

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL)NO. 1257 OF 2019

Nitin Premlal Sen.Vs.Central Bureau of Investigation, Nagpur Unit, Nagpur.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Ms. Akanksha Wanjari, Advocate for applicant.
Ms. Mugdha Chandurkar, Standing Counsel for non
applicant.

CORAM : V. M. DESHPANDE, J.
DATED : DECEMBER 12, 2019

Heard Ms. Akanksha Wanjari, learned
counsel for applicant and Ms. Mugdha Chandurkar,
learned Standing Counsel for non-applicant.

The applicant is accused no.3 in Special
Case No.2/2011 pending on the file of Special Judge,
Chandrapur. He is challenging order dated
22.11.2019 passed below Exh.-140, an application
filed on behalf of prosecution for filing of additional
document on record. The applicant is accused no.3 in
an offence punishable under Sections 120-B, 409,
468, 471 and 477-A of the Indian Penal Code and 13
(1)(d) of the Prevention of Corruption Act.

Its an admitted position that charge is
framed and trial has already commenced and three
witnesses are examined and at this stage the
prosecution filed application Exh.--140 for filing
additional document on record. In paragraph no.2 of
the said application it is stated thus:

“2. It is submitted that at the time of filing charge sheet, inadvertently prosecution could not produce following vital document:-

<i>Sr.No.</i>	<i>Description of document</i>	<i>Remark</i>
<i>1</i>	<i>Coal Stock Yard Location Plan dated 23/06/2019 of Manna Incline.</i>	<i>Pages 1</i>

This document has been collected during course of investigation by the I.O. and it was kept in CBI Malkhana. It is very material and vital document of the case. It is further submitted that no prejudice will be caused to the accused if this document taken on record by this Hon’ble Court.”

The application was opposed by the present applicant. However, the learned Judge of the Court below allowed the application by passing the impugned order.

The document, which the prosecuting agency wishes to place on record, is Coal Stock Yard Location Plan. The prosecuting agency has already furnished explanation as to why at the time of filing of charge-sheet the same could not be filed. According to prosecuting agency, due to inadvertence the same could not be filed.

The trial though commenced, is at an initial stage. The document which is germane and pertains to the crime, it can be brought on record. If it satisfies the test that production of said document is required for just decision.

Learned Judge of the Court below, while allowing the application, in my view, has correctly observed that no prejudice will be caused to the

applicant inasmuch as it will be open for the applicant to cross-examine the prosecution witness thoroughly on the said document. Not only that, in my view, it will always be open for the defence to cross-examine the investigating officer regarding the fact as to why the document was not placed on record along with charge-sheet. All this will be considered by the learned Special Judge on its own merits. However, the prosecution cannot be shunted out by rejecting the application especially when the document appears to be relevant to decide the fact of the case of the prosecution. No case is made out by the applicant.

Consequently, the application is rejected.

JUDGE

srwagh