

CT Cases/34/2022
CNR No. DLCT11-000811-2022
ECIR/DLZO-I/01/2019 dt. 24.01.2019.
ED v. M/s OPG Securities Pvt. Ltd. & Anr.

10.04.2026

(Present proceedings have been conducted on Hybrid Mode)

Pr : Mr. Shailesh N. Pathak, Ld. SPP for ED (through VC) with advocate Mr. R.S. Janwa (physically).
A-2 Mr. Sanjay Gupta for self and also representing **A-1** M/s OPG Securities Pvt. Ltd., through VC.
Mr. Ahaan Verma, Ld. Proxy Counsel for **A-1**, through VC.
Ms. Mansi Tripathi, Ld. Counsel for **A-2**, through VC.

1. This Court finds itself lending singularity in passing order on the following two applications, for the reliefs prayed for therein are identical.

- a) Application, filed on 12.08.2025, on behalf of accused no. 1 (A-1) M/s OPG Securities Pvt. Ltd. under sections 230/231 of BNSS, 2023 (sections 207/208 of CrPC), and
- b) Application, filed on 12.08.2025, on behalf of accused no. 2 (A-2) Mr. Sanjay Gupta under sections 230/231 of BNSS, 2023 (sections 207/208 of CrPC).

2. By way of these two applications, A-1 and A-2 pray that they be allowed to inspect *all* the unrelayed-upon statements/materials/documents in the custody of Directorate of Enforcement (ED), which are neither placed on judicial record nor supplied to them.

3. This is a complaint, filed on 21.12.2022, against A-1 M/s OPG Securities Pvt. Ltd. and A-2 Mr. Sanjay Gupta under

sections 44/45 of Prevention of Money Laundering Act, 2002 (for short 'PMLA') for commission of offence of money laundering as defined under section 3 read with section 70, and punishable under section 4 thereof. Cognizance of the offence(s) was taken on 20.01.2023 and the accused persons were summoned. All the relied-upon documents/materials/statements were supplied to the accused persons. Thereafter, in compliance with this Court's order dt. 22.05.2025, the accused persons were provided, on 24.07.2025, with a list of unrelieved-upon statements/materials/documents during proceedings under sections 230/231 of BNSS, 2023 (sections 207/208 of CrPC). This list had been furnished by ED through a '*Compliance Report Pursuant To Order Dated 22.05.2025*', which was filed on Court record on 14.07.2025.

4. The said Compliance Report categorised the unrelieved-upon material into two distinct groups. The first category (paragraph 3 of the Report) comprised statements/materials/documents to which the ED objected to inspection by the accused persons, on the ground that investigation qua other accused persons is still pending. The second category (paragraph 4 of the Report) consisted of statements/materials/documents for which the ED had no objection to inspection by the accused persons.

5. Pursuant to the above, learned counsels for the accused persons made inspection of those unrelieved-upon statements/materials/documents to which ED had no objection.¹

¹ Orders dt. 26.09.2025 and 17.10.2025 of this Court note that inspection of such unrelieved upon statements/materials/documents, to which ED had no objection, on the part of accused persons has been carried out.

6. However, learned defence counsel maintained that they should be permitted to inspect even those unrelieved-upon statements/materials/documents to which the ED had objections. In effect, they contend that inspection of *all* unrelieved-upon statements/materials/documents ought to be allowed. Accordingly, they seek such relief, i.e. permission to inspect the entirety of such material, by way of present two applications.

7. Thus, the central issue to be determined is whether the defence can inspect *every* unrelieved upon statements/documents/materials, including those that ED objects due to pending investigation involving other accused persons.

8. It was contended on behalf of the ED that, although the investigation qua A-1 and A-2 is complete, further investigation concerning other accused persons is still underway, and permitting inspection of such statements/documents/materials would seriously prejudice the further investigation; that such material would be of no assistance to A-1 and A-2 at the stage of arguments on charge. Learned Special Public Prosecutor (SPP) for ED in support of his argument relied on a Delhi High Court judgment in CBI v. INX Media Pvt. Ltd. & Ors., 2021 SCC OnLine Del 4932.² He also relied on the report of Sarla Gupta & Anr. v. Enforcement Directorate, (2025) 7 SCC 626 to contend that the accused cannot make inspection of *all* the unrelieved-upon statements/materials/ documents; that such inspection by accused persons has to remain confined to only those unrelieved-upon

² It appears that challenge to this Delhi High Court judgment before the Apex Court was unsuccessful [order dt. 18.07.2023 in SLP (Cri.) No. 1274/2022].

statements/materials/documents to which the ED has no objection. He urged that section 207 CrPC confers no absolute right on an accused to inspect *all* that were seized, particularly those that are unrelieved-upon and not forwarded to the Court; that the intent of section 207 CrPC is to enable an accused to prepare his defence against the charges framed on the basis of relied-upon statements/ materials/ documents, and not to conduct a roving inquiry into unrelated materials; that unrelieved-upon items by their very nature are not part of the prosecution case and are not forwarded to the Court under section 173(5) of CrPC and consequently no vested right inheres in an accused to inspect them, particularly when such inspection may derail further investigation.

9. On the other hand, learned counsel for A-1 submitted that under the guise of further investigation, the ED is resorting to infraction of valuable rights of accused persons under Article 21 of the Constitution of India; that one of the facets of fair trial is complete disclosure of material/documents in relation to the said trial; that Enforcement Case Information Report (ECIR) in this case was registered on 24.01.2019, cognizance of offences was taken on 20.01.2023, and despite lapse of several years further investigation in this matter is not yet concluded. He relied on the following observation from the report of Manish Sisodia v. Directorate of Enforcement, (2024) 12 SCC 660 to argue that *all* the un-relieved upon material is open to inspection by the defence: “45.....*Taking into consideration the huge magnitude of the documents involved, it cannot be stated that the accused is not*

entitled to take a reasonable time for inspection of the said documents. In order to avail the right to fair trial, the accused cannot be denied the right to have inspection of the documents including the “un-relied upon documents”. He next cited Ashutosh Verma v. CBI, 2014 SCC OnLine Del 6931 in support of his submissions. In Ashutosh Verma (supra) the question was whether the prosecution ought to supply statements of *all* the witnesses who were examined under section 161 CrPC. The Trial Court declined to provide copies of statements under section 161 CrPC of few witnesses that were not forwarded to the Court on the premise that they were not relied-upon documents. The High Court was however of the view that copies of statements of *all* the witnesses examined under section 161 CrPC ought to be supplied to the defence, irrespective of whether they support the prosecution or favour the accused. In particular, learned defence counsel for A-1 relied upon the following observations from the judgment of Ashutosh Verma (supra): “27. *In case the prosecution is permitted to withhold what might be vital evidence for an accused to establish his case, the unscrupulous investigating agency would be with utmost ease able to keep the court in the dark. Since the charges framed by CBI are of criminal nature, the petitioner under such circumstances has the full right to lay down his defences for the purposes of which all necessary disclosures have to be duly made in accordance with the procedures laid down under Cr.P.C. Accused can ask for the documents that withhold his defence and would be prevented from properly defending himself, until all the evidence collected during the course of investigation is given to the accused.*”

Defence has to be build up from day one and not on ad-hoc basis denying the same would seriously prejudice the rights of the accused as enshrined in the Constitution of India. 28. In view of the dictum in the aforementioned judgments, this Court is of the opinion that petitioner cannot be denied an access to the documents in respect of which prayers have been made in the petition merely because CBI does not consider it relevant. If there is a situation that arises wherein an accused seeks documents which support his case and do not support the case of the prosecution and the investigating officer ignores these documents and forward only those documents which favour the prosecution, in such a scenario, it would be the duty of investigating officer to make such documents available to the accused.” He referred to Shashi Bala v. State Govt. of NCT of Delhi & Ors., 2016 SCC OnLine Del 3791 in support of his contentions. Shashi Bala (supra) was a case under section 509 of IPC lodged by a school Vice-Principal. The IO therein during the course of investigation had collected certain documents (internal complaints, preliminary inquiry report, complainant’s complaint dt. 05.07.2013 lodged with school management, committee report and statement of few witnesses), but did not forward the same to the Magistrate under section 173 (5) of CrPC. Nonetheless, the Trial Court directed that copies of those documents ought to be provided to the accused, by making good its supply from the police file. The High Court agreed with the said decision of the learned Trial Court. In particular, learned defence counsel for A-1 referred to following observations from Shashi Bala (supra): “16. Relying upon this

*judgment*³, in *Ashutosh Verma (supra)*⁴, this Court observed that the petitioner cannot be denied an access to the documents in respect of which prayers have been made in the petition merely because CBI does not consider it relevant. If there is a situation that arises wherein an accused seeks documents which support his case and do not support the case of the prosecution and the investigating officer ignores these documents and forward only those documents which favour the prosecution, in such a scenario, it would be the duty of investigating officer to make such documents available to the accused.” He differentiated the ruling of *INX Media (supra)* by pointing out that investigation therein was unfinished as far as the applicant therein was concerned, but in this *lis* the ED itself says that investigation against the two accused has been completed. He submitted that right to a fair trial is a constitutional right and as such the accused can very well inspect *all* the unrelieved upon documents. He urged that rulings of the Constitutional Courts hold that the prosecution must make a fair disclosure of *all* the material that it has collected in the investigation, irrespective of the fact that any part of the material so collected may favour the accused. He further contended that, since the investigation qua A-1 and A-2 has already been completed, permitting inspection of *all* the unrelieved-upon items would raise no concerns, as A-1 and A-2 cannot derive any possible benefit from it. He stated that *Sarla Gupta (supra)* is inapplicable to the instant case, for it does not state that defence cannot inspect the unrelieved-upon items; that *Sarla Gupta*

³ Reference to ‘*this judgment*’ is to the report of Sidhartha Vashisht @ Manu Sharma v. State (NCT of Delhi), (2010) 6 SCC 1.

⁴ *Ashutosh Verma v. CBI*, 2014 SCC OnLine Del 6931

(*supra*) was limited to the question of *supply* of seized documents and records, whereas in the instant case, the accused are seeking only inspection and not supply of the unrelieved-upon items. He contended that Sarla Gupta (*supra*) did not, in fact, address the issue of inspection of unrelieved-upon items, and in this context drew attention to the following observations from Sarla Gupta (*supra*): “21. In this case, we are called upon to decide only the issue of the supply of seized documents and records. To that extent, the Special Court and the High Court have committed an error. They rejected the prayers made for providing copies of the seized documents. When the records are seized from the custody of the accused, there is no reason why the true copies of the seized documents should not be provided on an application being made by the accused. The same is the case with the instruments or documents of title forming part of the property seized. If the documents are bulky, even soft copies thereof can be provided. Even if the seized record or documents are not relied upon in the complaint, copies must be supplied, though the accused will not be entitled to rely upon them at the time of framing the charge. Hence, the impugned orders [Sarla Gupta v. Enforcement Directorate, 2019 SCC OnLine Del 9258], [Ashok Solomon v. Enforcement Directorate, 2022 SCC OnLine P&H 4374] deserve to be set aside.”

10. Adopting the above arguments of A-1, learned counsel for A-2 in addition argued that ED cannot simultaneously urge that the matter should proceed to the stage of arguments on charge on the ground that investigation is complete, while also asserting,

for the purposes of section 207 CrPC, that investigation is still pending. In addition, he submitted that ED's stand is self-contradictory; the ED cannot simultaneously seek to curtail the right of the defence under section 207 CrPC and at the very same time seek to take the matter forward to the stage of consideration on the point of charge.

11. Arguments on the applications already heard. Record perused. Court findings are as under.

12. There can be no cavil with the proposition that an accused can be permitted to inspect unrelieved-upon items. However, in INX Media (supra), the inspection was restricted to only those unrelieved-upon items qua which further investigation was *not* pending. In other words, the accused therein were not permitted to inspect those unrelieved-upon items qua which investigation was pending. In this regard, in INX Media (supra), it was observed :

16. Indubitably, while passing an order of inspection of unrelieved upon documents, the Court is bound to strike a balance between the competing interest of ensuring a fair trial to the accused as also maintaining the sanctity of further investigation, in case further investigation is to be carried on. Case of learned counsel for the CBI before this Court is that since further investigation is going on, permitting the accused or their representatives to inspect the documents lying in Malkhana will hinder the investigation. As noted above, the learned Trial Court directed the CBI to supply copies of all the pages/part thereof, or the entire document to the accused persons in relation to documents only a few pages or part of document were being relied by the CBI. In relation to the documents which have not been filed in the Court, the learned Trial Court did not direct the CBI to produce the said documents in Court and held that the ends of justice would be met if the accused persons are permitted to inspect the said documents lying in the Malkhana of CBI and to find out if any such document is relevant or vital for their defence or is of sterling quality to demolish the very case of prosecution and after making inspection learned counsel

representing these accused shall let the Court know the details of these documents so that copies thereof can be supplied to them.

17. By the impugned order, the learned trial Court has already clarified that the permission to conduct inspection being granted by the Court was not in respect of those documents in relation to which the investigation by the CBI was still pending. Therefore, the apprehension of the CBI that inspection would hinder in the further investigation is wholly unwarranted. Claim of learned counsel for the CBI is that the CBI at the moment cannot pre-empt which document would be necessary for the further investigation. In the present case charge sheet has already been filed and thus the claim of CBI that it is not aware which document would be relevant for further investigation is unwarranted.

(underlined for emphasis)

13. Next on this aspect in CBI v. K. Sudhakar, 2025 SCC OnLine SC 647, the Apex Court observed :

2. The short issue that arises for consideration in these appeals is as to whether the Trial Court was correct in allowing the application(s) filed by respondent(s)-accused, seeking supply of certain documents not relied upon by the appellant at a pre-trial stage, prior to framing of charges.

3. Though arguments have been advanced at length on the question of law, based on the facts and circumstances of the case, we are of the view that the order(s) passed by the Trial Court cannot be sustained in the eyes of law. There is absolutely, no basis to allow for an inspection of the document(s), especially in light of a specific stand taken by the appellant, that it is not going to rely upon the document(s). A roving inquiry, at a pre-trial stage, is impermissible in law. It is the specific case of the appellant that if the impugned judgment is given effect to, the same will have far-reaching consequences, as the investigation also involves third party companies, in which case, the investigation conducted by the appellant, would be compromised.

4. Considering the above, we are of the view that the impugned judgment(s) cannot be sustained in the eyes of law, especially when there is no basis that has been made established in the application or in the impugned order, to merit such inspection.

5. Accordingly, the impugned order(s) is set aside and the appeals stand allowed.

(underlined and highlighted for emphasis)

14. Therefore, a reading of Apex Court's ruling in K. Sudhakar (*supra*) makes it clear that an accused cannot be allowed to inspect unrelayed-upon items while further investigation is ongoing, even if such further investigation relates to another accused and the investigation concerning the accused seeking inspection has been completed.

15. Learned defence counsels sought to distinguish INX Media (*supra*) by contending that investigation therein was unfinished as far as the applicant therein was concerned, but in this *lis* the ED itself states that investigation against the two accused herein is complete. I see no real basis to draw such a distinction as pointed out by learned defence counsels. INX Media ruling does not anywhere draw any such distinction. Paragraph 17 of the INX Media ruling, and which is extracted hereinabove, clearly states that '*permission to conduct inspection was granted not in respect of those documents in relation to which the investigation by the CBI was still pending.*' Thus, in my considered view, the distinction drawn in INX Media ruling was predicated on a document-specific approach rather than being contingent upon the status of investigation *vis-à-vis* particular accused persons. In other words, the differentiation turned on the nature of the documents themselves, and not on whether the investigation was pending or complete in relation to any given accused. The point is that allowing inspection of unrelayed-upon items under further investigation may actually compromise the investigation; and the Court has to strike a fair balance between rights of an accused and the sanctity of further investigation. In this context in INX

Media, it was clearly observed, “*Indubitably, while passing an order of inspection of unrelieved upon documents, the Court is bound to strike a balance between the competing interest of ensuring a fair trial to the accused as also maintaining the sanctity of further investigation, in case further investigation is to be carried on.*” That apart, this contention of the defence appears to be contrary to the observations of the Apex Court in K. Sudhakar (*supra*).

16. In the instant case, further investigation is still pending against other accused. Therefore, allowing inspection of *all* the unrelieved-upon material, including those to which ED has objections, may actually compromise the sanctity of further investigation.

17. Reliance placed by learned defence counsels on the report of Manish Sisodia (*supra*) is misplaced. It is no doubt correct that in Manish Sisodia (*supra*) there is an observation to the effect: “*In order to avail the right to fair trial, the accused cannot be denied the right to have inspection of the documents including the “un-relieved upon documents’.*” However, a reading of this judgment indicates that this specific aspect which falls for consideration in this matter had not specifically arisen in Manish Sisodia (*supra*). In other words, Manish Sisodia (*supra*) did not address a situation where inspection of all the unrelieved-upon items was sought while further investigation remained pending. That apart, Manish Sisodia (*supra*) nowhere states that the INX Media ruling is bad in law. In fact, the INX Media ruling had been unsuccessfully challenged before the Apex Court. Further,

K. Sudhakar (*supra*) clearly holds that inspection of unrelieved-upon items cannot be permitted where further investigation is pending.

18. The decisions in Ashutosh Verma (*supra*) and Shashi Bala (*supra*) likewise do not assist the defence, as in neither case did the prosecution contend that further investigation was pending. And it bears reiteration that K. Sudhakar (*supra*) unequivocally holds that inspection of unrelieved-upon items cannot be permitted while further investigation remains pending.

19. I have gone through the Apex Court ruling in Sarla Gupta (*supra*). I find that it had, *inter alia*, dealt with the aspects of supply of the list of unrelieved-upon items and the stage at which the Court could order their production. However, the aspect of *inspection* of unrelieved-upon items by the defence at the stage of proceedings under sections 207/208 CrPC had not fallen for consideration in Sarla Gupta (*supra*).

20. In view of the above, at this stage, when further investigation is still under way, this Court is not inclined to allow the aforesaid two applications of the defence, which are hereby **turned down**. Once further investigation is concluded, the defence may apply for inspection of the unrelieved-upon items to which ED presently has objections.

21. Qua the proceedings under sections 207/208 CrPC, the following three aspects now need to be addressed on the next date(s) of hearing :

(a) The stand of learned counsel(s) for A-1 that the list of unrelieved-upon items furnished by ED is *incomplete*. This is in the backdrop of Order dt. 22.05.2025, followed by Orders dt. 12.08.2025 and 03.09.2025.

(b) The grievance of A-2 that ED has *not* fully complied with the Order dt. 14.02.2024; and this is so noted in Order dt. 11.02.2026 (paragraph no.2), and

(c) Consideration on the application dt. 16.01.2025 of A-1 under sections 230/231 of BNSS (sections 207/208 of CrPC).

22. Enforcement Case Information Report (ECIR) in this case was registered on 24.01.2019. Despite lapse of more than seven (07) years, investigation/further investigation is still not concluded. **ED is hereby directed to file its status report qua further investigation in a sealed cover.**

23. List the matter on 21.04.2026 at 11 A.M.

(M. P. Singh)
Special Judge (PC Act) CBI-02
RACC/New Delhi/10.04.2026