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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 1520/2026 & CRL.M.A. 14918-14919/2026**

DR RAKESH GOSAIN ADVOCATE

.....Petitioner

Through: Mr. Sudhir Nandrajog, Mr. Kirti Uppal, Mr. Mohit Mathur, Mr. Amit Chadha, Mr. Jatan Singh and Mr. Sacchin Puri, Senior Advocates with Mr. Nitin Vashisht, Mr. Varun Rana, Mr. Sanjog Singh, Mr. Sanjiv Saluja, Mr. Anshul Lamba, Mr. Chirag Dagar, Mr Mayank Sharma, Mr. Dev Chawla, Mr. Sanskar Aggarwal and Mr. Pankaj Nagar, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Anubha Bhardwaj, SPP, CBI, and Ms. Ananya Shamsheery, Advocate.
Mr. Avinash Gupta, Insp, CBI.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **11.05.2026**

1. The petitioner, who is an advocate, challenges a communication issued to him by the Central Bureau of Investigation ["CBI"] dated 08.05.2026, directing him to appear before the Inspector, CBI, AC-I, Delhi on 12.05.2026.
2. Mr. Sudhir Nandrajog, learned Senior Counsel for the petitioner,



submits that the Supreme Court in *In Re: Summoning Advocates who give legal opinion or represent parties during investigation of cases and related issues* [Suo Motu W.P.(Crl.) No. 2/2025, decided on 31.10.2025] provided clear directions regarding the circumstances in which summons can be issued to advocates in criminal proceedings. The directions *inter alia* are as follows:

“67. On a broad conspectus of the Client-Advocate privilege as codified in Section 132 to 134 of the BSA; though we are not persuaded to lay down any guidelines, which we believe are sufficiently available on an interpretation of the provisions itself, which also restrains us from constituting a committee of legal professionals, we issue the following directions; to ensure that the privilege is not impinged upon by valiant investigators or overzealous parties to a litigation, purely on the basis of the interpretation of the evidentiary rules codified:

1. Section 132 is a privilege conferred on the client, obliging an Advocate not to disclose any professional communications, made in confidence, which privilege, in the absence of the client can be invoked by the Advocate on behalf of the client.

1.1 The Investigating Officers in a criminal case or a Station House Officer conducting a preliminary inquiry in a cognizable offence shall not issue a summons to an Advocate who represents the accused to know the details of the case, unless it is covered under any of the exceptions under Section 132.

1.2 When a summons is so issued to an Advocate, under any of the exceptions, it shall explicitly specify the facts on which the exception is sought to be relied upon, which shall also be with the consent of the superior Officer not below the rank of a Superintendent of Police who shall record his satisfaction as to the exception in writing, before the summons is issued.

1.3 A summons so issued shall be subject to judicial review at the instance of the Advocate or the client under Section 528 of the BNSS.

1.4 The Advocate on whom there is an obligation of non-disclosure as per Section 132 of the BSA shall be one who is engaged in a litigation or in a non-litigious or a pre-litigation matter.

2. Production of documents in the possession of the Advocate or the client will not be covered under the privilege conferred by Section 132, either in a civil case or a criminal case.



2.1 In a criminal case, the production of a document directed by a Court or an officer shall be complied with by production before the Court under Section 94 of the BNSS; being regulated also by Section 165 of the BSA.

2.2 In a civil case, the production of a document shall be regulated by Section 165 of BSA and Order XVI Rule 7 of the Civil Procedure Code.

2.3 On production of such document, it shall be upon the Court to decide on any objection filed with respect to the order to produce, and the admissibility of the document, after hearing the Advocate and the party whom the Advocate represents.

3. The production of a digital device under Section 94 of the BNSS if directed by an Investigating Officer, the direction shall only be to produce it before the Jurisdictional Court.

3.1 On production of the digital device by the Advocate before the Court; the Court shall issue notice to the party with respect to whom the details are sought to be discovered from the digital device and hear the party and the Advocate on any objection regarding the production of the digital device, discovery from it and the admissibility of that discovered.

3.2 If the objections are overruled by the Court, then the digital device shall be opened only in the presence of the party and the Advocate, who will be enabled due assistance of a person with expertise in digital technology, of their choice.

3.3 While examining the digital device, care shall be taken by the Court not to impair the confidentiality with respect to the other clients of the Advocate and the discovery shall be confined to that sought by the Investigating Officer, if it is found to be permissible and admissible.

4. In-house counsel will not be entitled to the privilege under Section 132 since they are not Advocates practicing in Courts as spoken of in the BSA.

4.1 The In-house counsel, however, would be entitled to the protection under Section 134 insofar as any communication made to the legal advisor of his employer, which however, cannot be claimed for the communications between the employer and the In-house counsel.”

3. Mr. Nandrajog has also drawn my attention to a judgment of a coordinate Bench in *Sachin Baipai v Union of India* [2025 SCC Online Del 9503], in which the aforesaid judgment of the Supreme Court has



been followed, in a case in which notice was issued by CBI under Section 160 of the Code of Criminal Procedure of India, 1973.

4. In view of the aforesaid position, Ms. Anubha Bhardwaj, learned Special Public Prosecutor for CBI, instructed by Investigating Officer Avinash Gupta, Inspector - CBI, states that CBI wishes to withdraw the impugned notice, and then proceed, if necessary, in accordance with law and after compliance of the abovementioned judgment of the Supreme Court.

5. The petition, alongwith pending applications, is therefore disposed of, on the submission of Ms. Bhardwaj, upon instructions, that the impugned notice dated 08.05.2026, addressed to the petitioner, stands withdrawn.

6. It is made clear that CBI is free to proceed, if necessary, in accordance with law, and after compliance with the directions of the Supreme Court.

PRATEEK JALAN, J

MAY 11, 2026
SS/AD/