

Further, it is pleaded that the complete record of the case has not been supplied to the applicant. The vital documents which came on record during investigation have been suppressed which violates his right to fair trial. It is further pleaded that A-4/applicant herein, at this stage, is seeking the following unrelieved documents:

S.No (as per List)	Document
7.	Copy of branch proposal dated 12.06.2012
8.	Copy of branch proposal dated 08.07.2013 (Page No 1-25)
16.	Copy of staff lapses report of Corporation Bank dated 07.06.2014
20	Copy of Fraud Monitoring Report (FMR) of Corporation Bank
25	Copy of Annexure-6 vide reference no CFB:9095:ITCL:2014 dated 21.04.2014 pertaining to report on non-performing assets- reasons for slippage including staff accountability in respect of account of M/s Indian Technometal Company Ltd dated 21.04.2014
27.	Copies of internal investigation reports dated 30.05.2011 & 27.09.2017. concluded by UCO Bank
33	Copy of OA No. 629/2015 (DRT papers) filed by UCO Bank for recovery of overdues in respect of M/S Indian Technometal Company Limited.
44.	Attested copy of Fraud Declaration proposal
80	Attested copy of Internal Investigation Report dated 31.05.2021 submitted by HO Inspection Department
82	Attested copy of fraud Monitoring return report duly attested by Head Office. Fraud Monitoring Department

2.1 It is further pleaded that the right of the accused even at the stage of charge for production of the said unrelieved upon documents is recognized by the Hon'ble Supreme Court in **P. Ponnusamy V. State of Tamil Nadu SLP (Crl) No. 9288 /2022 dated 17.11.2022.**

3. Ld. Counsel for the applicant in support of the contentions pleaded in the application further argued that the documents listed in the unrelieved upon list are in fact, referred in several parts of the chargesheet. The said documents are also referred in several statements of witnesses. Therefore, in fact the said documents in a way are relied upon documents which have deliberately not been supplied nor been filed along with the chargesheet. Hence, the said documents in favour of the accused/applicant herein need to be produced by CBI.

3.1 It is further argued that no prejudice is going to be caused to CBI in case the said documents come on record. Further, it is argued by placing reliance upon the judgment of Hon'ble Supreme Court in **Om Prakash Sharma V. CBI (2000) 5 SCC 679** that the said application under Section 91 of Cr.P.C seeking such documents is maintainable even at the stage of prior to the start of the trial which is the case herein.

4. Per contra, Ld. Public Prosecutor for CBI has vehemently opposed the present application. In the reply, it is pleaded that after completion of investigation, the chargesheet has been filed on 30.01.2024 against M/s Indian Technometal Company Ltd and 19 others. The applicant herein is named as A-4 who has been

chargesheeted for the offence under Section 120B r/w 420/468 /471 IPC and Section 13 (2) r/w 13 (I) (d) of PC Act 1988.

4.1 It is further pleaded that after thorough investigation based upon oral and documentary evidence, applicant herein has been named herein. CBI has already complied with the mandate of the law wherein they supplied the list of unrelieved upon documents to all the accused persons.

5. Ld. Public Prosecutor for CBI further argued by placing reliance upon judgment of Hon'ble Supreme Court in **Manoj & Ors. V. State of M.P 2022 INSC 606** and **P. Ponnusamy V. State of Tamil Nadu (supra)** that question of production of unrelieved upon documents is well settled by the Hon'ble Supreme Court and reiterated that any such application can be considered only during the trial. The judgment of **Om Prakash Sharma (supra)** relied upon by the applicant herein is not applicable in view of the judgment of three Judges Bench of Hon'ble Supreme Court in **State of Orissa V. Debendra Nath Padhi (2005) 1 SCC 568**.

6. **Heard and considered.**

7. The basis of the present application moved under Section 91 read with Section 207 Cr.P.C (**Corresponding to Section 94 and 230 BNSS 2023**) is the directions of the Hon'ble Supreme Court in Suo Moto Petition 1/2017 **In Re: to issue certain Guidelines regarding inadequacies and deficiencies in Criminal Trial V. The State of Andhra Pradesh & Ors."** (2021) 10 SCC 598. The detailed guidelines were issued by Hon'ble Supreme

Court with respect to the supply of documents at the stage under Section 207/208 Cr.P.C and it was held as under:

“11. The Amici Curiae pointed out that at the commencement of trial, accused are only furnished with list of documents and statements which the prosecution relies on and are kept in the dark about other material, which the police or the prosecution may have in their possession, which may be exculpatory in nature, or absolve or help the accused. This Court is of the opinion that while furnishing the list of statements, documents and material objects under Sections 207/208 CrPC, the Magistrate should also ensure that a list of other materials, (such as statements, or objects/documents seized, but not relied on) should be furnished to the accused. This is to ensure that in case the accused is of the view that such materials are necessary to be produced for a proper and just trial, she or he may seek appropriate orders, under CrPC for their production during the trial, in the interests of justice. It is directed accordingly; the Draft Rules have been accordingly modified. [Rule 4(i)]”

(emphasis added)

7.1 Thus, in compliance of the said direction, the prosecution herein filed the complete list of Unrelied Upon Documents (URD), statements and exhibits vide list dated 03.02.2025. The accused/applicant herein after scrutiny of the said list has now preferred the present application seeking production of few of unrelied upon documents by pleading that the same are exculpatory which will have bearing qua him at the stage of hearing of charge.

7.2 The said principle enunciated by the Hon’ble Supreme Court in **Suo Moto (supra) case** in a way recognizes the right of fair trial to the accused who has been chargesheeted by the

prosecution. By recognizing his right to fair trial under Article 21 of the Constitution the obligation has been put upon the prosecution disclosing the entire evidence collected by them during investigation. The obligation of the prosecution at the stage under Section 207 Cr.P.C (now u/s 230 BNSS) is to supply all the documents, statements relied upon by them alongwith the chargesheet. As far as the unrelieved upon documents, statements etc are concerned, the obligation ends with the supply of list of the same.

8. Admittedly, the present case in hand is yet to proceed for trial as the charges are yet to be framed against the accused persons. Therefore, in the said backdrop, the limited question is as to whether the accused/applicant herein at this stage can seek the supply of said unrelieved upon documents or not.

8.1 The first contention advanced on behalf of the accused/applicant herein is that the documents sought by him in the present application are referred in the chargesheet or statements of witnesses and thus, in a way relied upon documents. The said contention of the applicant herein cannot be accepted as mere reference of certain documents in the chargesheet or in any statement will not make the said document to be relied upon document by the prosecution. Ultimately, it is the call to be taken by the Investigating Authority as to which of the document seized is to be relied upon by them while submitting the final report/chargesheet. The documents now sought fall in the category of Un-relied Upon Documents.

9. Ld. Counsel for accused/applicant herein by placing reliance upon the judgment of Hon'ble Supreme Court in **Om Prakash Sharma (supra)** argued that even at the stage of charge, the present application can be moved under Section 91 of Cr.P.C for production of unrelieved upon documents ,if the same are exculpatory for the accused.

10. Per contra, Ld. P.P for CBI by placing reliance upon **P. Ponnusamy V. State of Tamil Nadu (supra)** and **Manoj & Ors. V. State of M.P (supra)** argued that these judgments are the latest judgments on the issue in hand and therefore will prevail . It has been categorically held that the said right of moving such application can only be at the stage of trial or at the stage of defence evidence.

11. The said issue has been recently again addressed by the Hon'ble Supreme Court in **Sarla Gupta & Another versus Directorate of Enforcement 2025 INSC 645** wherein the earlier judgments of **Om Prakash Sharma (supra)**, **P. Ponnusamy V. State of Tamil Nadu (supra)** and **Manoj & Ors. V. State of M.P (supra)**, all have been considered while dealing with the issue of right of the accused to seek copies of the documents not relied upon by the prosecution at the stage of framing of charge. The Hon'ble Supreme Court also noted the judgment in **State of Orissa V. Debendra Nath Padhi (supra)** wherein the interpretation of the "records of the case" under Section 227 Cr.P.C were meant to be the only documents and statements forming part of the chargesheet. In the end in paragraph-55, the following conclusions have been laid down :

- (a)
(b).....

(c) We hold that a copy of the list of statements, documents, material objects and exhibits that are not relied upon by the investigating officer must also be furnished to the accused.

As held by this Court, the object is to ensure that the accused has knowledge of the documents, objects, etc. in the custody of the investigating officer which are not relied upon so that at the appropriate stage, the accused can apply by invoking the provisions of Section 91 of the CrPC (Section 94 of the BNSS) for providing copies of the documents which are not relied upon by the prosecution.

(d) At the time of hearing for framing of charge, reliance can be placed only on the documents forming part of the chargesheet. In case of the PMLA, at the time of framing charge, reliance can be placed only on those documents which are produced alongwith the complaint or supplementary complaints. Though the accused will be entitled to a list of documents, objects, exhibits etc. that are not relied upon by the ED at the stage of framing of charge, in ordinary course, the accused is not entitled to seek copies of the said documents at the stage of framing of charge.

(e) At the stage of entering upon defence, an accused can apply for the issue of process for the production of any document or thing in accordance with Section 233(3) of the CrPC (Section 256(3) of the BNSS). At this stage, he can also apply for the production of a document or a thing that is in the custody of the prosecution but has not been produced. A fair trial is a part of the right guaranteed to an accused under Article 21 of the Constitution. The right to a fair trial of the accused includes the right to defend. The right to defend consists of the right to lead the defence evidence by examining the witnesses and producing the documents. Therefore, the accused is entitled to exercise his right at the stage of entering upon defence by compelling the prosecution or a third party to produce a document or a thing in their possession or custody. The Court can decline the request of the accused for issuing process for the production of documents only on the limited grounds set out in sub-section (3) of section 233 of the CrPC.

(f).....

(g).....

12. Thus, it is apparent from the said conclusions that the question of invoking the provisions under Section 91 Cr.P.C (**now under Section 94 of BNSS 2023**) will come into picture during the trial or at the stage of entering upon the defence by the accused. At the stage of hearing of framing of charge, the reliance only has to be placed on the record forming part of the chargesheet.

13. Even otherwise the relevance and sterling quality of said documents will have to be seen before the request can be entertained. The mere bald plea of the accused that the said documents are exculpatory in nature will not suffice.

14. In the light of the said settled proposition of law, the argument of the accused that he is entitled to invoke the provision under Section 91 of Cr.P.C (u/s 94 of BNSS 2023) at this stage is liable to be rejected. The question of purport and scope of said unrelayed upon documents *vis-a-vis* the allegations against the accused/applicant will come into picture at the stage of trial which is not the case herein. The accused can very well avail the said right at the appropriate stage by moving the application in this regard.

15. In view of the above, **the application under Section 91 read with Section 207 Cr.P.C (Corresponding to Section 94 and 230 BNSS 2023) preferred by Applicant/A-4 U.Madhusudan Rao is dismissed.**

Announced in the open Court
on 15.05.2025

(GAGANDEEP SINGH)
Special Judge, PC Act, CBI-04
RADC: New Delhi.