



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1481 OF 2024

1) Abdul Bari S/o Ajgarkhan,
Age-51 years, Occu:Service,
R/o-Azam Colony, Hingoli,
Tq. and Dist-Hingoli,

2) Pankaj S/o Laxman Rathod,
Age-46 years, Occu:Service,
R/o-Narayan Nagar, Hingoli,
Tq. and Dist-Hingoli.

...PETITIONERS

VERSUS

1) The State of Maharashtra,
Through the Superintendent of Police,
At Hingoli, Tq. and Dist-Hingoli,

2) Deputy Superintendent of Police,
Anti Corruption Bureau, Hingoli,
Tq. and Dist-Hingoli.

...RESPONDENTS

...
Mr. Dhananjay M. Shinde Advocate for Petitioners.
Mr. A.D. Wange, A.P.P. for Respondents.
...

CORAM: SMT. VIBHA KANKANWADI AND
ROHIT W. JOSHI, JJ.

DATE : 5th DECEMBER, 2024

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present petition has been filed for directing the learned Special Judge under the Prevention of Corruption Act / 2nd Additional Sessions Judge, Hingoli to expedite Special (A.C.B.) Case No.11 of 2018 and to direct disposal of the same within a span of six months or within the period as this Court deems fit.

2. The petitioners stand prosecuted for allegedly committing offence under Section 13(1)(D)(2), 13(1)(3), Section 13(2) of the Prevention of Corruption Act, 1988 along with Sections 109, 420, 468, 469, 471 read with Section 34 of the Indian Penal Code.

3. Taking into consideration the prayer, this Court, by order dated 20th September 2024, had called the report from the learned Special Judge, (ACB), Hingoli, regarding the status of the case and why the case is not progressing and how much time would be required to dispose of the said matter if the accused persons and the prosecution co-operates. In response of the same, we have received the letter dated 30th September 2024, stating that there are 57 Special (ACB) cases, 35 UTP

cases pending with the learned Special Judge and she has joined the station on 5th June 2023 and five police stations are attached to her Court. She also states that there are in all 1571 civil and criminal cases pending in her Court.

4. We are not happy with the wordings those are used by the learned District Judge-3 and Additional Sessions Judge, Hingoli, District-Parbhani while writing the letter. When superior Court is asking for the status and also the convenience of the Judge, then the language should be submissive, without blaming any other Judge. The learned Judge was not justified in stating that top priority is required to be given to ACB part-heard cases. This Court is well aware about it. When the present case is pending since 2018 i.e. six years and there is absolutely no progress and as it appears from the contents of the petition, not a single witness has been examined, we were in favour of the statement that unnecessary lingering of the case is hampering the constitutional rights of the petitioners to get speedy justice. Further, the petitioners are the Government servants and definitely their promotional avenues are also jeopardized. It also appears from the report that summons were issued to the witnesses, way back on 18th October 2021. Even if the accused

persons are claiming exemption, in ACB cases, there will not be much dispute regarding the identity. Therefore, the Court can insist if the witness is present, that the accused should go ahead with the cross-examination or ask the prosecution to take examination-in-chief.

5. The particulars given in the report which show that the adjournments are granted in casual manner. Of course, those were by the predecessor of the present Presiding Officer. But still the present Presiding Officer says that she would require at least three years period to dispose of the case. On what basis she has stated that, cannot be gathered. It appears that she has not considered while stating so, that even the petitioners are waiting since last six years for even starting of the evidence against them. The Judge ought to have been sensitive when her opinion was called as to how much time she would require to dispose of the case. She has given the end of the said duration when she would be then transferred. This attitude is not proper.

6. Learned Advocate for the petitioners undertake that they will not seek unnecessary adjournment and will co-operate with the learned trial Judge.

7. Taking into consideration the pendency with the learned Judge, we dispose of the present Writ Petition, taking this case to be the exceptional case in issuing directions that the concerned learned Judge should expedite the trial of the Special (ACB) Case No.11 of 2018 and dispose it of by the end of December 2025.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/DEC24