



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Misc(Pet.) No. 7905/2025

Kishan Agarwal S/o Shri Premchand Ji Gupta, Aged About 64
Years, R/o 20 Raghuvihar, Maharani Farm, Jaipur (Raj).

-----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Shri Bhupendra Kumar Sankhala S/o Kalulal Shankhla, R/
o Mangalwad Choraha, Chittorgarh (Raj.).

-----Respondents

For Petitioner(s) : Ms. Preeti Sharma
For Respondent(s) : Mr. V.S Rajpurohit, PP
Mr. Harishchandra Singh, Deputy SP
P.S ACB Chittorgarh

HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU

Order

19/02/2026

The instant Criminal Misc. Petition has been filed under Section 528 BNSS, being aggrieved by the order dated 01.09.2025 passed by the Learned Special Judge (Prevention of Corruption Act Court), Chittorgarh in Criminal Case No. 02/2025, whereby the application preferred by the petitioner under Section 207(v) read with Section 173(5)(1) of Cr.P.C., and another application read with Section 91 came to be rejected.

The present petition arises from a criminal proceeding wherein the petitioner is facing charges under the Prevention of Corruption Act, 1988. The accused-petitioner filed an application under Section 207(v) read with Section 173(5)(1) of Cr.P.C., seeking a cloned copy of the purported bribe from the original recording device and the CD containing the alleged evidence, alleging that the accused has been provided incomplete recording;



neither the CD is a cloned copy nor the hash value has been provided. Prayer for production of the original recording device has also been made. Thereafter, another application was filed under the same sections read with Section 91 Cr.P.C., seeking fard transcript of the amount seized, photographs and videography of the entire incident, and to give complete recording of all the conversations recorded as per the charge-sheet.

Learned counsel for the petitioner submits that as per the prosecution story, three separate conversations of demand of bribe were alleged to be recorded by them on the digital voice recorder; however, no such digital voice recorder or any original recording device has been filed along with the charge-sheet, nor any cloned copy of the same containing hash value has been provided. It is contended that a dubbed CD and transcript have been provided, which are manipulated and have been supplied to the petitioner. It is submitted that the petitioner is required to be supplied the cloned copy of the original media device in which the data was stored containing hash value, so that the authenticity of the said record is known to the petitioner and he can validly put forth his defence.

Learned counsel for the petitioner submits that the request made by the petitioner is essential for a fair trial, as the CD supplied does not accurately reflect the original recording. Despite these submissions and reliance on relevant legal precedents, the learned trial court rejected the petitioner's application vide its impugned order dated 01.09.2025.



The petitioner contended that the learned trial Court committed a grave error of law and fact in summarily rejecting the applications for production of the original recording device, a cloned copy of the conversations recorded from the original device having the alleged evidence, with the hash value of the electronic record relied upon by the prosecution. It is submitted that such rejection runs contrary to the law laid down by the Hon'ble Supreme Court in ***P. Gopalkrishnan @ Dileep v. State of Kerala and Ors.***, reported in ***(2020) 9 SCC 161***, as well as the orders passed by the Coordinate Benches of this High Court in ***Jaideep Mittal v. State of Rajasthan (SB. CRLMP No. 7024/2022)*** and ***Ganpat Sharma v. State of Rajasthan (SB. CRLRP No. 1675/2025)***.

Per contra, learned Public Prosecutor has vehemently opposed the petition and supported the impugned order passed by the learned trial Court. It was contended that the petitioner has already been supplied with all documents relied upon by the prosecution in accordance with law and no further material is required to be furnished. Learned counsel submitted that the prayer for production of the original recording device and cloned copies is misconceived and unwarranted at this stage of the proceedings. The respondents, therefore, prayed for dismissal of the petition.

Heard and considered the submissions advanced by the learned counsel for the parties and gone through the material



available on record as well as the impugned order dated 01.09.2025 passed by the learned trial Court.

The grievance of the petitioner in the present case is with regard to denial of access to the electronic material relied upon by the prosecution, namely cloned copies of the conversation with the hash value of the electronic record. Further the petitioner has sought the production of the original recording device and supply of complete recording and other material documents with regard to the seized amount. The controversy involved, therefore, requires examination of the legal position governing disclosure of electronic records and the rights of the accused in that regard.

The Hon'ble Apex Court in ***Sidhartha Vashisht @ Manu Sharma v. State (NCT of Delhi)*** reported in ***(2010) 6 SCC 1***, has emphasised that the liberty of an accused cannot be curtailed except in accordance with due process of law and that fairness in trial necessarily includes fair disclosure of material collected during investigation. The Court observed that the statutory scheme under Section 207 Cr.P.C., places an obligation upon the prosecution to furnish documents forming part of the investigation record so as to enable the accused to effectively defend the case. Similarly, in ***V.K. Sasikala v. State***, reported in ***(2012) 9 SCC 771***, the Hon'ble Apex Court held that the right of the accused to access documents forwarded to the Court by the investigating agency flows from the broader doctrine of a free and fair trial under Article 21 of the Constitution of India, and such access must be ensured where denial would prejudice the defence.



The judgments passed by the Hon'ble Apex Court in ***Sidhartha Vashisht (supra)*** and ***V.K. Sasikala (supra)*** were considered by the Hon'ble Apex Court in the case of ***P. Gopalkrishnan @ Dileep v. State of Kerala and Ors.***, reported in **(2020) 9 SCC 161**, wherein it was held that contents of electronic storage devices constitute electronic records and are "documents" within the meaning of Section 3 of the Evidence Act. The Hon'ble Supreme Court further observed that, insofar as documents on which the prosecution proposes to rely are concerned, the investigating officer has no option but to forward all such documents to the Magistrate along with the police report. It was also held that Section 207 CrPC does not empower the Court to withhold any document submitted with the police report except where such document is voluminous.

The Court further recognized the right of the accused to get the cloned copies of the contents of the memory card and pen-drive as being mandated by Section 207 CrPC and being part of his right to a fair trial enshrined under Article 21 of the Constitution of India. The Hon'ble Apex Court observed as under:-

"31..... Considering the aforementioned Reports, it can be concluded that the contents of the memory card would be a "matter" and the memory card itself would be a "substance" and hence, the contents of the memory card would be a "document".

32. It is crystal clear that all documents including "electronic record" produced for the inspection of the Court alongwith the police report and which prosecution proposes to use against the accused must be furnished to the accused as per the mandate of Section 207 of the 1973 Code. The concomitant is that the contents of the memory card/pendrive must be furnished to the accused, which can be done in the form of cloned copy of the memory card/pendrive. It is cardinal that a person



tried for such a serious offence should be furnished with all the material and evidence in advance, on which the prosecution proposes to rely against him during the trial. Any other view would not only impinge upon the statutory mandate contained in the 1973 Code, but also the right of an accused to a fair trial enshrined in Article 21 of the Constitution of India.

41. We are conscious of the fact that Section 207 of the 1973 Code permits withholding of document(s) by the Magistrate only if it is voluminous and for no other reason. If it is an "electronic record", certainly the ground predicated in the second proviso in Section 207, of being voluminous, ordinarily, cannot be invoked and will be unavailable. We are also conscious of the dictum in the case of Superintendent and Remembrancer of Legal Affairs, West Bengal vs. Satyen Bhowmick & Ors. wherein this Court has restated the cardinal principle that accused is entitled to have copies of the statements and documents accompanying the police report, which the prosecution may use against him during the trial.

44. In conclusion, we hold that the contents of the memory card/pen drive being electronic record must be regarded as a document. If the prosecution is relying on the same, ordinarily, the accused must be given a cloned copy thereof to enable him/her to present an effective defence during the trial. However, in cases involving issues such as of privacy of the complainant/witness or his/her identity, the Court may be justified in providing only inspection thereof to the accused and his/her lawyer or expert for presenting effective defence during the trial. The court may issue suitable directions to balance the interests of both sides."

The principle thus laid down by the Apex Court governs the set of facts of the present case as well, as the petitioner herein also seeks access to complete electronic material relied upon by the prosecution.

The Co-ordinate Bench of this High Court, in **Ganpat Sharma (supra)**, while relying upon the judgment of the Hon'ble Supreme Court in **P. Gopalkrishnan @ Dileep (supra)**, observed that supply of an uncertified CD, not prepared through



hash-value authentication, does not fulfill the statutory mandate.

The Court held as under:

"C. Non-Compliance with Section 230 BNSS – Supply of Documents

12. Section 230 of the BNSS mandates that in cases instituted on a police report, the Court shall, without delay, and in no case beyond fourteen days, furnish to the accused copies of all documents forwarded with the police report under Section 193(6) BNSS.

13. From the record, it emerges that although the order sheet dated 17.09.2025 records that copies of the charge-sheet "along with CD" were supplied, there is prima facie substance in the grievance that all documents forming part of the police report were not furnished, and that the supply was effected through the investigating agency without judicial verification or grant of reasonable time to the accused to ascertain completeness.

14. More importantly, where the prosecution case substantially rests upon electronic evidence, compliance with Section 230 BNSS assumes heightened significance. The Hon'ble Supreme Court in *P. Gopalakrishnan @ Dileep v. State of Kerala*, (2020) 9 SCC 161, has categorically held that the original memory card constitutes a document, and the accused is entitled to receive its authenticated clone copy prepared in accordance with law. Supply of an uncertified CD, not prepared through hash-value authentication, does not fulfill the statutory mandate.

15. The furnishing of incomplete or legally unrecognised copies strikes at the very root of the accused's right to effectively invoke the remedy of discharge under Section 250 BNSS."

A similar view was reiterated in ***Jaideep Mittal v. State of Rajasthan (supra)***, wherein the importance of ensuring fair access to electronic records forming part of the prosecution material was underscored. The Court held as under:

"6. It is imperative to underline that a Coordinate Bench of this Court, in *Sanwarmal Raigar v. State of Rajasthan* (S.B.Criminal Misc. Petition No. 3313/2020 decided on 03.08.2022), underscored the significance of ensuring the integrity and authenticity of electronic evidence and it has been held that the denial of access to cloned copies of electronic evidence could potentially compromise the accused's right to a fair trial. In this backdrop, the present petition warrants a meticulous examination of the principles laid down in the aforementioned precedent.





7. Further, in the matter of Sanjay Singh Kachhwaha v.State of Rajasthan(S.B. Criminal Misc. Petition No. 8014/2022decided on 12.12.2022), the Coordinate Bench of this Court has reiterated the necessity of providing the accused with all the material evidence in its pristine form to safeguard the sanctity of the trial process. The Court emphasized that the denial of such access amounts to a violation of the procedural safeguards granted to the accused, thereby vitiating the fairness of the trial.

8. In light of these judicial pronouncements, this Court observes that the impugned order of the learned trial court fails to align with the principles of natural justice and established legal precedents. The perfunctory rejection of the petitioner's application without substantive reasoning is antithetical to the procedural rights afforded to the accused under the criminal-justice system. Therefore, in the interest of justice and to uphold the constitutional mandate of a fair trial, this Court finds it appropriate to allow the petition, directing the learned trial court to ensure the provision of a cloned copy of the CD, the original recording device, and the Hash value to the petitioner. This direction is imperative to avert any miscarriage of justice and to maintain the integrity of the judicial process."

The legal position governing disclosure of electronic records, as noticed herein-above, obligates fair access and supply of authentic copies of prosecution material relied upon and collected during investigation. The furnishing of incomplete or legally unrecognised copies, or denial of authenticated copies, not only impinges upon the petitioner's right to a fair trial as enshrined under Article 21 of the Constitution of India, but also strikes at the very root of the accused's right to effectively invoke the remedy of discharge.

Electronic records, unlike conventional documentary evidence, possess inherent forensic attributes essential for examining their integrity and authenticity. The cloned copy with the hash value of the electronic evidence assumes particular



significance, as it is necessary to authenticate the chain of the electronic record. In the absence of such safeguards, it cannot be readily concluded that the electronic material has been preserved and produced in an authenticated manner. Denial of cloned copies of such electronic records, particularly when their integrity and authenticity are intrinsically linked to recognized forensic attributes, would inevitably cause prejudice to the accused's right to effectively defend his case.

The summary of the charge-sheet available illuminates that a CD was provided to the petitioner in compliance with Section 207 Cr.P.C., which is in absence of hash value. The facts stated in the application clearly state that the clone copy has not been provided nor the hash value. The order of the learned trial Court also does not state that any such clone copy with hash value of the recordings was given to the petitioner. Merely supply of a CD is not sufficient, in view of the law laid down by the Hon'ble Apex Court as well as this Court. The petitioner was entitled to get the cloned copies of the original recording with hash value, relied upon by the prosecution, so that he may know the authenticity of the electronic record.

This Court finds that the learned trial Court has failed to properly appreciate the significance of the electronic evidence and the settled legal principles governing its disclosure. The issue relates to the accused's entitlement to access electronic material relied upon by the prosecution. The petitioner has not requested for any new documents, but has only asked for material which



cannot be properly verified. If a document is not verified, the defence would not be able to use it at the appropriate stage. Hence, the dismissal of the application relying upon the judgments of the Hon'ble Supreme Court in *State of Orissa v. Debendra Nath Padhi* was not justified.

In light of the judicial pronouncements referred to hereinabove, this Court observes that the impugned order passed by the learned trial Court does not stand in conformity with the settled legal position, the principles of natural justice, and the requirements governing fairness of trial.

Hence, this Court is inclined to partly allow the application filed before the trial Court to the extent of obtaining the clone copy of the original digital recording. The question regarding the calling of the original DVR, other documents, and manipulation in the CD tendered, has to be decided during the course of trial. This Court is not making any observation upon the same. As the trial Court has also rejected the application looking to the stage of the charges in the trial, the petitioner would certainly be free to file an appropriate application for the same at an appropriate stage, which shall be considered in accordance with law.

Therefore, this Court finds it appropriate to allow the present Criminal Misc. Petition. The impugned order dated 01.09.2025 passed by the learned Special Judge (Prevention of Corruption Act Court), Chittorgarh in Criminal Case No. 02/2025 is hereby quashed and set aside to the extent of refusing the supply of clone copy of the recording.



The applications filed by the petitioner are partially allowed, and the learned trial Court is directed to provide a clone copy of the original digital recording with its hash value to the petitioner.

All pending application(s), if any, also stand disposed of.



(BALJINDER SINGH SANDHU),J

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