



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
: NAGPUR BENCH : NAGPUR.

CRIMINAL WRIT PETITION NO. 929 OF 2024

PETITIONER : Bharat Shyamrao Dhurve,
Aged about 40 years, Occu. Service,
R/o Pimpri (Meghe), Ward No.3,
Wardha.

VERSUS

RESPONDENT : State of Maharashtra,
through the Dy. Superintendent of Police,
Anti Corruption Bureau, Wardha.

Ms. Surabhi Godbole, Advocate h/f Mr. Prakash Naidu, Advocate
for the petitioner
Mr. Amit R. Chutke, A.P.P. for the respondent/State

CORAM : G. A. SANAP, J.
DATED : DECEMBER 02, 2024.

ORAL JUDGMENT

1. **RULE.** Rule made returnable forthwith. Heard finally by the consent of the learned advocate for the petitioner and the learned APP for the State.

2. The application (Exh.46) made by the petitioner/accused to defer the cross-examination of PW1, who is the panch witness in a trap case under the Prevention of Corruption Act, 1988, was rejected by

the impugned order, dated 05.08.2024 on the ground that it would not, in any manner, cause prejudice to the accused.

3. The accused after completion of the examination-in-chief of the panch witness (PW1), made an application to defer his cross-examination till the evidence of the complainant, who is the most important witness for the prosecution, is recorded. Learned Judge, for the reasons recorded in the order impugned in this petition, has rejected the application.

4. It is to be noted that in trap cases, the complainant is the most important witness. The evidence of the complainant is generally recorded first in the trial, before recording the evidence of the other witnesses. In this case, the panch witness (PW1) has supported the case of the prosecution. No reason has been recorded for not examining the complainant as witness no.1 in the case. It is to be noted that the learned Judge, in the factual situation, was required to consider the prayer made by the accused. It is also to be noted that in such a case, non-defferal would enable subsequent witnesses giving evidence on similar facts to tailor their testimony to circumvent the defence strategy cannot be ruled out.

5. In view of the above, I conclude that the learned Judge was not right in rejecting the application (Exh.46). Learned Judge, in view of the specific contention raised by the accused, was required to examine the complainant first. The petition, therefore, deserves to be allowed.

6. Accordingly, the Criminal Writ Petition is allowed.

(i) The impugned order dated 05.08.2024 passed below Exh.46 in Special Case (ACB) No. 1/2013 by the learned Additional District and Sessions Judge, Wardha, is set aside.

(ii) The application (Exh.46) made by the accused for deferring the cross-examination of PW1 till the evidence of the complainant is recorded, is allowed.

(iii) The learned Judge shall proceed to record the evidence of the complainant.

7. Rule is made absolute. The petition stands disposed of in the aforesaid terms.

(G. A. SANAP, J.)