



2026:AHC:56487

HIGH COURT OF JUDICATURE AT ALLAHABAD
APPLICATION U/S 528 BNSS No. - 5382 of 2026

Kapil Kasana

.....Applicant(s)

Versus

State Of U.P. And 4 Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Asheesh Mani Tripathi, Manu Mishra
Counsel for Opposite Party(s) : Kapil Tyagi, G.A.

Court No. - 78

HON'BLE AVNISH SAXENA, J.

1. Sri Manu Mishra, Advocate along with Sri Asheesh Mani Tripathi, learned counsels for the applicant moved the supplementary affidavit annexing the application 91 CrPC, the same is taken on record.

2. Sri Mishra, submits that by order dated 13.12.2023 passed by trial court in S.T. No. 103 of 2024 (State Vs. Kapil Kasana), arising out of Case Crime No. 611/2023, under Sections 147, 148, 149, 302, 304 and 120B IPC, P.S.- Tila Mod, District-Trans Hindon, Commissionerate Ghaziabad the CCTV footage as prayed has been procured in pen drive was handed over to the accused applicant without required certificate. The subsequent application dated 25.09.2025 has been moved by the applicant that the pen drive which was handed over to the accused applicant in compliance of the said order does not contain the required mandatory certificate under Section 65B of the Indian Evidence Act. This application was rejected by the trial court in order dated 09.12.2025. The applicant aggrieved has invoked the inherent jurisdiction of this Court under Section 528 BNSS for issuance of direction, as without the said certificate the digital document has no value, as it is provided to the accused applicant for placing as an evidence at an appropriate stage.

3. Learned counsel for applicant has placed reliance on the judgment of Hon'ble the Supreme Court in the case of ***State of Karnataka Vs. T. Naseer Nasir @ Thandiantavida Naseer @ Umarhazi @ Hazi and others*** reported in **(2024) 16 SCC 729**. The relevant paragraph no. 11 is reiterated underneath:-

"11. Coming to the issue as to the stage of production of the certificate under Section 65-B of the Act is concerned, this Court in Arjun Panditrao Khotkar's case (supra) held that the certificate under 65-B of the Act can be produced at any stage if the trial is not over. Relevant paragraphs are extracted below:

*"56. Therefore, in terms of general procedure, the prosecution is obligated to supply all documents upon which reliance may be placed to an accused before commencement of the trial. Thus, the exercise of power by the courts in criminal trials in permitting evidence to be filed at a later stage should not result in serious or irreversible prejudice to the accused. A balancing exercise in respect of the rights of parties has to be carried out by the court, in examining any application by the prosecution under Sections 91 or 311 CrPC or Section 165 of the Evidence Act. **Depending on the facts of each case, and the court exercising discretion after seeing that the accused is not prejudiced by want of a fair trial, the court may in appropriate cases allow the prosecution to produce such certificate at a later point in time. If it is the accused who desires to produce the requisite certificate as part of his defence, this again will depend upon the justice of the case discretion to be exercised by the court in accordance with law.***

*59. Subject to the caveat laid down in paras 52 and 56 above, the law laid down by these two High Courts has our concurrence. **So long as the hearing in a trial is not yet over, the requisite certificate can be directed to be produced by the learned Judge at any stage, so that information contained in electronic record form can then be admitted and relied upon in evidence.***

(Emphasis added)

4. Sri Kapil Tyagi, learned counsel for opposite party no. 2 and learned AGA for State submits that the digital evidence has been provided to the accused applicant on direction issued by the trial court. The accused applicant is kept on moving the applications just to linger on the trial. Further submits that this is not the relevant stage at which the document would be provided to the accused applicant.

5. This Court has taken into consideration the rival submissions made by learned counsel for the parties and perused the record.

6. This Court is of the view that Section 65B (4) of the Indian Evidence Act, 1872 clearly provides for the mandatory requirement of the certificate to be procured when the digital evidence is taken. Section 65B (4) of the Indian Evidence Act is reiterated underneath:-

"(4) In any proceedings where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say-

(a) identifying the electronic record containing the statement and describing the manner in which it was produced;

(b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer;

(c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate,

and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it."

7. Considering the aforesaid statute consistently being subjected to judicial scrutiny in plethora of cases from ***Gurcharan Singh Vs. State of Punjab*** reported in **(2017) 1 SCC 734** to the latest judgment of Hon'ble the Supreme Court in ***Revenue Intelligence Directorate Vs. Suresh Kumar and Co. Impex (P) Ltd.*** reported in **(2026) 1 SCC 756** speaks of and encapsulated to the requirement of certificate (Section 65B(4) of Indian Evidence Act). Hence, the trial court, on whose order the digital document was provided to the applicant shall not shy away in issuance of direction to the concern for providing of mandatory certificate to the applicant. Thus, the application is **allowed**.

8. The order dated 09.12.2025 passed by learned Additional Session Judge, Court No. 1 Ghaziabad is quashed with a direction upon the trial

court to procure the said certificate and to provide the same to the accused applicant for placing for appreciation before the trial court at an appropriate stage.

(Avnish Saxena,J.)

March 19, 2026

Sharad/-