



\$~101

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC010003852026

+ **CRL.M.C. 210/2026**

RAJ KUMAR

.....Petitioner

Through: Mr. Gurmehar S. Sistani, Mr.
Shashi Shanker & Ms. Pooja
Mohanani, Advocates.

versus

CENTRAL BUREAU OF INVESTIGATION Respondent

Through: Mr. Ripudaman Bhardwaj, SPP
with Ms. Kritika Malik, Mr. Amit
Kumar Rana, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **25.08.2026**

CRL.M.A. 26083/2026 (Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

CRL.M.A. 26082/2026 (early hearing)

By way of the present application, the petitioner seeks early hearing of the captioned petition.

For the reasons stated in the application, and with the consent of Mr. Ripudaman Bhardwaj, learned Special Public Prosecutor ["SPP"] for the Central Bureau of Investigation ["CBI"], the application is allowed and the captioned petition is taken on Board.

The application accordingly stands disposed of.



CRL.M.C. 210/2026

1. By way of the present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioner, *inter alia*, assails orders dated 03.11.2025 and 26.11.2025, whereby the learned Special Court permitted the respondent/CBI to place on record a pen drive containing a purported recording of a telephone conversation.
2. I have heard Mr. Shashi Shanker, learned counsel for the petitioner, and Mr. Bhardwaj.
3. The petitioner, who is stated to be a former public servant, is facing trial in proceedings arising out of RC-DAI-2019-A-0019 dated 24.05.2019, registered under Section 120-B of the Indian Penal Code, 1860, and Sections 7, 8 and 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988. The substance of the allegation against the petitioner is that he was a party to a criminal conspiracy, which the prosecution seeks to establish *inter alia* through the alleged intercepted telephonic conversations.
4. Along with the charge-sheet, the CBI had placed on record a pen drive, marked as “Q-1”, containing a purported recording of a telephone conversation, a copy of which was supplied to the petitioner. However, by order dated 23.07.2025, during the examination-in-chief of PW-18, the learned Special Court noted that, when the aforesaid pen drive was sought to be played on a laptop, it was found to contain only 822 files, as against 51,666 files which had been visible on 17.04.2025. The learned Special Court, accordingly, noted the possibility that the pen drive was further deteriorating.
5. In these circumstances, the CBI submitted a second pen drive,



stated to contain a copy of the same recording retrieved from its hard disk. The second pen drive was submitted alongwith a certificate under Section 63(4) of the Bharatiya Sakshya Adhiniyam, 2024 [“BSA”].

6. Mr. Shanker submits, with reference to the order dated 29.07.2026 passed by the learned Special Court, that PW-Neeraj Bhatia has now been summoned to depose. According to him, the said witness is required to give evidence with regard to the contents of the telephone conversation, a copy of which is now available before the learned Sessions Court by virtue of the second pen drive. However, Mr. Shanker submits that the pen drive has not yet been exhibited, and the author of the affidavit under Section 63(4) of the BSA has not yet entered the witness box. He submits that the pen drive cannot be exhibited, or used in evidence, until the requisite evidence in this regard is first brought on record. He further draws my attention to the order dated 03.11.2025, wherein the learned Special Court had observed that any allegations concerning the authenticity and chain of custody of the recording, as well as the possibility of tampering with the recorded conversation contained in the original hard disk maintained by the CBI, would have to be addressed through appropriate cross-examination by the accused persons.

7. Mr. Shanker, however, candidly submits that, once the requisite evidence in this regard has been brought on record and the pen drive is duly exhibited in accordance with law, the evidence of PW-Neeraj Bhatia may thereafter be recorded.

8. Mr. Bhardwaj, on telephonic instructions, submits that, instead of proceeding with the evidence of PW-Neeraj Bhatia on the next date of hearing, the CBI will ensure that the evidence with regard to the chain of



custody, authenticity and other aspects concerning the pen drive is adduced first, by testimony of the concerned witness. He submits that, upon conclusion of the evidence of the said witness, the matter may thereafter proceed in accordance with law.

9. In view of the aforesaid submission of Mr. Bhardwaj, Mr. Shanker does not seek any further orders in the present petition in this regard.

10. Mr. Shanker, however, submits that, in view of the present order, he would request the learned Special Court to consider his application, being I.A. No. 4/2025, filed under Section 91 of the Code of Criminal Procedure, 1973. While the said application may be considered and decided by the learned Special Court in accordance with law, this Court is not required to express any opinion in that regard.

11. The petition, alongwith any pending application, is accordingly, disposed of, in terms of the aforesaid.

12. It is made clear that this Court has not expressed any opinion on the merits of the matter, and it shall be open to the learned Trial Court to consider and decide the matter in accordance with law.

13. The next date of hearing, i.e. 08.09.2026, stands cancelled.

PRATEEK JALAN, J

AUGUST 25, 2026

'pv'/SD/