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

**CRIMINAL REVISION APPLICATION NO.36 OF 2019**

Bhimrao S/o. Nivrutti Pundge,  
Age: 53 years, Occu.: Ex-serviceman,  
R/o. Kamalnagar, Near Adarsh College,  
Hingoli, District Hingoli.

... Petitioner

Versus

1. The State of Maharashtra  
Through, Secretary of Home  
Department, Mantralaya,  
Mumbai.

2. The Superintendent of Police,  
Anti Corruption Bureau, Nanded,  
Tq. & District Nanded.

3. Dy. Superintendent of Police,  
Anti Corruption Bureau, Parbhani,  
Tq. & District.

... Respondents

.....

Ms. Maya R. Jamdhade, Advocate for Petitioner  
Mr. S.S. Dande, APP for Respondents – State

.....

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

**RESERVED ON : 17 FEBRUARY 2025**

**PRONOUNCED ON : 25 FEBRUARY 2025**

**PER COURT :-**

1. Instant Revision arising out of order passed by the learned Sessions Judge, Parbhani, on application Exhibit-3 in Special Case (ACB) No.01 of 2018.

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2. Learned counsel for revisionist would submit that, the present revisionist was booked for commission of offences punishable under Sections 7, 13(1)(d) r/w Section 13(2) of Prevention of Corruption Act. She submits that, the present revisionist was not a public servant, and therefore, he ought not to have been arrested or chargesheeted for commission of above offences. She would point out that, present revisionist was employed on a temporary basis for three months that too on contract basis. That, there are allegations of demand of Rs.5,000/- for forwarding proposal. That, in fact, there is no sanction for his prosecution. That, he was an ex-serviceman and having worked only on temporary employment. Moreover, the establishment in which he was employed was a Corporation, which does not come under the domain of State Government, so as to prosecute him for offences under Prevention of Corruption Act. Learned counsel took this Court to the definition of public servant, and submits that, provisions of Prevention of Corruption Act would not get gravitated, and therefore, by invoking Section 227 of the Code of Criminal Procedure, application Exhibit-3 for discharge was preferred before the learned Sessions Judge, Parbhani, however, learned Sessions Judge rejected the same by order dated 01.01.2019. She finally submits that learned

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Sessions Judge failed to appreciate the settled legal position as well as definition incorporated in the statute, and erred in rejecting the application. Hence, she seeks indulgence at the hands of this Court by allowing the Revision Application.

3. Learned APP opposed on the ground that revisionist was employed by the Government, and therefore, he consequently falls under the definition of public servant. That, he has demanded bribe, therefore, he was booked and chargesheeted for above offence. Learned APP further submits that, there is no error on the part of learned Trial Court in rejecting the application. Therefore, he prays to dismiss the Revision for want of merits.

4. Heard. Perused the papers. Present application is for discharge of accused mainly on the two grounds. Firstly; applicant was not a public servant as he was appointed on temporary basis in Corporation, and secondly; no sanction has been accorded. After giving anxious thought to the above submissions, papers show that, applicant, who was an ex-serviceman, was appointed in the Maharashtra Ex-servicemen Corporation, which came into being constituted on circular issued by the Government dated 18.01.2002. Learned Trial

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Court, in paragraph Nos.7 and 8, has clearly noted objective of establishment of Corporation. After comparing it with Section 2(c)(iii), even this Court is of considered opinion that, he was on the roll of Government and was on remuneration, and therefore, he consequently very well falls within the definition of the public servant.

The second ground is, want of sanction. It appears that before receiving sanction, revisionist was removed from the service. Therefore, in view of the judgment of this Court in *C.B.I. Vs. Raghuvir Acharya reported in All MR Cri. 2354*, here also, following his removal from service, there is no requirement for prior sanction for prosecution.

Resultantly, view expressed by the learned trial Court to this extent in the judgment cannot be faulted with, and this Court concurs with that finding.

5. What Section 227 of Cr. P.C. contemplates availability of material to proceed with trial, and only if the ingredients of the offence are not made out, then, person is entitled to be discharged. Here, going by the allegations, and the material placed before the learned trial Court, it is not at all a case for invoking Section 227 of Cr.P.C., for discharge.

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6. Consequently, there being no merit in the appeal, appeal deserves to be dismissed. Accordingly, I proceed to pass following order :

**ORDER**

Criminal Revision Application is dismissed.

**ABHAY S. WAGHWASE,  
JUDGE**

S P Rane