

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL REVISION APPLICATION NO.364 OF 2024**

Central Bureau of Investigation

*....Applicant***V/s.**

Vidyadhar Digambar Pednekar and

Anr.

....Respondents

Mr. Amit Munde, SPP with Mr. Jai Vohra for the Applicant.

Mr. Ashok Metkari, APP for Respondent No.2.

CORAM : SANDEEP V. MARNE, J.**Dated : 12 July 2024.****P.C. :**

- 1) Heard Mr. Munde, the learned Special PP for the Applicant.
- 2) Judgment of the Apex Court in *State of Rajasthan vs. Swarn Singh @ Baba*¹ is relied upon by the Petitioner-CBI in which the Apex Court has taken note of its previous judgment in *State of Orissa Vs. Debendra Nath Padhi*²
- 3) Relying on the above judgment, Mr. Munde would submit that accused is not entitled to seek an order under Section 91 of the Code of Criminal Procedure, 1973 (**the Code**) before the stage arrives for his defence. He would submit that the discharge applications filed by the Respondent No.1 have been twice rejected earlier. Inviting my attention to the

¹ Criminal Appeal No.856 of 2024 decided on 12/02/2024.

² (2005) 1 SCC 568

observations made by the learned Special Judge in paragraph 6 of the order that the sanctioning authority has earlier expressed inability to concur with advice of Central Vigilance Commission (CVC) for prosecution sanction against the Applicant/accused, Mr. Munde would rely upon paragraph 37 of the charge in which the initial disinclination for issuance of prosecution sanction was only in respect of Ms Prajakta Patil, the then Manager of Mid-Corporate Finance Branch of Central Bank of India, Pune. So far as Respondent No.1-Vidyadhar Pednekar is concerned, no such disinclination /reservation was expressed for prosecution by sanctioning authority. Mr. Munde would therefore submit that apart from legal error the impugned order of the learned Judge suffers from factual error also.

4) Issue notice to Respondent No.1, returnable on **5 August 2024**. In addition to Court notice serve Respondent No.1 with private service and file affidavit of service before the next date of hearing.

5) Till the next date of hearing, order dated 30 March 2024 passed by the learned Special Judge (CBI-ACB), Pune, shall remain stayed.

[SANDEEP V. MARNE, J.]