

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 125 OF 2026

Ishwar Das Arora ...Applicant
Versus
Union Of India and Anr. ...Respondents

Mr. Virat Agarwal for the Applicant.
Mr. Jai Vohra i/b Amit Munde for the Respondent No.1/CBI
Mr. Swapnil Pednekar, APP for Respondent No.2/State.

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CORAM : M.M. SATHAYE, J.
DATE : 16th OCTOBER, 2026

P.C. :

1. Heard learned Counsel for the parties.
2. The Applicant is accused, who is challenging the Judgment and Order dated 17.01.2026 passed in CBI Special Case No. 1 of 2018 by Special Court of CBI at Greater Mumbai, by which his discharge application below Exh. 46 is rejected.
3. Pursuant to DGM/ Chief Regional Manager, Indian Overseas Bank, Regional office, Mumbai-II, filing a complaint alleging that director of M/s. Sun Optical Mastering Private Limited ('SOMPL' for short) and the Applicant being Bank Official of the Indian Overseas Bank has cheated the Bank by supplying forged and fabricated foreign bills to the tune of Rs.38.17 crores. The offence alleged against the Applicant is punishable under Section 120-B read with Section 406, 420 467, 468, 471 of the Indian Penal Code, 1860 ('IPC' for short) and

Section 13 (2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 ('PC Act' for short).

4. Learned Counsel for the Applicant submitted that the material on record does not *prima facie* disclose that the alleged offence has been committed by the accused. He submitted that if the tenure of the Applicant as Branch Manager is concerned, then the financial assistance and loan involved in the investigation, was disbursed after his tenure has come to an end. He submitted that there is no allegation regarding illegal gratification or its demand. He also submitted that sanction is not taken. Apart from these arguments, learned Counsel for the Applicant has raised many arguments including that the Bank has not suffered any financial loss.

5. On the other hand, learned Counsel appearing for Respondent (Union of India- CBI) relying upon the detailed affidavit-of-reply dated 20.05.2026, has supported the impugned order contending *inter alia* that there is sufficient material to *prima facie* indicate involvement of the Applicant in the alleged offence.

6. At the outset, it is necessary to note that the parties are at the stage of discharge under Section 227 of the Code of Criminal Procedure, 1973. At such stage, it is not necessary for the Court to enter into pros and cons of the matter or weighing and balancing of evidence and probabilities. The Court is expected to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. Useful reference can be made to paragraph no. 7 of **Union of India v/s. Prafulla Kumar Samal and Anr. (1979) 3 SCC 4.**

7. At the stage of discharge application, the Court is expected to consider whether there is a *prima facie* case made out and the Court should proceed with trial or not as held in **State of Bihar V/s. Ramesh Singh (1977) 4 SCC 39**.

8. In **State of Tamil Nadu V/s. N. Suresh Rajan and Ors. (2014) 11 SCC 709**, the Hon'ble Supreme Court has clarified that if the Court thinks that the accused might have committed the offence on the basis of material on record or its probative value, can frame the charge.

9. In **State of Rajasthan V/s. Ashok Kumar Kashyap (2021) 11 SCC 191**, recently, Hon'ble Supreme Court has held that at the stage of framing of charges or considering the discharge application, mini trial is not permissible.

10. Also recently in **State of Gujarat V/s. Dilipsinh Kishorsinh Rao (2023) 17 SCC 688**, the Hon'ble Supreme Court has observed that at the stage of considering application for discharge, the Court must proceed on the assumption that the material which has been brought on the record by the prosecution is true and evaluate the said material in order to determine whether facts emerging, taken at its face value, disclose the existence of the ingredients of offence. In the same judgment, Hon'ble Supreme Court has also clarified that the Revisional Court cannot sit as an appellate court and start appreciating evidence. The Hon'ble Supreme Court has reminded that the High Court ought to be cognizant of the fact that Trial Court was dealing with an application for discharge.

11. Viewed in the light of aforesaid settled law, when the

arguments of the learned Counsel for Applicants are considered, most of them are in the realm of considering the case on merits at the time of trial. As an example, the argument about Bank having not suffered any loss, can be taken. A copy of statement showing summary of investigation report is sought to be relied upon to contend that the Bank has not suffered any loss. Such arguments can only be considered at the time of trial.

12. Perusal of the impugned order shows that in paragraph No. 20, the learned Special Judge has observed that the Applicant was Branch Manager during 2005 to 2009 when the entire term loan for the first and second phase was sanctioned/disbursed and the loan was disbursed without complying the terms and conditions of the sanction order. It is further observed by the learned Special Judge that while enhancing credit facility from Rs.1 crore to Rs.10 crores, the Applicant, as a Branch Manager, did not take justification regarding quantum jump in the projected estimate of company sales. It is further observed that while disbursing term amount of Rs.27.20 crores, there was a condition stipulated from the central office of infusion of capital to the tune of Rs.16 crores/-. However, the company had infused only Rs.7.13 crores but the Applicant disbursed entire loan. It is also observed by learned Special Judge that before sanctioning enhancement of CC limit from Rs.1 crore to Rs.10 crores under signature of the Applicant, the Applicant did not give any justification for ad-hoc facilities. It is further observed that the Applicant allowed disbursement of term loan from November 2005 to the Associate Company of SOMPL without obtaining quotations about machinery, without getting credit report, without construction of building of the factory. This has been held *prima facie* as showing complicity of the Applicant with borrower. It is also observed

by the learned Special Judge that most of the term of amount was disbursed in the tenure of the Applicant.

13. The note prepared by the Central Office in December 2009 is considered by the learned Special Judge. It is noted that that review was taken and the Central Office recommended cancellation of CC limits adjusting the proposed outstanding. This has been held by the learned Special Judge as *prima facie* showing that the Applicant was misleading the Bank.

14. Learned Special Judge has also considered departmental enquiry conducted against the Applicant.

15. So far as the argument about sanction not being taken before the prosecution, paragraph No. 28 of the impugned order indicates that learned Special Judge has observed that the Applicant has demitted his services before cognizance of the offence was taken by Special Court and therefore, relying on a Supreme Court judgment, it is held that there is no need for sanction of a retired public servant.

16. In the facts and circumstances narrated above, it cannot be said that learned Special Judge has not considered *prima facie* case against the Applicant; nor can it be said that there is no *prima facie* case.

17. So far as the argument about absence of allegation about illegal gratification and its demand is concerned, learned Counsel for the Respondent has rightly pointed out that under Section 13 of the PC Act, relevant consideration is 'criminal misconduct' and under Section

13(1)(b) which is invoked in the present case, a public servant is said to commit an offence of 'criminal misconduct' if he 'by corrupt or illegal means', obtained for himself or for any other person any valuable thing or pecuniary advantage. Considering the position that the Applicant held in the Bank at the relevant time i.e. Branch Manager, the aspect of obtaining pecuniary advantage for himself or for any other person, is a matter of trial.

18. At this stage, learned counsel for the Applicant submitted that in the departmental enquiry conducted against the Applicant, he has been exonerated for most of the charges leveled. He submitted that if the charges are same, its impact on the aspect of criminal prosecution will have to be considered, because outcome of the departmental enquiry is based on preponderance of probabilities while criminal prosecution is on the basis of proof beyond reasonable doubt. This argument, once again at the cost of repetition, it must be noted that, cannot be considered at the stage of discharge. It falls for consideration at the time of trial.

19. For the aforesaid reasons, that is no reason to interfere in the impugned order. The Revision Application is dismissed.

20. Needless to mention that observations in the impugned order or in the present order shall not cause prejudice to the Applicant and the Trial shall be conducted and the case shall be decided on its own merits in accordance with law.

(M.M. SATHAYE, J.)