

rajshree

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

**INTERIM APPLICATION NO.968 OF 2023
IN
APPEAL NO.289 OF 2023**

Ramkishan Panditrao Kinhalkar	]	..	Applicant
vs.			
State of Maharashtra	]	..	Respondent

Mr.Ritesh Thobde a/w Changdev Shingade for the Applicant.
Mr.S.R. Agarkar, APP for the State.

CORAM : BHARATI DANGRE, J

DATE : 19th April, 2023.

P.C.

1] By the present Application, the Applicant seek suspension of sentence imposed on him by the impugned Judgment, passed by the learned Special Judge (ACB), Solapur, on 28.02.2023, convicting him for the offence punishable under Section 7 and 13(1)(d) read with 13(2) of the Prevention of Corruption Act and sentenced to suffer RI for 5 years and to pay fine of Rs.2000/- i.d. to undergo SI for 2 months, on both counts.

2] The learned counsel for the Applicant has invited my attention to the cross-examination of PW 1-Complainant and Panch Witness-PW 2,

where the complainant has admitted that no trap was laid on 08.05.2017, but in the trap of 09.05.2017, he asked the Accused to take the money and the accused told him to give money to him. He admitted that the accused told him that he will do the work.

In his cross-examination, he has stated as under :-

“It is true to say that, accused told me that, he will do the work, let it be.”

The further relevant admission in the cross-examination is to the effect as under:-

“It is true to say that, I myself kept money in the pocket of accused and Panch No.2 took money.”

3] In the wake of above admission, the necessary ingredient of Section 7, the demand, has not been satisfied.

The above clear admission and its impact on the examination in chief, will have to be appreciated at the time of hearing of Appeal..

4] However, at present, the Interim Application is allowed. The sentence imposed upon the Applicant by Judgment and order dated 28.02.2023 in Special (ACB) Case No.33/2017 stand suspended.

The Applicant is directed to be released on bail, on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.

[BHARATI DANGRE, J]