



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

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 57 OF 2020

The State of Maharashtra
Through : Bhokardan Police Station, Dist.Jalna.Applicant

Versus

Prabhu Saluba Pungle
Age: 47 years, Occu.: Service,
R/o. : Vita No.1, Tq.Bhokardan, Dist.Jalna.Respondent

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Advocate for Applicant : Mr.PP. Dawalkar
Advocate for Respondent : Mr.PA.Bhosle
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CORAM : ABHAY S. WAGHWASE, J.

**RESERVED ON : 11 NOVEMBER, 2025
PRONOUNCED ON : 13 NOVEMBER, 2025**

ORDER :

1. By way of instant application, State is intending to question judgment and order dated 16-12-2019, passed by learned Additional Sessions Judge-3, Jalna in Special Case (ACB) No.9 of 2013 by which present respondent came to be acquitted.

2. Learned APP would point out that accused respondent, who was working as a Clerk in Tahsil Office, Bhokardan, had demanded bribe from PW1 complainant for granting honorarium towards *Sanjay Gandhi Niradhar Yojana*. Report to that extent was received

by ACB authorities, who have planned and arranged the trap and shadow pancha was also arranged and both complainant and shadow pancha were made aware of procedure of trap. He submitted that accordingly PW1 complainant and PW2 shadow pancha together had been to the Tahsil Office. That, amount was demanded and it was also accepted by the accused. Therefore, *sine qua non* for attracting charges was very much available on record and evidence. However, learned trial Court failed to consider and appreciate the same and acquitted the accused without assigning sound reasons. That, there is a good case on merits in appeal and therefore, learned APP seeks leave to file appeal.

3. In answer to above, learned counsel for respondent pointed out that prosecution has miserably failed to establish whether there was demand and acceptance. He pointed out that in fact, PW1 complainant and PW2 shadow pancha both have consistently deposed before the Court that amount paid was towards credit owed by one Gayabai from accused. That, said Gayabai is not examined. That, in cross-examination, complainant has also admitted that amount demanded or handed over was towards hand-loan.

Learned counsel took this Court through the observations of

the learned trial Court in paragraph nos.16, 17 and 18 of judgment and supports the findings and therefore, he urges to refuse leave.

4. After considering the above submissions and on going through the record, here it is emerging that PW1 complainant, who is examined at exh.19, had filed complaint exh.20 with ACB authorities. She has deposed before the Court that she had applied for monthly honorarium under the *Sanjay Gandhi Niradhar Yojana* at Tahsil Office, Bhokardan. According to her, she tendered relevant documents with the application. That, her application was also sanctioned, however, accused demanded bribe of Rs.1,000/- for depositing monthly honorarium in her bank account and as she was not willing to pay bribe, she approached ACB authorities and filed complaint exh.20. She further deposed that initially, she gave oral complaint and later on it was got typed by ACB officer. She further testified that, ACB officer also verified demand of bribe by accused and accordingly, voice recording was decided to be done in the mobile handset of complainant. However, there being no such facility in her mobile handset, it is her testimony that SIM card was removed from her mobile handset and the same was put in mobile handset of Police Constable and then, she made call to accused from

the said mobile handset and told him that, “amount is ready and whether it is to be brought at Bhokardan and accused asked her to come at Bhokardan”. Therefore, above testimony as regards verification of demand is concerned, it is apparent that before accused made any demand, complainant herself has offered to pay and she has accordingly informed accused that she is willing to pay. Therefore, atleast at the stage of verification, demand part is missing. PW2 shadow pancha also at exh.23 has deposed to this extent. Therefore, the very crucial part i.e. demand is missing from the case.

5. Case put-forth by the respondent accused is that amount demanded was the amount owed by one Gayabai and that was directed to be paid. On these lines, if evidence of PW1 complainant as well as PW2 shadow pancha is put to scrutiny, it appears that in evidence of complainant, in paragraph 7, complainant has testified that she and shadow pancha had been to Tahsil Office and at that time, Gayabai was present there. When she came with complainant to Tahsil Office, at that time, Gayabai told complainant that she had taken Rs.1,000/- from accused to open bank account and the said amount is to be returned to the accused. Accordingly, complainant told Gayabai to tell accused that she had given Rs.1,000/- herself (complainant) and that complainant will give said amount to

accused.

Even to above extent, PW2 shadow pancha has admitted in cross-examination in paragraph 6 that on 12-12-2012, when she was in the company of complainant at Tahsil Office, Bhokardan, one Gayabai Modhekar was also present there and Gayabai told that she wants to pay Rs.1,000/- to accused. PW2 shadow pancha had admitted in cross-examination that at that time, complainant told Gayabai that she should not pay single pai to accused rather she would pay the said amount and accordingly, Gayabai given Rs.500/- to complainant and it is the same currency, which is shown before the Court.

Therefore, with such quality of evidence, no fault can be found on the part of the learned trial Judge in disbelieving the case of prosecution about alleged gratification being demanded. On the contrary, evidence of PW1 complainant and PW2 shadow pancha suggest some hand-loan transaction with accused. Apart from above quality of evidence, as pointed out, even conversation, which was allegedly recorded in the mobile handset of a Police Constable, is not before the Court. Consequently, for the more reason, case of prosecution was weak on several counts. No case being made out on merits to grant leave, application for leave to file appeal deserves to

be rejected. Hence, following order :

ORDER

Application for leave to appeal by State is rejected.

(ABHAY S. WAGHWASE)
JUDGE

SPT