

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO.1425 OF 2022

Pitambar Maroti Bodele .Vs. State of Maharashtra, through A.C.B., P.S. Gadchiroli,
Tah. & Dist. Gadchiroli and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.V. Sirpurkar, Adv. with Shri Atharva Hastak, Adv. for the applicant.
Ms Shamsi Haider, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATED : 18/10/2022

1. Heard.
2. The present application is filed under Section 482 of the Code of Criminal Procedure raising a challenge to the order below Exh.12 dated 04.12.2020 passed by the Additional Sessions Judge, Gadchiroli in Sessions Case No.09 of 2019 rejecting the application moved by the applicant for discharge.
3. The learned counsel for the applicant states that there is no material in respect of demand and acceptance of the alleged bribe amount. It is submitted that demand is *sine quo non* to constitute offence under the provisions of Prevention of Corruption Act, 1988. It is further submitted that even sanction granted by the sanctioning authority is without non-application of mind. Accordingly, he prays for discharge under Section 227 of the Code of Criminal Procedure.

4. On the other hand, Ms Shamsi Haider, learned APP strongly opposes the present application and submits that essentially, it is a matter of trial whether the demand and acceptance is there or not and only after looking into the evidence any definite conclusion can be drawn about the demand and acceptance of illegal gratification. She, therefore, submits that the learned trial Court has rightly rejected the discharge application of the applicant.

5. I have perused the application and the impugned order.

6. Firstly, the applicant has approached to this Court by way of present application after two years of rejection of his discharge application. Furthermore, after going through the charge-sheet and the evidence collected by the Investigation Officer (IO), it can be said that there is *prima facie* incriminating material available on record. Thus, it cannot be said that *prima facie* there was no demand and acceptance or the sanction was not proper.

7. The learned trial Court after considering the material and evidence collected by the IO has rightly held that, no case is made out by the applicant for discharge.

8. Hence, in the above referred backdrop, I do not find any error committed by the learned trial Court. Accordingly, I pass the following order:

The criminal application is **rejected**.