IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3832 OF 2026
IN
CRIMINAL APPEAL NO.773 OF 2026

Ashok Pamajee Borawake
Age: 60 years, Occu.: Retired,
R/o. Rahul Colony, Satwawadi,
Hadapsar, Pune, Tq. & Dist. Pune .. **Applicant**

Versus

The State of Maharashtra
Through Police Station,
Anti-Corruption Bureau, Latur. .. **Respondent**

…

WITH
CRIMINAL APPLICATION NO.3830 OF 2026
IN
CRIMINAL APPEAL NO.771 OF 2026

Nitin Laxmikantrao Apasingikar
Age: 58 years, Occu.Agri., & Business,
R/o. Kapadline, Ausa, Tq. Ausa,
District Latur. .. **Applicant**

Versus

The State of Maharashtra
Through Police Station,
Anti-Corruption Bureau, Latur. .. **Respondent**

…

WITH
CRIMINAL APPLICATION NO.3831 OF 2026
IN
CRIMINAL APPEAL NO.772 OF 2026

Rajendrakumar Nanarao Patil
Age: 51 years, Occu.: Service,
R/o. Deputy Superintendent
Office Ausa, Tq. Ausa,
District Latur. .. **Applicant**

Versus

The State of Maharashtra
Through Police Station,
Anti-Corruption Bureau, Latur. **.. Respondent**

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Mr. Girish K. Naik – Thigle, Advocate for the applicants in all the applications.
Mrs. Chaitali Chaudhari Kutti, APP for respondent/State in all the applications.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 22.09.2026
Pronounced on : 23.09.2026

ORDER :-

1. All above three applications have been filed with a prayer for suspension of sentence and grant of bail in consequence to the judgment and order of conviction dated 07.09.2026 rendered by the learned Special Judge/Additional Sessions Judge-2 in Special (ACB) Case No.17 of 2015.

2. Learned Counsel for the applicants in all the applications would submit that the applicants herein faced prosecution for the offences punishable under Sections 7, 12 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act. According to him, the prosecution has failed to bring home the guilt of the applicants by proving its case beyond reasonable doubt. According to him, at the

outset, there was no bribe demanded by accused and what was asked was expenses towards sale-deed, but the same construed as demand of illegal gratification and false complaint has been filed by complainant and even entertained. He pointed out that even there is delay of a month in filing complaint. Moreover, there is no sufficient corroboration to the testimony of complainant through shadow panch, who is also a crucial witness for prosecution being independent witness. He pointed out that though exercise of recording conversation was undertaken, there are other voices heard during the conversation and as such prosecution could not prove that the voice was only and only of accused. He further pointed out that it has also emerged in the trial that the voice recorder was kept in an unsealed condition for a period of two years, regarding which there is admission by prosecution witnesses. He pointed out that there are vital admissions by complainant, shadow panch as well as sanctioning authority, which itself render prosecution story seriously doubtful. Lastly, he submitted that alleged demand was by accused No.2 and recovery of currency is from accused No.3. However, there is no evidence to show that these accused persons were acting in connivance with each other. Consequently, he submits that there are several doubts and fatal lacunas in the prosecution story, which could be dealt in appeal, which has been preferred against the judgment

and order of conviction, but as same would take sufficiently long to be heard and decided, relief of suspension of sentence and grant of bail is urged for.

3. Per contra, learned APP for the respondent/State in all the applications would justify the order of conviction. It is submitted that there is cogent, reliable, convincing and moreover, consistent evidence of prosecution witnesses, especially, that of complainant and shadow panch. According to learned APP, learned Trial Court has committed no error in appreciating such evidence while upholding the guilt of the accused. For such reasons, application is sought to be rejected.

4. Heard. Perused the record. Apparently, all the three accused were tried vide Special (ACB) Case No.17 of 2015 on charge of commission of offence under Section 7 read with Sections 13(1)(d), 13(2) of the P.C. Act.

5. In nutshell, case of prosecution in Trial Court was that complainant Santosh and his brother has carried out sale transaction of land on 20.01.2015 vide registered sale deed. It is the case of prosecution that, on 12.01.2015, Santosh approached accused No.3 Nitin, who was a stamp vendor and gave him Rs.36,000/- towards

expenses of sale-deed. On 20.01.2015 Santosh demanded copy of registered sale-deed from accused No.2 Rajendrakumar, who was working as a clerk in the office of Sub-Registrar and it is alleged that accused No.2 had asked Santosh to come on the next day, but it is alleged that he avoided to give the copy. It is further case of prosecution that whenever accused No.2 was approached, he used to say that he has not received Rs.25,000/- and unless said amount is paid, original copy of sale-deed cannot be given. This demand of Rs.25,000/- according to prosecution is bribe amount. On receipt of complaint from Santosh, ACB authorities planned and executed trap and finally charge-sheeted all three accused and Trial Court accepted the prosecution story and vide judgment and order dated 07.09.2026 convicted accused Nos.1 and 2 for offence under Section 7 read with Section 13(1)(d) and 13(2) of the P.C. act, whereas accused No.3 came to be convicted for offence under Section 7 read with 12 of the P.C. Act. This judgment and order of conviction is challenged by filing criminal appeal and during its pendency, instant applications for suspension of sentence and grant of bail are urged for.

6. Learned Counsel for the applicants has primarily urged for relief on the ground that there was no reference of demand of bribe, but what was sought was towards the expenses for execution of the

sale deed, which has been misconstrued as a demand for bribe. He would point out that even complainant has admitted in his substantive evidence to that extent. He has further pointed out that there is no material to connect accused Nos. 1, 2 and 3 with the alleged offence. Even though the demand was allegedly raised by accused No. 2, the amount was handed over to accused No. 3. According to him, there was, in fact, no demand of bribe. These, according to him, are among the several grounds that create doubt about the prosecution case. If demand of bribe itself is rendered doubtful, then definitely it goes to the root of the prosecution case and to ascertain whether there is good ground to be dealt in appeal, which is yet to be heard, evidence on record is visited. Evidence of complainant Santosh PW1 is at Exhibit-20, that of shadow panch PW2 Jyotiba is at Exhibit-35 and forensic analyzer is examined as PW3, whereas sanctioning authority is PW4 and PW5 is the investigating officer.

7. From the testimony of complainant, as pointed out, it is emerging that on 12.01.2015, he had approached accused No.2, but what he deposes about is that he gave Rs.36,000/- towards expenses of sale-deed. Even in paragraph No.3 of his examination-in-chief he speaks about accused No.2 saying that he did not receive expenses

towards registration of sale deed i.e. to the tune of Rs.25,000/-. Therefore, *prima facie* it appears that amount demanded was towards expenses of sale transaction.

8. Further, as submitted, PW2 shadow panch, who is considered as a crucial and independent witness for corroborating the testimony of complainant, has admitted that he could not clearly hear the conversation between accused Nos.2 and 3.

9. Further, again as pointed out, very sanctioning authority PW4 has admitted in cross-examination that original sale-deed was already returned to the complainant and had this fact being brought to the notice, he would not have accorded sanction to prosecution.

10. Yet another feature of this case, as pointed out, is PW3 forensic analyzer has admitted in his cross-examination that there were multiple voices heard during conversation and its analysis is not done and further, the voice recorder was kept in unsealed condition. Therefore, possibility of tampering has not been completely ruled out.

11. Further, most crucial aspect which is coming from the testimony of Investigating Officer is that he personally did not seen tainted currency in the custody of accused.

12. Thus, indeed, there are good grounds to be dealt in appeal, as primarily doubt is raised about demand of bribe itself. Accused No.2 is said to have raised demand, but witness admit that he spoke about expenses towards sale-deed transaction. Even though demand is attributed to accused No.1, recovery is said to be from accused No.3 and therefore, there must be material on record to connect accused Nos.1, 2 and 3 to show that they had connived and acted together. Hence, there being good grounds to dealt in appeal, the relief as prayed deserves to be granted. Hence, the following order is passed :-

ORDER

I. Criminal Applications stand allowed.

II. The substantive sentences imposed upon the applicants, namely, **Ashok Pamajee Borawake** in Criminal Application No.3832 of 2026, **Nitin Laxmikantrao Apasingikar** in Criminal Application No.3830 of 2026 and **Rajendrakumar Nanarao Patil** in Criminal Application No.3831 of 2026, in Special (ACB) Case No.17 of 2015 by the learned Special Judge/Additional Sessions Judge-2, Latur, stand suspended till the final hearing and disposal of Criminal Appeal No.773 of 2026, Criminal Appeal No.771 of 2026 and Criminal Appeal No.772 of 2026, respectively.

III. The applicants be released on P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) each with two solvent sureties each in the like amount.

IV. The applicants shall not commit any criminal activity.

V. The applicants shall remain present before the learned trial Judge once in six months, till final hearing and disposal of the appeals, commencing from the date they tender bail papers and thereafter, the trial Judge to fix dates for their subsequent appearances.

VI. In case of two consecutive defaults on the part of the applicants to remain present before the trial court, the trial court to inform this court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of bail granted to the applicants.

VII. Bail before the trial court.

[ABHAY S. WAGHWASE, J.]

scm