

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**2 CRIMINAL APPLICATION NO. 3449 OF 2017
IN
CRIMINAL APPEAL NO. 306 OF 2017**

NAMDEO S/O VYANKATRAO GHUGE

V E R S U S

THE STATE OF MAHARASHTRA

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Mr. J.N.Ghuge, Advocate for Applicant.

Mr. K.S.Patil, A.P.P. for Resp. - State.

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CORAM : V.L.ACHLIYA, J.

DATE : 17th JULY, 2017

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ORDER :

1. The applicant has moved this application seeking suspension of sentence and release on bail during pendency of Appeal, for the reasons set out in detail in the application.

2. The applicant was tried for committing the offences u/s 7, 13 (1) (d) read with 13 (2) of the Prevention of Corruption Act with allegation that he has demanded bribe of Rs. 2,500/- for not to initiate proceeding of perjury. The complainant was the informant

in the Sessions Case. The applicant was conducting trial as Assistant Public Prosecutor. The applicant alleged to have threatened the complainant that he has filed false case and in order to avoid the case of perjury against him, demanded bribe of Rs. 3,000/-. On negotiations, the demand was brought down to Rs. 2,500/-. On the basis of the complaint, raid was conducted and the applicant was caught raid-handed while accepting Rs. 900/-. On conclusion of trial, trial Court has convicted the applicant for the offence punishable u/s 13 (2) of the Prevention of Corruption Act and sentenced to suffer rigorous imprisonment for one year and to pay fine of Rs. 5,000/- and for the offence punishable u/s 7 of the Prevention of Corruption Act, sentenced to suffer rigorous imprisonment for six months and to pay fine of Rs. 1,000/-. Being aggrieved, the applicant has preferred this Appeal.

3. In nut-shell, it is the contention of the learned counsel for the applicant that the applicant is the victim of institution of false complaint by the complainant. He submits that the applicant has no criminal antecedents. He submits that the applicant is 63 years of age. During the trial, the applicant was on bail. He submits that it will take long time to hear the Appeal. In case, the

application is not entertained, there is every likelihood that Appeal become infructuous. He urge to release the applicant on bail.

4. On the other hand, learned A.P.P. opposed the application with contention that the applicant though being in noble profession and at the relevant time working as Assistant Public Prosecutor has indulged into such offence. He submits that looking to the nature of offence, the application may be rejected.

5. I have perused the impugned Judgment and order passed by the trial Court. Considering the sentence awarded, which is of maximum one year, I am of the view that the applicant deserves to be enlarged on bail. In case, the application is not allowed, there is every likelihood that the Appeal become infructuous. I am, therefore, inclined to allow the application and pass the following order.

ORDER

[1] Pending disposal of the appeal, the execution of substantive sentence stands suspended subject to

deposit of fine amount by the applicant.

[2] Applicant Namdeo s/o Vyankatrao Ghuge be enlarged on bail on his furnishing bail in the sum of ₹ 50,000/- [Rupees Fifty Thousand] with one or two sureties in like amount on following conditions.

[i] Pending disposal of the Appeal, the applicant shall appear and record his appearance before the Anti Corruption Bureau, Parbhani on last working day in every month in between 10.00 a.m.to 12.00 noon till disposal appeal.

[ii] The applicant shall not leave Parbhani city without intimating the Anti Corruption Bureau, Parbhani.

[iii] The applicant shall not indulge in the commission of similar offence.

[iv] The applicant shall furnish the names and addresses of his three close relatives.

[3] In case of breach of any condition, the bail granted to the applicant shall be liable to be cancelled.

[4] Anti Corruption Bureau, Parbhani is directed to submit the report in respect of compliance of conditions after every six months.

[5] Bail to be furnished in the trial Court within the period of suspension as ordered by the trial Court or within one week from the date of order. Failure to furnish the bail within the stipulated period, the order of grant of bail stands cancelled. Compliance report be sent to this Court.

[V.L.ACHLIYA, J.]