



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

CRIMINAL WRIT PETITION NO. 258 OF 2023

PETITIONER : Adil B. Daboo S/o. Late Burjor Firoze,
Age About 76 Years, R/o. 7/12
Panthaky Baug, 2nd Floor, H.S. Road,
Andheri (East), Mumbai – 400069.

//VERSUS//

RESPONDENT : Superintendent of Police, Central
Bureau of Investigation, CGO
Complex, Block No.C, 3rd Floor,
Seminary Hills, Nagpur.

Mr. A.P. Tathod, Advocate h/f. Mr. Gopal G. Mishra, Advocate
for the Petitioner.

Mr. Prashantkumar Sathianathan, Advocate for the Respondent.

CORAM : G. A. SANAP, J.

DATED : 9th DECEMBER, 2024.

ORAL JUDGMENT

. **Rule.** Rule made returnable forthwith. The petition is
heard finally by the consent of the learned advocates for the parties.

02] In this petition, the petitioner, who is accused No.5,
has challenged the order dated 17th February, 2023, passed by the

learned Special Judge, C.B.I. (A.C.B.), Nagpur, whereby the learned Judge rejected his application seeking discharge in the case.

03] It is the case of the petitioner that he has not committed any offence. He had only submitted the proposal to the Main Branch of the Central Bank of India. The said proposal was not accepted. It was returned with queries. He was serving in the concerned Branch from 09.07.2000 to 15.06.2001. It is stated that his successor accused No.12-Mr. Sharad Deshpande, then processed the said proposal, and it was submitted to the Main Branch of the Central Bank of India for approval. It is stated that in this case Mr. Sharad Deshpande has been discharged by the learned Special Judge *vide* order dated 20th September, 2021. It is his case that he has not committed any offence. He was not part of any conspiracy. Similarly, the main accused, namely accused No.8, accused No.9 and accused No.13, have been discharged in this case. It is stated that since his role and the role of Mr. Sharad Deshpande is identical, he is entitled for discharge.

04] On the basis of source information, FIR No.RC NAG 2006 A 005 was registered by the C.B.I. on 31st March, 2006, at Nagpur. It was alleged that the accused persons concerned with the

affairs of accused No.13-Company and other Officers of the Bank hatched conspiracy. The object of the conspiracy was to cheat and cause a wrongful loss to the Central Bank of India, Maskasath Branch, Nagpur. Pursuant to the conspiracy, there was enhancement of credit facilities and diversion of the bank funds to the tune of Rs.7.93 crores. The Central Bank of India suffered a wrongful loss of Rs.7.93 crores. It was further alleged that, for the purpose of taking the conspiracy to the logical end, the documents had been forged. The investigation was conducted. The investigation led to the filing of the charge-sheet against 13 accused. The petitioner is accused No.5.

05] I have heard Mr. A.P. Tathod, learned advocate for the petitioner and Mr. Prashantkumar Sathianathan, learned advocate for the respondent/C.B.I. Perused the record and proceedings.

06] At the outset, it is necessary to note that, so far, 12 accused have been discharged. The prosecution is pending against accused No.5 only. On going through the record and proceedings, it is evident that the accused persons, who have been attributed a direct and more serious role in the conspiracy, have been discharged. The orders of discharge in respect of the remaining 12

accused have attained finality. The learned Special Judge, while considering the prayer made by accused No.12-Mr. Sharad Deshpande, for discharge, considered the judgment rendered by this Court in Criminal Revision Application No.30/2013 [*Shri Dipen S/o. Kailashchandra Agrawal & Ors. Vs. Central Bureau of Investigation, Nagpur, decided on 08.05.2014*] viz-a-viz accused Nos.8 to 10 and 13. The learned Special Judge, relying upon the observations made by this Court while deciding Criminal Revision Application No.30/2013, recorded a finding that, considering the role played by accused No.12-Sharad Deshpande, the prosecution against him was not well-founded.

07] I have gone through the record and proceedings. The order passed in favour of Mr. Sharad Deshpande was relied upon by the petitioner before the learned Special Judge, however, the learned Special Judge, for the reasons recorded in his order, did not agree with the submissions advanced on behalf of the petitioner. On going through the order, I am satisfied that the learned Special Judge has failed to consider the principal allegation against accused No.5 and accused No.12. It is evident that the role attributed to accused No.5 and accused No.12 by and large is similar. Accused No.5 and accused No.12 were concerned with the submission of

the proposal for enhancement of the credit facilities.

08] As far as the petitioner is concerned, his proposal was not accepted as it is by the Main Branch, and it was returned with certain queries. By that time, the queries came to the Regional Office, the petitioner was transferred and succeeded by accused No.12. Accused No.12 then processed the said proposal and answered the queries and reiterated the same proposal. The said proposal was accepted. In my view, therefore, the role played by accused No.12 and accused No.5 is similar. Accused No.12 has been discharged. In my view, the reasons for the discharge of accused No.12 would be equally applicable in the case of accused No.5. The learned Special Judge, in my view, has failed to consider the matter in proper perspective and as such has come to a wrong conclusion. In view of this, I conclude that there is no material to frame the charge against accused No.5. Accused No.5, therefore, deserves to be discharged. Hence, the following order:

ORDER

- i] The petition is **allowed**.
- ii] The impugned order dated 17th February, 2023, is quashed and set aside.

- iii] The application at Exh.541 is allowed.
- iv] The petitioner/Accused No.5 is discharged in Special Case No.01/2009.
- v] Rule is made absolute in the above terms.

(G. A. SANAP, J.)

Vijay