**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**BENCH AT AURANGABAD**

**APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 4 OF 2025**

. Union of India, Through Police Inspector,
Central Bureau Of Investigation,
Anti Corruption Bureau, Pune,
Akurdi, Pune. ….Applicant

**Versus**

1. Ravindra Udhavrao Garkal
Age: 46 years, Occu.: Govt. Servant,
Asstt. Commissioner,
Customs Central Excise & Service Tax,
Nanded.
Address – C/o Dnyanoba Munde, Near
Uddhavrao Patil Statue, Harsul Road,
Himayat Bagh Cornder, Aurangabad.

2. Shri Madhukar Bapurao Kadam
Age: 69 yrs., Occu.: Govt. Servant,
Suptd. Customs Central Excise &
Service Tax, Nanded.

Address – 17, Madhupushpa, Naiknagar,
Near Aditya Hotel, Beed Bypass Road,
Aurangabad. …..Respondents

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Advocate for Appellant : Shri Sachin Subhash Panale
Advocate for Respondent no.1 : Shri Sudarshan J. Salunke
Advocate for Respondent no.2 : Shri Prashant Prabhakar Giri

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**CORAM : ABHAY S. WAGHWASE, J.**

**RESERVED ON : 25 JULY, 2025**
**PRONOUNCED ON : 30 JULY, 2025**

**ORDER :-**

1. Instant leave to file appeal is at the instance of applicant Union of India, through Police Inspector, Central Bureau of Investigation (CBI) i.e. against judgment and order dated 03-08-2022 passed by learned Special Judge, Nanded in Special (ACB) Case No.15 of 2011, acquitting both accused (present respondents) from charge under Sections 7, 13(2) r/w 13(1)(d) of the Prevention of Corruption Act and under Section 120-B of the Indian Penal Code (IPC).

2. Learned Special Public Prosecutor Shri Panale apprised this Court about background of the prosecution case in the trial Court that, present respondent no.1 Ravindra Garkal was officiating as Assistant Commissioner, Customs, Central Excise and Service Tax, whereas respondent no.2 Madhukar Kadam was a Superintendent. He pointed out that for issuing Central Excise Registration Certificate for the company of which PW1 Prabhakar Kashinath Sagar was Manager, there was demand of illegal gratification to the tune of Rs.18,000/-. He pointed out that, as complainant was not willing to pay bribe, Anti Corruption Bureau (ACB) authorities were approached, who planned and arranged trap. He pointed out that

even pretrap panchanama was drawn. That, complainant PW1 Prabhakar was accompanied by PW3 J.Uttam Sitaram, shadow pancha, an independent witness. That, on decided day, office of accused was visited. That, initially accused no.2 Madhukar demanded and accepted the bribe and in presence of this pancha even duly informed main accused no.1 about receipt of illegal gratification. That, the said telephonic conversation was heard by PW1 complainant and PW3 shadow panch. That, accused no.2 had demanded and accepted the bribe and he was also accompanied by PW1 complainant and PW3 panch witness to the office of accused no.1. That, anthracene traces were detected on the fingers of accused no.2. That, there was transcript of conversation between PW1 complainant and accused no.2 i.e. conversation, which had taken place in the presence of PW3 shadow pancha. According to Special Public Prosecutor, both accused were apprehended by ACB authorities. That, in spite of prosecution having proved demand as well as acceptance, learned trial Court did not accept prosecution story and rather acquitted the accused. According to him, there is improper appreciation of evidence. Prosecution has a good case on merits in appeal and therefore, he urges for leave to file appeal.

3. Both learned counsel for accused nos.1 and 2 supported the judgment sought to be impugned. They pointed out that, prosecution has miserably failed to prove demand as well as acceptance. They pointed out that, required Central Excise Registration Certificate was already issued on 29-11-2010 and therefore, there was no question of putting up demand on 30-11-2010 for the work which was already done. They pointed out that, learned trial Court has meticulously appreciated evidence of PW1 Prabhakar that of PW3 J.Uttam Sitaram, shadow pancha, and has also elaborately dealt and analyzed answers given by these witnesses in cross-examination. That, they were apparently not consistent. It is pointed out that, accused no.2 had neither put up demand nor had accepted any amount. That, there was forceful thrusting of tainted currency in the hands of accused no.2. That, all such aspects are duly considered and appreciated by learned Special Judge and there being no merits in the prosecution case, according to both of them, there is no need to grant leave as the case of prosecution is apparently weak and fragile.

4. Heard each of the sides respectively. As pointed out, case set up by prosecution in trial Court is that, PW1 Prabhakar Kashinath

Sagar, Manager of M/s. Shankarseth Polymers Pvt. Ltd. company had approached Central Excise Department for issuance of Central Excise Registration Certificate. According to complainant, both accused had demanded Rs.18,000/- for doing the needful and therefore, complaint to that extent was lodged.

5. PW1 Prabhakar Kashinath Sagar has been examined at exh.44, and according to him, accused no.2 Madhukar demanded papers, which were submitted while making application for online registration and further told to come to Nanded alongwith bribe of Rs.18,000/-, out of which Rs.10,000/- were alleged to be of accused no.1 and remaining was for him. Apparently, thus complainant had no conversation with accused no.1. His evidence further shows that during visit on 01-12-2010 to the office of accused, PW1 complainant accompanied by PW3 shadow pancha, had only met accused no.2. He further deposed that accused no.2 made a phone call to accused no.1 that bribe of Rs.10,000/- had been received and to inform suitable time to handover it. He further deposed that accused no.1 asked him to come to his office at 04:00 p.m. Till such time, complainant was accompanied by shadow pancha and witness claims that they all three went to office of accused no.1, however, only PW1

complainant entered office of accused no.1 and at that time, PW3 shadow pancha was outside the office. PW3 shadow pancha is not corroborating **PW1** as he is giving distinct time of being called by accused no.1. In cross-examination, PW3 has admitted that when accused no.2 entered the office of accused no.1 for handing over bribe, accused no.2 had asked PW3 shadow pancha to stay outside as accused no.1 would not accept the amount in his presence. He also admitted of not hearing the conversation as he was waiting at the staircase. Thus, it is clearly emerging that accused no.1 was never seen accepting bribe by PW3 shadow pancha.

6. On Court query, learned Special Public Prosecutor admitted that there is no CDR of the alleged conversations between accused no.2 and accused no.1 regarding bribe amount to have arrived and further asking him when to come to hand it over.

Therefore, with above quality of evidence, learned Special Judge refused to accept the prosecution story. Thus, here prosecution has failed to prove factum of demand as well as acceptance and rather there is admission that procuring of required certificate is an online process and there is clear admission about receipt of required certificate earlier to the alleged trap of demand

and acceptance.

7. With such quality of evidence, in the considered opinion of this Court, no purpose would be served by according any leave to file appeal. No patent perversity in the appreciation of evidence at the hands of Special Court is pointed out so as to grant leave. Accordingly, I pass following order :

**ORDER**

(i) Leave refused.

(ii) Application is rejected.

( **ABHAY S. WAGHWASE** )
**JUDGE**

SPT