

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

**INTERIM APPLICATION NO. 3272 OF 2022
IN
CRIMINAL APPEAL NO. 971 OF 2022**

Sarjerao Sakharam Shinde	..Appellant
Versus	
The State of Maharashtra	..Respondent

Mr. Kuldeep S. Patil i/b. Saili Dhuru for Appellant.
Mr. S. R. Agarkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 3rd OCTOBER 2022

PC :

1. The Applicant was convicted by learned Special Judge (ACB), Solapur vide his Judgment and order dated 16/09/2022 passed in Special (ACB) Case No.4 of 2018. He was convicted for commission of offence punishable U/s.7 of the Prevention of Corruption Act (for short 'P.C. Act) and was sentenced to suffer R.I. for 5 years and to pay a fine of Rs.2000/- and in default of payment of fine to suffer S.I. for 2 months. He was also convicted for commission of offence punishable U/s.13(1)(d) r/w. Section 13(2) of P. C. Act and was sentenced to suffer R.I. for 5 years and

to pay a fine of Rs.2000/- and in default to suffer S.I. for 3 months. Both the sentences were directed to run concurrently.

2. The prosecution case is that the complainant was an accused in a case U/s.395 of I.P.C. He was granted anticipatory bail and formalities of the bail conditions were to be completed by the present Applicant. The complainant also requested for deleting serious sections. For that purpose the applicant had demanded bribe amount of Rs.20000/-. A trap was arranged. It is the prosecution case that, it was successful. The complainant paid that amount to the applicant. The raiding party caught the Applicant.

3. Learned counsel for the applicant submitted that, there is material contradiction between the evidence of the complainant and the pancha who were supposed to be present together at the time of trap dated 20/07/2017. He submitted that the Appellant was on bail during trial and he has not misused the same. The credentials of the complainant are obviously doubtful as he is an accused in a serious offence.

4. Learned APP opposed this application. He submitted that

the offence is serious and the sentence awarded is for 5 years. He further submitted that the contradiction is minor and it does not go to the root of the case. His demand was true.

5. I have considered these submissions. The sentence awarded in this case is for five years as rigorous punishment. The appeal is not likely to be decided during that period. The Applicant was on bail during trial and there was no allegation that he had misused the liberty. In any case, as of today he is suspended from his services, as submitted by learned counsel for the applicant.

6. So far as, merits of the matter is concerned, there is substance in the submission of learned counsel for the Applicant that, there is important and material contradiction during evidence of the complainant and pancha. The complainant was examined as PW-1 about the actual events taking place during the trap. He has deposed, that he along with pancha Gade went to the house of Appellant. Then the appellant asked whether PW-1 had brought gratification amount of Rs.20000/-. He removed it from the pocket and as is directed by the applicant, kept it in a black bag in his

house. After that, he gave signal to Gade to go out of the house. The pancha Gade signaled to Devkar who was present with raiding party. Thereafter, Devkar and his staff came inside the house and completed other procedure. Whereas, pancha PW-2 Atul Gade has deposed that the appellant and the complainant were discussing about deleting some sections in the crime. The applicant told PW-2 to wait outside. PW-2 came outside the house. After some time, PW-1 came outside the house and gave signal about applicant having accepted the bribe amount. These two versions are directly contrary and both of them cannot be true at the same time. Therefore, on the merits, there are arguable points in favour of the applicant. Taking over all view of the submissions, the applicant deserves to be released on bail.

7. Hence, the order:

ORDER

- a) During pendency and final disposal of Criminal Appeal No.971 of 2022, the applicant is directed to be released on bail on his executing P. R. Bond

in the sum of Rs.30,000/- with one or two sureties in the like amount.

b) The Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)