

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

**INTERIM APPLICATION NO.375 OF 2023
IN
CRIMINAL APPEAL NO.85 OF 2023**

Gopichand Dada Gavali & Ors. Applicants

versus

State of Maharashtra Respondent

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- Ms. Vilasini B. i/b. Jaydeep Mane, Advocate for Applicants.
- Smt. M. R. Tidke, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 01st FEBRUARY, 2023**

P.C. :

1. The Applicants were the original accused Nos.1, 2 and 3 in Special ACB Case No.23/2014 before the Special Judge, (ACB) Solapur. At the conclusion of the trial, all of them were convicted for commission of offence punishable u/s 7 and 13(1) (d) r/w 13(2) of the Prevention of Corruption Act. The Applicant No.3 was convicted for commission of offence punishable u/s 12 r/w 7 and 13(1)(d) r/w 13(2) of the

Prevention of Corruption Act. The major sentence imposed on them was for 5 years besides imposition of fine.

2. Heard Ms. Vilasini B., learned counsel for the Applicant and Smt. M. R. Tidke, learned APP for the State.
3. The prosecution case is that the Applicant No.1 was the Village Development Officer. The Applicant No.2 was the Sarpanch and the Applicant No.3 was the peon. They were working with Gram Panchayat, Takali Sikandar. The complainant Rajkumar Jadhav was below poverty line. He was sanctioned a house under a Government Scheme. For that purpose, he had executed an agreement in July 2012. He was to get financial assistance in three installments of Rs.24,000/-, Rs.25,000/- and Rs.18,000/- to construct his house. In August/September 2012 he received the first installment of Rs.24,000/-. For getting next installments, a report was required to be submitted to the Panchayat Samiti by the Applicant No.1. However, the Applicant No.1 demanded Rs.20,000/- for himself and Rs.7,000/- for the

Applicant No.2. The demands were separately made by both the Applicants. The complainant lodged his complaint with ACB and then the trap was laid on 02/08/2013. It is alleged that the Applicant No.3 accepted the money. The notes were sprinkled with Anthracin powder. The investigation commenced and all the Applicants faced trial and were ultimately convicted and sentenced as mentioned earlier.

4. Learned counsel submitted that the sanction accorded against the Applicant No.3 is not proper. It was accorded in pursuance of the resolution passed by the Gram Panchayat. But the cross-examination of P.W.5 shows that there was no discussion about the offence and no details were available with the Gram Panchayat. Therefore that sanction does not show application of mind. She further submitted that the demand was allegedly verified through a voice recorder. But no expert was examined to fix the identity of the voice which was recorded in the recorder. She further submitted that the Applicants are falsely implicated by the complainant because he did not get the

next installment and he was facing prospects of recovery of the first installment. To avoid this financial difficulty, he implicated the Applicants. She further submitted that the Applicants were on bail during trial and they have not misused that liberty.

5. Learned APP opposed this application. According to her, the demand and acceptance were separately proved beyond reasonable doubt. Their evidence is reliable. The sanction does not suffer from infirmity. No such grounds regarding sanction were raised at the earliest.

6. I have considered these submissions. The issues raised by both the sides will have to be finally decided at the final hearing stage. The sentence imposed is for five years. The Appeal is not likely to be decided within that period. The incident is old. More than 9 years have passed. The Applicants were on bail during trial. There are no allegations of misuse of that liberty.

7. Considering all these aspects, the Applicants can be granted bail during pendency of their Appeal.
8. Hence, the following order :

ORDER

- (i) During pendency and final disposal of the Criminal Appeal No.85 of 2023, the Applicants are directed to be released on bail on their furnishing P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand only) each, with one or two sureties each, in the like amount.
- (ii) Interim Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)