



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 430 OF 2024

Prakash Govindrao Bandapalle

... Petitioner

VERSUS

The State Of Maharashtra

... Respondent

.....
Mr. Sudarshan J. Salunke, Advocate for Petitioner

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 06th MARCH, 2024

ORDER :

1. Petitioner is aggrieved by order passed by learned Additional Sessions Judge, Latur, below exhibit-55 in Special Case (ACB) No.24/2015. Petitioner is charged for commission of offence punishable under section 7 of the Prevention of Corruption Act. The trial is in progress. After examination of PW-1/informant, application exhibit-55 is filed stating that at the time of verification of demand, a voice recorder was put on the person of informant, in which the conversation of demand is recorded. At the time of filing of charge-sheet, the Investigating Officer has transferred the said conversation on a memory card and submitted that memory card along with charge-sheet. Since the voice in the memory card can be

identified by informant, therefore, permission was sought to play the conversation recorded in the memory card and for that purpose to recall PW-1/informant.

2. Petitioner/accused opposed the application contending that the application is filed only to fill up lacuna in evidence of PW-1. Trial Court has allowed the application. Hence, the present petition.

3. Heard learned advocate for petitioner and learned APP for respondent – State. Perused the writ petition memo, annexures thereto and the impugned order.

4. Learned advocate for petitioner submits that the Trial Court erred in allowing the application, which is nothing but filling up lacuna by the prosecution. The said order has caused serious prejudice to the defence of petitioner and hence impugned order cannot be sustained.

5. Learned APP, on the other hand, supported the impugned order stating that even if it is for filling up lacuna, the same is permissible as it is a relevant evidence, in support of the prosecution case.

6. Record indicates that evidence of PW-1 was completed on 20.09.2023 and on the same day application exhibit-55 is filed for recalling him and playing conversation recorded on memory card, so that PW-1 can recognize the voice recorded in the memory card. Trial Court has allowed the application as recording of prosecution evidence was in progress and the said evidence is relevant for decision of the case. No prejudice is likely to be caused to petitioner if PW-1 is recalled, since petitioner will have opportunity to cross-examine him on the point of conversation in the memory card. There is no error in the approach of the Trial Court in allowing the application.

7. No case is made out by petitioner to exercise extraordinary writ jurisdiction. Writ petition being devoid merits is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE