



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

**APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 13 OF 2025**

The State of Maharashtra  
Through : Police Inspector,  
Police Station, Rahuri,  
Tal.Rahuri, Dist.Ahmednagar.

....Applicant

**Versus**

Hemant Shamrao Dahale  
Age: 45 years, Occu.: Servant,  
R/o. : Lalgulab Colony, Room No.8,  
Bhistbag, Ahmednagar.  
At present : R/o. Gurukul Vasahat,  
in front of Kanya School, Rahuri Factory,  
Tq.Rahuri, Dist.Ahmednagar.

.....Respondent  
(Ori. Accused)

.....  
Advocate for Appellant : Mr.S.P. Joshi  
Advocate for Respondent : Mr. Narayan B. Narwade

.....

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

**RESERVED ON : 24 SEPTEMBER, 2025  
PRONOUNCED ON : 10 OCTOBER, 2025**

**ORDER :**

1. State is keen in seeking leave of this Court to question the judgment and order dated 23-10-2024 passed by the learned Special Judge (ACB), Ahmednagar, in Special Case No.07 of 2015, thereby acquitting accused from the offence punishable under Sections 7, 13(1)(d) read with 13(2) of the Prevention of Corruption Act.

2. Learned APP pointed out that complainant namely Sunil Trimbak Shinde approached accused, a Talathi, for carrying out entry of sale deed in revenue record and for issuing revised copy of 7/12 extract. That, accused/respondent allegedly demanded Rs.5,000/- for said work and after negotiation, the demand was reduced to Rs.4,500/-. Learned APP further pointed out that, on receipt of report to this extent from complainant, pancha was summoned and trap was planned. That, necessary instructions were given to the complainant as well as shadow pancha and thereafter, they were made to visit accused and to pay tainted currency on demand. That, even pre-trap panchanama was prepared. He further pointed out that, on given date, both, complainant and shadow pancha went to Rahuri to meet the accused, who was in Rahuri. That, raiding party was following them. That, when the complainant and shadow pancha reached near a godown of grains, then complainant gave a call to accused and accused told that he will reach there within 15 minutes. That, after some time, accused came on his motorcycle. That, complainant, shadow pancha and accused went to Circle Office. That, there was a meeting hall and nobody was there. That, accused asked whether complainant has brought the amount of 7/12 extract

entry. That, complainant replied in affirmative. Then, complainant took out currency notes from his shirt pocket and hold in front of accused. Thereafter, accused accepted it by his right hand and put the same in his pant pocket. Then, necessary predetermined signal was given by complainant followed by arrest of accused.

Learned APP pointed out that above witnesses, more precisely PW1 complainant and PW2 shadow pancha are consistent in their testimonies about both demand as well as acceptance. That, there is nothing adverse to disbelieve their testimony. That, there is valid sanction. However, it pointed out that, in spite of availability of such evidence, learned trial Court has disbelieved case of prosecution and acquitted the accused holding that demand and acceptance was not proved.

Learned APP took this Court through the observations of the learned trial Court in paragraph nos.4, 5, 6 and 7. He also points out that case was in fact proved beyond reasonable doubt. That, there was strong evidence as well as circumstances to record guilt. Therefore, he questions above judgment by taking recourse to the judgment of Hon'ble Apex Court in the case of *Neeraj Datta v. State of Delhi (NCT)*, 2023 (4) SCC 731 and seeks indulgence at the hands

of this Court and to appreciate evidence of prosecution in correct perspective.

3. Learned counsel for respondent/accused supports the impugned judgment of acquittal and points out that prosecution has miserably failed to establish the charges. That, very demand and acceptance has not been proved beyond reasonable doubt. That, there are several major lapses and lacunae in prosecution case. That, cross-examination faced by the prosecution witnesses rendered their testimonies in the trial Court unworthy of credence. That, after complete and meticulous scrutiny of oral and documentary evidence, learned trial Judge was pleased to acquit the respondent. That, there is no merit in the present application and hence, he urges to refuse leave.

4. Heard both the sides. Studied the record and papers as well as impugned judgment. Prosecution was launched against respondent on allegation that for taking entry of sale deed in revenue record and for issuing revised copy of 7/12 extract, there was demand of bribe of Rs.5,000/-, which on further negotiations was brought down to Rs.4,500/-. On receipt of report to that extent from complainant,

Anti Corruption Bureau (ACB) authorities planned trap, arranged pancha, necessary instructions were given to both PW1 complainant and PW2 shadow pancha, who were to approach accused and to pay on demand and relay predetermined signal. For verification of demand, conversation was to be recorded in voice recorder.

5. As usual evidence of PW1 Sunil, complainant and PW2 Somnath, shadow pancha is crucial. It is fairly settled position that PW1 complainant being interested witness, corroboration from independent corner is insisted for i.e. from PW2 shadow pancha, who is considered as independent witness. His evidence is at exh.18. In paragraph 4 of his testimony, **PW2** Somnath Bhite, shadow pancha, has stated that, he accompanied PW1 complainant to the Talathi office while voice recorder was kept in the possession of PW1 complainant.

In examination-in-chief itself he stated that, when they went to Talathi office, as there were other people, there were no talks so they came for taking tea with the accused and there he claims that there was discussion between accused and complainant and then there was some bargaining but accused insisted that if negotiations are tried to be made, figure of bribe amount will go upto Rs.6,000/-. Such does

not seem to be the version of PW1 complainant and his testimony to that extent is in paragraph 8 and 9, but regarding above coversation, PW1 complainant has not deposed.

Further in paragraph 6 of his testimony, PW2 shadow pancha has deposed that PW1 complainant demanded extract and accused made gesture by rubbing the fingers. Therefore, there is no verbal demand and mere gestures are considered as sign of demand. This witness, in paragraph 15 of **cross-examination**, admitted that conversation between accused and complainant did not take place in his presence and he further answered that he does not know the hotel where they went to take tea and snacks and he has no personal knowledge of conversation on the topic of bribe. He also in paragraph 16 in cross-examination admitted that he was with the raiding party waiting outside the office and he personally does not know who gave the signal and he has no personal knowledge about actual demand and mode of demand or acceptance. Therefore, such evidence of crucial witness PW2 shadow pancha, who is generally relied, has inflicted damage to the prosecution case.

6. Learned counsel for respondent/accused has pointed out that oral testimony of PW1 complainant does not match with contents of

panchanama exh.22 i.e. on the point of conversation. Learned APP does not refute or deny to that extent.

7. Again as pointed out, PW2 shadow pancha and PW4 Investigating Officer are at variance as to who took out tainted currency from pocket of accused. Even when there was case of acceptance and counting, no anthracene traces were noticed on both hands of accused.

Resultantly, there are several factors, which render the case of prosecution doubtful and learned trial Judge seems to have precisely for above reasons also given benefit of doubt. Bearing in mind principles to be adhered to while dealing with appeal against acquittal, this Court does not find it a fit case to grant leave. No case is made out on merits to accord leave. Hence, following order :

### **ORDER**

Application for Leave to Appeal by State is rejected.

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