

Shabnoor

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

CRIMINAL REVISION APPLICATION NO.639 OF 2024

Sanju H. Aralikatti

... Applicant

V/s.

CBI, ACB Mumbai & Anr.

... Respondents

Mr. Pritam Runwal a/w Mr. Anil K. Khopde, for the applicant.

Mr. Kuldeep S. Patil a/w Mr. Dhavalsinh V. Patil, for respondent – CBI.

Ms. Anagha A. Deshmukh, APP for respondent – State.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 14, 2025

P.C.:

1. Challenge in this revision application is to an order passed by the Special Court rejecting the application for discharge for offences punishable under Section 7(a) of the Prevention of Corruption Act, 1988 (“P.C. Act”) and under Section 420 of the Indian Penal Code, 1860.

2. The principal submission made on behalf of the applicant is that the order of sanction was passed by an Authority which had no power to grant such sanction. It is further contended that the sanctioning Authority, while granting the sanction, failed to consider material points, and therefore, the order suffers from material irregularity. The Supreme Court in the case of *State Rep. by the Deputy Superintendent of Police, Vigilance & Anti-*

Corruption Chennai City – I Department vs. G. Easwaran (Criminal Appeal No. 1405/2019) has considered a similar issue and observed as under:

14.Validity of the sanction is an issue that must be examined during the course of the trial. In *Dinesh Kumar v. Chairman, Airport Authority of India*, this principle is reiterated as follows:

"10. In our view, invalidity of sanction where sanction order exists, can be raised on diverse grounds like nonavailability of material before the sanctioning authority or bias of the sanctioning authority or the order of sanction having been passed by an authority not authorised or competent to grant such sanction. The above grounds are only illustrative and not exhaustive. All such grounds of invalidity or illegality of sanction would fall in the same category like the ground of invalidity of sanction on account of non-application of mind-a category carved out by this Court in Parkash Singh Badal,¹³ the challenge to which can always be raised in the course of trial."

(emphasis supplied)

13. Similar view was taken in *Director, Central Bureau of Investigation v. Ashok Kumar Aswal*, where it was held that:

"15. All the above apart, time and again, this Court has laid down that the validity of a sanction order, if one exists, has to be tested on the touchstone of the prejudice to the accused which is essentially a question of fact and, therefore, should be left to be determined in the course of the trial and not in the exercise of jurisdiction either under Section 482 of the Code of Criminal Procedure, 1973 or in a proceeding under Articles 226/227 of the Constitution."

(emphasis supplied)

3. Considering the aforesaid observations made by the Supreme Court, the remedy in the present application is to raise the issue of validity of sanction before the Trial Court at the appropriate stage of the trial.
4. Hence, all questions raised by the applicant are kept open to be raised at the time of trial.
5. The Revision Application stands disposed of.

(AMIT BORKAR, J.)