

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 812 OF 2023

Lalit Singha ...Applicant
Versus
Central Bureau Investigation and Anr. ...Respondents

**WITH
CRIMINAL APPLICATION NO. 813 OF 2023**

Devender Rajender Ahlawat ...Applicant
Versus
Central Bureau Investigation and Anr. ...Respondents

**WITH
CRIMINAL APPLICATION NO. 814 OF 2023**

Subhash Yadav ...Applicant
Versus
Central Bureau Investigation and Anr. ...Respondents

**WITH
CRIMINAL APPLICATION NO. 623 OF 2023**

Amit Omprakash Dangi ...Applicant
Versus
Central Bureau Investigation and Anr. ...Respondents

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Mr. Kunal Shinde, Advocate for the Applicants.

Mr. Shriram Shisat a/w Mr. Shekhar V. Mane, for Respondent No.1-CBI.

Ms. Pallavi N. Dabholkar, APP for the Respondent No.2 – State in APL No.812/2023 & 814/2023.

Mr. Y. M. Nakhwa, APP for the Respondent No.2 – State in APL No.813/2023 & 623/2023.

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CORAM : PRAKASH D. NAIK, J.
DATE : 11th JULY, 2023

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PER COURT:

1. The applicants in all these applications are facing prosecution for the offences under the Prevention of Corruption Act, 1988. Separate charge-sheets are filed against them and separate cases are pending against them before the Special Court.
2. In the proceedings relating to Criminal Application Nos.812 of 2023, 813 of 2023 & 814 of 2023, the prosecution has examined the sanctioning authority. However, in Criminal Application No.623 of 2023 no witnesses has been examined by the prosecution so far.
3. The applicants in all these applications preferred applications under Section 91 of Code of Criminal Procedure (Cr.P.C.) before the trial Court seeking directions to call for vigilance/prosecution file pertaining to the accused lying in the office of Vigilance, Jawaharlal Nehru Customs House, Nhava Sheva, Raigad. The applications were rejected by the trial Court vide order dated 05.06.2023 (Criminal Application No.623/2023) and orders dated 28.06.2023 in other three applications (Criminal Application Nos.812/2023, 813/2023 & 814/2023).
4. Learned Advocate for the applicants submitted that the trial Court has erroneously rejected the applications preferred by the

applicants under Section 91 of Cr.P.C. The applications were filed for bringing the facts on record which have transpired before the sanction came to be granted and those facts would unearth the reality how sanctioning authority has not applied its mind while granting sanction. If the document are sought for made available, the defence would be in a position to effectively cross examine the witness. Fair trial demands, availability of relevant documents which would show that, earlier the sanction was refused and for no reasons subsequently sanction was accorded. There is no harm in producing the file sought by the applicants.

5. Learned Advocate Mr. Shirsat appearing for the Respondent-CBI submitted that the applications preferred by the applicants were vague. There was no basis for seeking directions under Section 91 of Cr.P.C. The assertions in the applications were based on the surmises of the applicants. The applicants have contended that they have reliably learnt that the same sanctioning authority had denied or refused to grant sanction for want of additional, clinching and cogent evidence against the applicants. Similar assertion was made in the application under Section 91 of Cr.P.C. Learned counsel adverted to the deposition of the sanctioning authority, wherein it was stated that, prior to sanction dated

06.03.2019 against the accused, CBI never approached him for according sanction to the said accused. It is not correct to say that, prior to 06.03.2019 CBI had applied for seeking sanction against accused person in writing.

6. From the averments in the application preferred by the applicants under Section 91 of Cr.P.C. it is apparent that the applicants are inferring that previously sanction was refused. There is no authentic material in support of such assertion. The sanctioning authority in his deposition has stated that, earlier he was not approached for granting sanction to the accused. The applicants were trying to suggest that the same authority had earlier refused the sanction. The learned Special Judge while rejecting the application in Special Case No. 49 of 2018 has stated that, charge has been framed. Evidence is not recorded. The CBI produced sanction order accorded by sanctioning authority in CBI Case No.49 of 2018. The sanctioning authority is yet to be examined.

7. Thus, the application seeking summoning the documents was not based on any cogent material. It was only based on inferences drawn by the applicants. It was prayed that the documents sought for by them be produced. No case is made out for setting aside the impugned orders.

ORDER

Criminal Application Nos. 812 of 2023, 813 of 2023, 814 of 2023 & 623 of 2023 stand rejected and disposed off accordingly.

(PRAKASH D. NAIK, J.)