

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

**INTERIM APPLICATION NO.2677 OF 2024
IN
CRIMINAL APPEAL NO.706 OF 2024**

Rizwan Hasan Patel	..Applicant
Versus	
The State of Maharashtra	..Respondent

Mr. Sanjeev Kadam a/w Prashant Raul, Aditi Rajput, Pratik Deshmukh, Varsha Thorat & Mayur Sanap, for the Applicant.
Mr. Swapnil V. Walve, APP for the Respondent/State.

CORAM : SARANG V. KOTWAL, J.

DATE : 16th JULY, 2024

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1. The Applicant was the accused in Special (ACB) Case No.67 of 2018 before the Special Judge under Prevention of Corruption Act, Greater Bombay. The learned Judge *vide* his judgment and order dated 26th June, 2024, convicted the Applicant for commission of offence under Section 7 of Prevention of Corruption Act and sentenced him to suffer rigorous imprisonment for three years and to pay fine of Rs.10,000/- and in default of payment of fine to undergo rigorous imprisonment for three months. The Applicant was also convicted for commission of offence punishable under Section 13(1)(d) r/w 13(2) of the Prevention of Corruption Act and sentenced to suffer rigorous imprisonment for four years and to pay a fine of Rs.10,000/- and in default of

payment of fine to undergo rigorous imprisonment for three months.

2. Heard. The prosecution case is that the complainant (PW-1) was the President of Manav Seva Santha, who had got the contract of cleaning the roads, drainage lines and toilets in the area at Bhandup (W) under Ward No.104. The work was done by twelve workers. The monthly bills were received from BMC 'S' Ward. The work of preparing the bills and sending it for sanction was with the Applicant, who was the Solid Waste Management Officer working with BMC. It is the case of the prosecution that the Applicant used to regularly obtain Rs.5,000/- per month as bribe amount for doing that work. On 6th December, 2016, the Applicant demanded Rs.7,000/- per month for doing that work. PW-1 then made a complaint. Two Panchas were called on 13th December, 2016. The demand was verified in the presence of PW-1 - the complainant and PW-2 - one of the Panchas, namely Munde. The trap was laid on the same day. It is alleged that the Applicant accepted the amount and gave it to one Shaikh, who in turn handed it over to one Mukesh. The amount was recovered from the said Mukesh.

3. Learned counsel for the Applicant submitted that the Pancha, who had accompanied PW-1 at the time of actual acceptance of amount was not examined. The other Pancha i.e. PW-2 was for verification of the demand. He has not fully supported the prosecution case. The recorded conversation was not clear. The

amount was not actually found with the Applicant. The other two persons i.e. Shaikh and Mukesh did not face the prosecution. Shaikh was discharged from the case. It is the prosecution case that when the said Shaikh saw the Applicant being apprehended, he gave the amount to Mukesh, therefore, he knew that it was the bribe amount, but Shaikh was discharged. It shows prosecution case in its entirety is doubtful. Learned counsel further submitted that the sentence imposed on the Applicant is short. The Appeal is not likely to be decided within that period. The Applicant was on bail during trial. He has not misused that liberty. The learned counsel submitted that the fine amount is already deposited.

4. Learned APP opposed these submissions. He relied on the discussions in the judgment, wherein the evidence of the complainant, Investigation Officer and the Pancha is discussed. He relied on that discussion.

5. I have considered the submissions.

6. Some arguable points are raised by the learned counsel for the Applicant, which will have to be decided at the final hearing stage. The sentence imposed is short. The Appeal is not likely to be decided within that period. The Applicant was on bail during the trial. There are no allegations of misuse of liberty. Therefore, the Applicant can be granted bail pending hearing and final disposal of the Appeal. Hence, I pass the following order :-

ORDER

- i) During the pendency and the final disposal of the Criminal Appeal No.706 of 2024, the Applicant is directed to be released on bail on his executing PR bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

7. The Application is disposed of.

(SARANG V. KOTWAL, J.)