

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

**INTERIM APPLICATION NO. 376 OF 2023
IN
CRIMINAL APPEAL NO. 87 OF 2023**

Jotiba Ramchandra Nalawade

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Yuvraj P. Narvankar for Applicant.

Mr. S. R. Agarkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 2 FEBRUARY 2023

PC :

1. This is an application for bail pending the final disposal of Criminal Appeal No.87 of 2023.

2. Heard Shri. Yuvraj Narvankar, learned counsel for the Applicant and Shri. Agarkar, learned APP for the State.

3. The applicant was convicted vide Judgment and order dated 20/12/2022 passed by learned Additional Sessions Judge, Kolhapur in Special (ACB) case No.4 of 2014. The applicant was convicted for commission of offence punishable U/s.13(1)(d) r/w.

Section 13(2) of the Prevention of Corruption Act, 1988 and was sentenced to suffer S.I. for one year and to pay a fine of Rs.10000/- and in default of payment of fine to suffer S.I. for three months.

4. The prosecution case is that the applicant was a Rector of a hostel run for the benefit of the students from the backward class. The informant had got a contract to supply the meals to the students. As per the procedure, the informant had to submit the bills which the applicant had to forward to the higher office for sanction of the bills. If the bills were sanctioned, he had to forward the same to the Treasury and after that sanction he could issue cheques for payment to the informant. The case of the prosecution is that, for the month of February 2013 the informant had raised a bill of Rs.2,54,000/- and for the month of March 2013, the bill of Rs.2,23,001/-. The case is that the applicant did not issue the cheque for the bill for the month of February 2013 and did not forward the bill for the month of March 2013. He demanded Rs.10000/- as bribe for paying those bills. The informant approached the Anti Corruption Bureau and the complaint was

lodged. The trap was laid. It is alleged that the applicant was found having accepted that amount. On these allegations the applicant faced the trial.

5. Learned counsel for the applicant submitted that the applicant was on bail during trial. He has not misused that liberty. Even after his conviction he was granted bail U/s.389 of the Cr.p.c. He further submitted that, on merits he has a good case. There was a clear admission on the part of the complainant which is recorded by learned Trial Judge in Paragraph 8 of his Judgment; which reads thus:

“It is true that my work was not pending with the accused.”

Learned counsel for the applicant submitted that, it is quite clear that this admission shows that, though there was nothing pending with the applicant, he was still framed by the first informant. He submitted that the applicant had made complaints against the quality of meals supplied by the first informant and, therefore, he was framed falsely in this case. He further submitted that the alleged recording of demand is not proved properly

because there was no certificate issued U/s.65B of the Indian Evidence Act.

6. Learned APP opposed these submissions. According to him, the offence is serious. The applicant was a Rector of a hostel which was run for the benefits of the students from backward class. He submitted that, there is sufficient evidence regarding the trap and, therefore, it is proved that the applicant had demanded and accepted the bribe amount.

7. I have considered these submissions. The points raised by both the sides will have to be decided at the final hearing stage of the Appeal. The applicant has raised some important issue based on the admission given by the first informant. Apart from that, the applicant was on bail during trial for a long period of about 10 years. The applicant was also granted bail after his conviction. Considering all these aspects, since the Appeal is not likely to be decided within a period of one year, which is the sentence imposed on the applicant, he can be granted bail pending final disposal of his appeal.

8. Hence, the following order:

O R D E R

- i) During pendency and final disposal of Criminal Appeal No.87 of 2023, the Applicant is directed to be released on bail on his furnishing P. R. bond in the sum of Rs.30000/- with one or two sureties in the like amount.
- ii) The Application is disposed of.

(SARANG V. KOTWAL, J.)