

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

CRIMINAL APPEAL NO.591 OF 2024

1. Hemant Govind Thorat, &
2. Laxman Devram DeshmukhAppellants
Versus
The State of Maharashtra Respondent

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**WITH
INTERIM APPLICATION NO.2210 OF 2024
IN
CRIMINAL APPEAL NO.591 OF 2024**

Mr. Sudeep Pasbola, Advocate a/w. Rahul Arote, Ayush Pasbola, Mrunal Bhide for the Appellants/Applicants.
Mr. Vithal B. Konde-Deshmukh, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 14th JUNE, 2024

P.C. :

1. The Appellants-Applicants were the original accused in Special (ACB) Case No.3/2014. Both of them were convicted for commission of the offence punishable under Section 8 of the Prevention of Corruption Act, 1988 and they were sentenced to suffer RI for five years and to pay fine of Rs.1 Lakh each and in default to suffer SI for two

months. They were also convicted for commission of the offence punishable under Section 120-B of IPC and were sentenced to suffer RI for six months and to pay fine of Rs.10,000/- each in default to suffer SI for 15 days. They were granted set off for the period between 3.5.2013 to 6.6.2013. This case was decided by the learned Special Judge (CBI-ACB), Pune in Special (ACB) Case on 7.6.2024.

2. Shri Pasbola, learned counsel for the Applicant makes a responsible statement that as of today the entire judgment is not ready and is not uploaded. The only operative part is reflected in the Rozanama. He submitted that both the Applicants were on bail during trial. The offence is old. There is no sufficient material against the present Applicants. Learned counsel has annexed the depositions of the witnesses. He submitted that there is nothing on record to show that the Applicants had accepted the amount in question.

3. Since the entire judgment is not available, it is not possible to deal with the submissions made on the merits

of the matter. It is not a good practice to pass only the operative part and taking the accused in custody. In such case, the judgment copy should be made available at the earliest so that the High Court is in a position to consider the merits of the matter. The operative part was passed and signed on 7.6.2024 i.e. about a week earlier; and yet, the judgment copy is not made available. Learned trial Judge shall take immediate measures so that the judgment copy is available.

4. The Applicants-Appellants are already taken in custody. Therefore, awaiting the entire judgment copy, today I have considered learned counsel's prayer for ad-interim relief to the Appellants-accused. From that perspective, I have perused the evidence of the complainant – PW-2 Virsingh Chaudhary. The prosecution case, from his evidence, appears to be that PW-2 was an accused in a case in respect of search conducted by CBI at his house at Daund on 23.2.2013. The Applicant No.1 was an Advocate and the Applicant No.2 was his Clerk. The allegations are that

under the pretext of removing PW-2's wives name from the case and in order to pay bribe to the concerned officials including the public prosecutor, the Applicant No.1 obtained Rs.28,95,000/- from PW-2 out of which Rs.2 Lakhs were his fees. The rest of the amount was to be used as bribe for other public servants. PW-2 complained to the investigating officer in this case and then the investigation was carried out and the Applicants faced the trial.

5. Shri Pasbola submitted that the evidence shows that after PW-2's anticipatory bail application was rejected, he was not satisfied with the Applicant No.1 and to take revenge he has falsely implicated both of them. Shri Pasbola submitted that there is no evidence to show that said amount was actually paid to either of the accused.

6. At this stage, it is not possible to make any comment on the merits of the matter as the impugned judgment is not available. The entire judgment will have to be considered before proceeding further including considering admission of the Appeal. However, the

Applicants were on bail during trial. The allegations pertain to the year 2013. More than 11 years have passed. Therefore, by way of ad-interim relief, they can be released on bail till the next date.

7. Hence, the following order:

ORDER

- (i) In connection with Special (ACB) Case No.3/2014 before the learned Special Judge (CBI-ACB) Pune, till 2.7.2024, the Applicants are directed to be released on bail on their executing P.R. bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand Only) with one or two sureties each in the like amount.
- (ii) This order shall operate till 02.07.2024.
- (iii) Stand over to 02.07.2024.

(SARANG V. KOTWAL, J.)