

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

APPLICATION FOR LEAVE TO APPEAL (STATE) NO. 17 OF 2022

NAVNATH
SITARAM
WAGHMARE

Central Bureau of Investigation,
Banking Securities Fraud Branch, Plot No. C-
35A, G-Block, Bandra- Kurla Complex, Mumbai-
400098. ...Applicant

Versus

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by NAVNATH
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Date: 2026.09.24
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1. Raman Bholanath Dwivedi,
R/o. 102, Om Shri Ram Nagar CHS Ltd., Sai
Baba Nagar, Bhayander (East), Dist. Thane.

2. The State of Maharashtra. ...Respondents

Mr. Kuldeep S. Patil a/w Mr. Anay Joshi a/w Mr. Digvijay S. Kachare
a/w Mr. Sumitkumar Nimbalkar for the Applicant.

Mr. Rajesh Singh a/w Mr. Iftekhar Sayed, Kamal Mishra, Rajesh Singh
& Associates for the Respondent.

Mr. D.J. Haldankar, APP for the Respondent/State.

CORAM : M.M. SATHAYE, J.

DATE : 24th SEPTEMBER, 2026

PC. :

1. Heard learned counsel for the parties. Perused the record.
2. The Applicant/CBI is seeking leave to file appeal against judgment and order of acquittal of Respondent-Accused No.1 dated 15.07.2022 passed the by Special Judge (CBI), Greater Bombay in Criminal Appeal No. 32 of 2012.
3. The case of the prosecution in short is that on 23.02.1999 at about 4:15 p.m. three constables attached to the Oshiwara Police

Station received information about illegal sale of counterfeit stamps at a *pan stall* on Sahakar Road, Andheri (West) Mumbai, while they were on patrolling duty. The said police personnel went to the spot at about 4:30 p.m. On seeing the police persons, Respondent-Accused No.1 attempted to flee, he was chased and apprehended. The Respondent-Accused No.1 was taken to Oshiwara Police Station and in presence of two panch witnesses, his body search was taken. That 160 revenue stamps, 3 court-fee stamps and 50 insurance stamps were recovered. Body search memorandum and panchanama was done. First Information Report was registered bearing No. 109/1999 for the offences punishable under Section 258, 259 and 260 of Indian Penal Code, 1860 ('IPC' for short).

4. According to prosecution, during police custody, the Respondent-Accused No.1 made disclosure statement on 28.02.1999 for which memorandum of disclosure statement was recorded. The fact discovered was that friend of the Respondent-Accused No.1 had given revenue stamps and insurance stamps which were kept in his hut at RPF Colony, Slum Area, Khar (West). Panchas, police persons and the Accused went to the spot, which was shown by the Respondent-Accused No.1. The Respondent-Accused No.1 went near the hut, opened the door of the hut and brought 2 bags. In first bag, revenue stamp tickets (Rs.1/-) total amounting to Rs. 64320/- were found. In the second bag, revenue stamps worth Rs. 35680/- and insurance stamps (Rs.5/-) total amounting to Rs. 24,000/- were found. The said stamps were seized, signatures of panchas were affixed and recovery panchnama was drawn. The stamps which were found on the body of the accused were sent to India Security Press, Nashik for examination and as per the report received, the seized stamps were found forged. Charge sheet was filed.

5. Suspecting foul play on the part of the Investigating Officer ('IO' for short) PSI- Mr. Dalvi. That he did not conduct the investigation properly and that he did not find out source of fake stamps and investigation was found to be done in perfunctory manner, the case was reopened by the Special Investigation Team (SIT) in June 2003.

6. As per the order of the Hon'ble Supreme Court, the case was transferred to the Applicant/ CBI for further investigation. IO -PSI Dalvi was added as Accused No.2. During investigation, it was concluded that case is made out against the Respondent-Accused No.1 for the offence punishable under Section 259 only. However, material collected did not disclose any acts of omission or commission committed by Accused No.2 PSI- Dalvi so as to call for his prosecution. The concerned Sessions Judge vide order dated 10.07.2006 has discharged Accused No.2 Dalvi. An independent charge under Section 259 of IPC was framed against the present Respondent-Accused No.1.

7. The prosecution examined 7 witnesses and relied on documentary evidence. The defence of Respondent-Accused No.1 is of total denial and false implication

SUBMISSIONS

8. Learned counsel for the Applicant submitted that the offence involved is serious. That after 5 years of investigation, SIT was formed and thereafter matter was transferred to the CBI. That the recovery of counterfeit stamps is not denied. That prosecution witnesses have sufficiently proved the seizure of thousands of forged stamps. That the house from where counterfeit stamps were found, was opened by the Respondent-Accused No.1 using the key and therefore possession of the house is well established. That the concerned Magistrate had convicted

the Respondent-Accused No.1 by well reasoned order and the same should not have interfered with.

9. On the other hand, learned counsel for the Respondent-Accused No.1 submitted as under. That the existence of *pan tapari* from where the accused was apprehended, has been found to be doubtful. That there was no reason for the police team to patrol in civil dress and in a private car. That PW-6 Panch has not even entered the house/hut from where recovery is alleged. That the IO- PSI - Dalvi was exonerated. That private car i.e. Maruti van allegedly used for patrolling is not identified and its number is not mentioned. That there is no justification as to how the accused identified and recognized the police in civil dress, because he is alleged to have started running away on seeing the police. That information allegedly received by Informant- PW-1 is not recorded in station diary. That panch witness is not an independent witness because he was referred by his pet name, clearly showing familiarity. That there is no eye-witness for the story of Respondent-Accused No.1 being accosted and apprehended. That key of the hut was kept on the upper side of the hut clearly showing that many people had access and there was no exclusive possession with the Respondent-Accused No.1. That all the material contradictions as well as omissions are considered by the Special Judge and Respondent has been rightly acquitted. That no interference is required.

REASONS AND CONCLUSIONS

10. I have considered the rival submissions and perused the impugned judgment and order.

11. Learned Judge of the Appellate Court has considered the aspect of conscious possession of the counterfeit stamps with its knowledge of

being forged to the accused.

12. Learned Judge has considered that PW-1- Informant has not remembered the color of the shirt and pant of the Accused No.1 and that alleged *pan stall/tapri* had no board or name and it was a *Kaccha Tapri*. Learned Judge has found that from the depositions of PW-1 (informant) and PW-4 Sunil Khot (who was with him on 23.02.1999, when accused was apprehended), it emerges that there is inconsistency about the time of receipt of information. It is not explained whether the information was received in person or on telephone or through messenger.

13. The learned Judge has considered that the information received by police constable on duty was not passed on or communicated to the duty officer or to the concerned police station and there is no corresponding station diary. It is found that the PW-1 informant, PW-4 along with another police constable have directly proceeded on the spot on their own, without informing senior police official or maintaining any station diary.

14. Learned Judge has also considered that there is no explanation for patrolling in private Maruti van and not in official police van. Additionally, number of private Maruti van is not disclosed and driver is also not examined. The learned Judge has recorded that admittedly the police party was in civil dress and not known to the Accused No.1. The learned Judge has considered that if the police persons were in civil dress, how the Accused No.1 got impression about they being police and started running remains unexplained. It is found that physical description received in the information on the basis of which the Respondent-Accused No.1 is nabbed is not recorded in the FIR. The

learned Judge has held that the existence of the alleged *pan stall* is not proved. No statement of any witnesses is recorded about the existence of *pan stall*. IO-Mr. Dalvi has admitted that he visited the spot on the same day at about 8:30 p.m. i.e four hours after the incident, however, he could not notice any *pan stall* at the place. The owner of any *pan stall* or any other associated person with the place, where the Accused No.1 was allegedly sitting for selling counterfeit stamps, was not examined.

15. The learned Judge has found that there is no explanation why the Accused No.1 was not searched at the place after being apprehended. PW-2- (Lingaraj Gauda) is panch witness of body search panchnama, who has admitted in cross-examination that he does not understand Marathi and cannot read and write as well. The panchnama (in marathi) does not mention that it is explained to the panch witness in the language familiar to him. Learned Judge has therefore found that panchnama was also doubtful.

16. Learned Judge has also considered that PW-2 panch witness has admitted in cross-examination that when he visited the police station, stamps were lying on the table; therefore, it is difficult to believe that it was recovered in the presence of panch. The PW-2 has been found to have subsequently proved his case that *havaladar* took search of the Accused No.1 and from his pockets, stamps were recovered. Learned Judge has also found that timing of the FIR is also doubtful.

17. The stamps recovered from the accused on 23.02.1999 are found to have been sent to Indian Security Press after unexplained delay of 73 days and no record is found as to where and in whose custody the stamps were lying.

18. So far as the recovery on 28.02.1999 is concerned, the prosecution has examined PW-6 (Ramsagar Gupta) as panch witness. Learned Judge has found that statement about keeping stamps at residence made by the Respondent-Accused No.1 was recorded in detection room. The learned Judge has found that key of the hut was kept on the roof of the hut which is situated in crowded locality in hutment area. Therefore, involvement of the other person or the friend of the accused is also possible. Therefore, learned Judge has held that it is difficult to infer that the Respondent-Accused No.1 had exclusive possession of the place of recovery (hut). It is also noted that there is no independent witness taken from the locality on 28.02.1999.

19. The learned Judge has held that the aspect of opening of the lock with the key is not present in recovery panchnama but it has cropped up in the deposition of the witnesses.

20. The learned Judge has also observed that if recovery of stamps was done on 28.02.1999, why the stamps were not sent to India Security Press till 03.07.2003. The stamps were lying in *Malkhana* room of the Oshiwara Police Station and there are several entries pertaining to the deposit of the stamps in the *Malkhana* room. The learned Judge has held that why it was not sent to the India Security Press for about more than 4 years, is not explained.

21. In the aforesaid facts and circumstances, in my view, it is not necessary to scrutinize the evidence again in appeal. Therefore, no case for grant of leave is made out. Accordingly, leave application is rejected.

(M.M. SATHAYE, J.)