trial, the Applicant will be fatally deprived of the preparation of his defence and cross-examination, and great, irreversible prejudice will cause to the Applicant. The denial of these documents is challenged on the following substantial legal grounds:

GROUND A: INFRINGEMENT OF THE RIGHT TO A FAIR TRIAL

That the fundamental right to a fair trial, enshrined under Article 21 of the Constitution of India, dictates that an accused cannot be forced to face prosecution while blindfolded by the investigating agency. In the landmark case of **V.K. Sasikala v. State**,

(2012) 9 SCC 771, the Hon'ble Supreme Court held that it is an inalienable attribute of the process of a fair trial that the court must concede a right to the accused to have access to papers forwarded to the court by the investigating agency but not exhibited by the prosecution. The Hon'ble Court categorically observed that the scales of justice must be balanced, and a plea of prejudice must be answered at the earliest possible stage, not deferred to the conclusion of the trial.

GROUND B: BINDING MANDATE OF THE SUPREME COURT IN *MANOJ V. STATE OF M.P.*

That the law regarding the mandatory supply of unrelayed documents has been unequivocally settled by the Hon'ble Supreme Court in the landmark judgment of *Manoj & Ors. v. State of Madhya Pradesh*, (2023) 2 SCC 353. In paragraphs 208 to 209 of the said judgment, the Apex Court established a binding directive upon all trial courts, explicitly holding:

"In view of the above discussion, this court holds that the prosecution, in the interests of fairness, should as a matter of rule, in all criminal trials, comply with the above rule, and furnish the list of statements, documents, material objects and

exhibits which are not relied upon by the investigating officer. The presiding officers of courts in criminal trials shall ensure compliance with such rules." The prosecution's current suppression of the seized panchnamas, CDs, floppies, and documents is in direct, conflict of this established judicial mandate.

GROUND C: ABSOLUTE RIGHT REAFFIRMED IN *P. PONNUSAMY V. STATE OF TAMIL NADU*

That a three-judge bench of the Hon'ble Supreme Court in ***P. Ponnusamy v. State of Tamil Nadu, 2022 SCC OnLine SC 1543***, reaffirmed the imperative of disclosure. The Court held that an Investigating Officer cannot be permitted to ignore or deliberately withhold seized documents, material, or evidence that may possess exculpatory value simply because the prosecution does not wish to rely upon them. The Hon'ble Court clarified that the right of the accused to access such material is self-executing and cannot be disentitled merely because the State has delayed formally adopting the Draft Rules of Criminal Practice. In view of the provision of Section 207 of the Criminal Procedure Code, the applicant is entitled and is having the absolute right to see all these documents which are sought.

**GROUND D: ELECTRONIC RECORDS ARE
'DOCUMENTS' UNDER SECTION 207 CR.P.C.**

That the CDs and Floppies seized (such as the 1 CD and 7 Floppies in Exhibit 1362) fall squarely within the definition of "document" as defined under Section 3 of the Indian Evidence Act, 1872, read with the Information Technology Act, 2000. It is a settled position of law that the mandatory provision of Section 207 of the Cr.P.C. extends to electronic documents. The failure to supply these digital records cripples the Applicant's capacity to engage forensic experts or formulate a technical defence, rendering the cross-examination of the Investigating Officers and Panch witnesses an empty, unconstitutional formality.

**4. NECESSITY FOR ADJOURNMENT AND POSTING
FOR CROSS-EXAMINATION**

4.1 That in view of the voluminous nature of the withheld documents, the numerous seizure panchnamas, the documents sent by Jinesh Vanjara, and the technical complexity of the electronic evidence (CDs and Floppies), the Applicant will require sufficient and reasonable time to peruse the material, consult with legal and financial experts, and adequately prepare the defence strategy and lines of cross-examination.

4.2 Therefore, considering all these aspects, the application of the applicant needs to be allowed. The applicant needs to be supplied all these documents, and thereafter the matter must be posted for cross-examination only *after supplying of these documents, after three weeks*, so as to enable the applicant to effectively cross-examine the prosecution witnesses and prepare his defence. In the absence of that, the entire trial will be vitiated.

5. PRAYER

In view of the specific facts, circumstances, and authoritative pronouncements of the Hon'ble Supreme Court detailed above, it is most respectfully prayed that this Hon'ble Court may be pleased to:

A. Allow the present application and direct the Prosecution / State to forthwith supply physical copies of all the documents, records, CDs, Floppies, panchnamas by several panch witnesses, documents sent by Jinesh Vanjara to the Investigating Officer, and all other materials specifically mentioned in Paragraph 2.4 of this application, which were seized during the investigation but intentionally withheld and not provided to the Accused;

B. Direct the Prosecution to formally furnish a comprehensive list of all statements, documents, material objects, and exhibits

seized during the investigation but *not* relied upon by the Investigating Officer, in strict compliance with the mandate of the Hon'ble Supreme Court in *Manoj v. State of M.P.* and *Sarla Gupta v. Directorate of Enforcement*;

C. Postpone and keep the matter for the cross-examination of the prosecution witnesses only after a period of three (3) weeks from the date of the actual supply of the aforementioned documents and electronic records, so as to enable the Applicant to meaningfully prepare his defence and cross-examination without prejudice; and

D. Pass any other order or grant any other relief as this Hon'ble Court may deem fit and proper in the interest of justice, equity, and the guarantee of a fair trial.

Place :NAGPUR



DATE: 12/3/26

CF APPLICANT / ACCUSED

NO. 3