



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO.51 OF 2019

The State of Maharashtra,
through Anti Corruption Bureau, Jalna

...Applicant

VERSUS

Arun Dadarav Gutte,
Age 55 years, R/o Plot No. 1.19,
Ashwamegh Heritage, Plot No. 5,
Near Mahadev Mandir,
Osmanpura Galli, Aurangabad

...Respondent

...

Mr. P. P. Dawalkar, APP for Applicant/State
Mr. A. R. Devakate, Advocate for Respondent

CORAM : ABHAY S. WAGHWASE, J
RESERVED ON : NOVEMBER 19, 2025
PRONOUNCED ON : NOVEMBER 24, 2025

JUDGMENT:

1. As State is keen in questioning the judgment and order of acquittal passed by learned Additional Sessions Judge-4, Jalna in Special (PCA) Case No. 17/2025, by which present Respondent stood acquitted from the charges under Sections 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 (PC Act), instant leave application is pressed into service.

2. Learned APP pointed out that complaint was received from Arun Pawar (PW 2) that he had submitted proposal for availing subsidy for

construction of house. The said proposal was already approved and subsidy was also sanctioned. Cheque of the subsidy was also received from the concerned authority and, therefore, complainant had approached accused, who was in-charge and dealing with the matter. However, for extending benefit of subsidy and handing over cheque, there is demand of Rs. 25,000/- by way of bribe and therefore, on receipt of complaint to that extent, investigation was carried out by ACB Authorities. Panch was arranged. Panch as well as complainant were given necessary instructions.

3. According to learned APP, there was verification of demand got done prior to main trap. On its due verification, trap was laid. That, both complainant and shadow panch, who were in company of each other, had unanimously narrated events that had taken place during main trap. Their evidence is consistent.

He would further submit that even investigating officer, who carried out investigation, had deposed to that extent and has lend support to the prosecution story. He further pointed out that even necessary sanction was obtained and sanctioning authority was also duly examined.

Therefore, it is his submission that, there was overwhelming evidence on behalf of prosecution in support of its case but because of improper appreciation and non-consideration of settled legal position, trial ended up in acquittal. That, as State has good case on merit, learned APP

urges for leave.

4. Learned Counsel for Respondent - Accused pointed out that prosecution has miserably failed to bring home charges. According to him, demand itself is not proved. He pointed out that complainant himself has changed version and his testimony to that extent has been improvised while under cross. He further pointed out that even shadow panch is not consistent with this witness. That, even sanctioning authority had not applied its mind to the entire material, which was expected to do so but it having failed, even question of sanction has cropped up. Lastly, he submitted that, learned Trial Court has meticulously considered the evidence on record, legal requirements and as findings given are beyond reasonable doubt, he urges to refuse leave.

5. Heard. Perused papers.

6. Prosecution was lodged against present Respondent on the charges of Sections 7, 13(1)(d) read with Section 13(2) of the P.C. Act. The sum and substance of prosecution case is that complainant Arun Pawar – PW 2, who is examined at Exhibit 19, had applied for subsidy from the Government and even towards it, cheque was said to be received but for handing over the same, it is alleged by the prosecution that there was demand of Rs. 25,000/-. On receipt of complaint, ACB Authorities initially

drew verification panchnama and subsequently, they succeeded in executing trap.

However, on visiting evidence of Arun Pawar – PW 2, in paragraph 1 initially he has spoken about demand of Rs. 25,000/- raised. Then he states in paragraph 4 that accused raised demand of Rs. 5,00,000/-. Therefore, as submitted, he is not consistent. Moreover, as pointed out, there is said to be demand by way of gestures. On the contrary, his answer in cross shows that, he himself has made gesture regarding bringing money. It appears that in fact application for subsidy was made on behalf of son of complainant, however, he being minor, he was not found to be entitled and then there were some shortcomings in the application and, therefore, objections were raised. To this extent, complainant has admitted in the cross and, therefore, again question arises whether really there was any work with accused so as to accept story of prosecution.

In paragraph 14, complainant has admitted in cross that, for his work he had approached accused for the first time in October, 2014. However, apparently, complaint is lodged on 07.03.2015 and, therefore, there is inordinate delay in informing ACB authorities also.

7. Another crucial witness is shadow panch Vithal Lad – PW 3, who is examined at Exhibit 25. He, in his cross, has admitted that he had in fact seen written complaint of PW 2 on 07.03.2015 and also had seen typed complaint and he admitted that contents of both such complaints were

drastically opposite. He also admitted in paragraph 13 that, panchnama or script drawn by investigating officer, there is no mention about demand of Rs. 1,00,000/- at the hands of accused to the complainant.

Therefore, with such quality of evidence, case of prosecution is rendered weak.

8. Nagnath Pandurang Yagalewad – PW 1, who is examined as sanctioning authority, in his cross has admitted that he has not seen statements of witnesses, he had not verified the original complaint and he has also admitted that appointing authority was Chief Officer and he was superior to him. Therefore, even his testimony shows that sanction is not valid.

9. For above reasons, this Court does not find any valid reason or merit so as to accord leave. Judgment sought to be impugned, carries proper analysis and is supported by sound reasons. No case being made out on merit, application required to be dismissed. Hence, I proceed to pass following order:

ORDER

- (i) Leave is refused.
- (ii) Application for leave to appeal filed by State stands rejected.

(ABHAY S. WAGHWASE, J.)