



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1383 OF 2024

Kailas Rajdhar Medhe
Age: 52 years, Occu: Labour,
R/o: Plot No.36/B, Vaishnavi Nagar,
Near Ambarnath Nagar, Jamner Rd.,
Bhusawal, Dist: Jalgaon

... Petitioner
(Ori. Accused No.1)

Versus

Central Bureau of Investigation
Through Inspector of Police, CBI,
ACB, Mumbai

... Respondent
(Resp.Ori.Complainant)

....
Mr. Navin S. Shah, Advocate h/f Mr. Swapnil S. Patil, Advocate for
the Petitioner
Mr. Sachin S. Panale, Advocate for the Respondent
....

CORAM : Y. G. KHOBRAGADE, J.

DATE : 08.01.2025

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith. Heard finally with the consent of both the sides.
2. Leave granted to invoke Section 482 of the Code of Criminal Procedure with Article 226 and 227 of the Constitution of India. Necessary amendment be carried out within period of 14 days from today.

3. The Petitioner is the original accused No.1 in Crime No.R.C. BA-1/2011/A/0046, registered with the Anti Corruption Branch, Mumbai on 28.12.2011 for the offence punishable under Sections 7, 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988.

4. It is the case of the prosecution that, on 29.12.2011, the present Applicant/accused being a public servant was trapped while accepting illegal gratification. After necessary investigation, the Investigating Officer filed a charge-sheet against the Petitioner for the offence punishable under Sections 7, 13(2) read with Sections 13(1)(d) of the Prevention of Corruption Act. The trial assigned to the Special Court/Additional Sessions Judge, Bhusawal, District Jalgaon.

5. The present Petitioner/ accused filed Exh.23 an Application for issuance of directions against the prosecution to provide copies of statement of witnesses in Marathi language contemplated under Section 207 and 272 of the Code of Criminal Procedure. On 07.02.2024, the learned Special Court passed the impugned order and declined prayer of the petitioner on ground that the present Petitioner/accused represented by the Advocate, who

knows version of witness statements. The Petitioner is a Central Government employee and conversant with English.

6. The learned counsel for the Petitioner canvassed in vehemence that, it is a statutory right of the petitioner/accused to know statements of the witnesses in vernacular language which knows by the Petitioner. However, the prosecution produced statements of the witnesses in English language, which does not know the Petitioner. The mother tongue of the Petitioner is Marathi and he is unable to understand statements of the witnesses because the Investigation officer recorded the same in English. Therefore, for fair trial as well as considering fundamental rights of personal liberty guaranteed under Article 21 of the Constitution of India, the Petitioner/accused is entitled for translated copies of statements of the witnesses in vernacular language.

7. In support of these submissions, the learned counsel for the Petitioner placed reliance on ***Govind Ganesh Vs. R. R. Mirokhe, 2010 Cr. L. J. 2721***, wherein it is held that language of the criminal courts would be in Marathi. It further relied on case of ***Firozkhan Vs. R. H. Mendonca, Commissioner of Police, Mumbai, 2000 All M.R.***

(Cri.) 495, wherein it is held that under Article 22(5) of the Constitution of India, the accused has right to receive copies in English and therefore ordered that copies ought to have been provided in Hindi to the Petitioner to give effective representation. It further relied on case of *Firoz S/O. Aziz Khan Vs. State Of Maharashtra & Anr., 2009 All M.R. (Cri.) 460*, wherein the coordinate Bench of this Court held that, the copies ought to have been provided in Hindi translation to the Petitioner.

8. The learned counsel for the Petitioner further relief on the case of *Powanammal Vs. State of T.N. and another, (1999) 2 SCC 413*, wherein the Petitioner was served with a communication of his detention under the provisions of Tamilnadu Prohibition Act and the copies of grounds of detention were not supplied in the language which knows to the Petitioner. Under these circumstances, the Hon'ble Apex Court in para 8 and 9, held thus:

“8. The law relating to preventive detention has been crystallized and the principles are well neigh settled. The amplitude of the safeguard embodied in Art. 22(5) extends not merely to oral explanation of the grounds of detention and the material in support thereof in the language understood by the detainee but also to supplying their translation in script or language which is understandable to the detainee. Failure to do so would amount to denial of the right of being communicated

the grounds and of being afforded the opportunity of making a representation against the order. (See Hadibandu Das v. District Magistrate, Cuttak & Anr., [1969] 1 SCR 227).

9. *However, this court has maintained a distinction between a document which has been relied upon by the detaining authority in the grounds of detention and a document which finds a mere reference in the grounds of detention. Whereas non-supply of a copy of the document relied upon in the grounds of detention has been held to be fatal to continued detention, the detenue need not show that any prejudice is caused to him. This is because non-supply of such a document would amount to denial of the right of being communicated the grounds and of being afforded the opportunity of making an effective representation against the order. But it would not be so where the document merely finds a reference in the order of detention or among the grounds thereof. In such a case, the detenue's complaint of non-supply of document has to be supported by prejudice caused to him in making an effective representation. What applies to a document, would equally apply to furnishing translated copy of the document in the language known to and understood by the detenue, should the document be in a different language."*

9. Per contra, the learned Special Prosecutor submitted that, the Petitioner is knowing English language. The petitioner is employed with the Central Government and engaged with the Ordinance Factory. The Petitioner/accused was apprehended while accepting the bribe. The Investigating Officer recorded statements of the witnesses in English and supplied copy of charge-sheet to the petitioner. The Petitioner engaged a lawyer to defend the charges. The

Counsel for the petitioner very much aware and conversant with the English. Since the Petitioner/accused availed service of legal practitioner, therefore, the petitioner's counsel can explain statements of the witnesses to the petitioner.

10. The learned Special Public Prosecutor further submits that, Section 207 and 272 of the Code of Criminal Procedure does not provide for supply of statements of the witnesses or copy of charge-sheet in the language which known to the accused. The Petitioner has filed Application Exh.23 in English language, which shows that the Petitioner is very much aware and knows English. Therefore impugned order does not appear illegal, bad in law, hence, prayed for dismissal of the petition.

11. To buttress these submissions, the learned Special counsel placed relied on case of ***Central Bureau of Investigation Vs. Narottam Dhakad and Another, 2023 SCC OnLine 1069***, wherein, in paragraphs 20, 21 and 22, the Hon'ble Supreme Court observed as under:-

“20. Under Section 207, it is the obligation of the learned Judicial Magistrate to supply a copy of the report and other documents as provided in Section 207 to the accused. In a case triable by the Court of Sessions, Section 208 provides for the learned Magistrate to provide copies of the statements and documents to the accused including the statements and

confessions recorded under Section 164 of CrPC. When a copy of the report and the documents are supplied to the accused under Section 207 and/or Section 208, an opportunity is available for the accused to contend that he does not understand the language in which the final report or the statements or documents are written. But he must raise this objection at the earliest. In such a case, if the accused is appearing in person and wants to defend himself without opting for legal aid, perhaps there may be a requirement of supplying a translated version of the charge sheet and documents or the relevant part thereof concerning the said accused to him. It is, however, subject to the accused satisfying the Court that he is unable to understand the language in which the charge sheet is submitted. When the accused is represented by an advocate who fully understands the language of the final report or charge sheet, there will not be any requirement of furnishing translations to the accused as the advocate can explain the contents of the charge sheet to the accused. If both the accused and his advocate are not conversant with the language in which the charge sheet has been filed, then the question of providing translation may arise. The reason is that the accused must get a fair opportunity to defend himself. He must know and understand the material against him in the charge sheet. That is the essence of Article 21 of the Constitution of India. With the availability of various software and Artificial Intelligence tools for making translations, providing translations will not be that difficult now. In the cases mentioned aforesaid, the Courts can always direct the prosecution to provide a translated version of the charge sheet. But we must hasten to add that a charge sheet filed within the period provided either under Section 167 of CrPC or any other relevant statute in a language other than the language of the Court or the language which the accused does not understand, is not illegal and no one can claim a default bail on that ground.

21. *There is one more aspect of the matter. There are central agencies like the National Investigation Agency, Central Bureau of Investigation, etc. These agencies investigate serious offences or offences having wide ramifications. Obviously, such central agencies, in every case will not be in a position to file the final report in the language of the concerned Court as determined by Section 272 of CrPC.*

22. *Now, coming to the facts of the case, in Criminal Appeal arising out of SLP (Crl.) 5525 of 2018, a finding of fact was recorded by the trial court that the respondent is an educated person. The offence relates to an examination for which one of the eligibility conditions was having a knowledge of the English language. Moreover, it was found that the advocate engaged by him also knows the English language. Coming to the Criminal Appeal arising out of SLP (Crl.) 10680 of 2022, the trial court has recorded a finding that the first respondent accused was a science graduate having knowledge of the English language. Moreover, his advocate was conversant with the English language.”*

12. Reverting back to the present case, it *prima-facie* appears that, the Petitioner serving as a Central Government employee in the establishment of Ordinance Factory, Varangaon, Taluka Bhusawal, District Jalgaon. The Petitioner has not disclosed in his application about his educational qualification. It is the case of the prosecution that, the petitioner was caught raid-handed while accepting the bribe.

13. No doubt, the Investigating Officer recorded statements of the witnesses in English language. The contents of Panchanamas

are in English. On completion of the investigation, the charge-sheet came to be filed against the accused for the offence punishable under Sections 7, 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act.

14. Indeed, the Petitioner hired service of the legal practitioner who is well conversant with English language. Therefore, if the Petitioner is not conversant with English in that circumstance, he can take aid of his counsel and can know the statements of the witnesses. The application Exh.23 prepared by the counsel of the Petitioner is in English and contents thereof appears to have explained to the accused by his Counsel. Therefore, the counsel of the petitioner can also explain the contents of statements of the witnesses as well as contents of panchanamas to the Petitioner in Marathi. Therefore, considering ration laid down in case of ***Central Bureau of Investigation***, cited (supra), I do not find that, the Petitioner has made out case to direct the prosecution to supply translated copies of the charge-sheet to him in Marathi. Therefore, present Writ Petition deserves to be dismissed. Accordingly, the Writ Petition is dismissed. Rule is discharged.

15. Since the trial is pending since 2014, the learned Special Court is expected to expedite and conclude the trial at the earliest.

[Y. G. KHOBRADE, J.]

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