



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

CRIMINAL WRIT PETITION NO. 851 OF 2025

THE STATE OF MAHARASHTRA
VERSUS
ASARAM BABURAO SATONKAR

...
APP for Petitioner : Mr. D. J. Patil
Advocate for Respondent : Ms. Monica Bagwe
...

CORAM : SACHIN S. DESHMUKH, J.

DATE : 25-09-2025

PER COURT:-

1. Heard the learned Assistant Public Prosecutor for the petitioner and the learned counsel for the respondent / accused.
2. First Information Report No.3105 of 2014 dated 31.12.2014 with the Police Station CIDCO, Aurangabad, is required against the respondent/accused for the offences punishable under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988.
3. After completion of the investigation, the Investigating authority filed chargesheet before the learned Additional Sessions Judge, Aurangabad. Thereafter, the charge were framed. Upon completion of examination of witnesses, the evidence was closed vide order dated 05.03.2025. As such, the case was kept for recording of statement of accused under Section 313 of the Code of Criminal Procedure.
4. In the interregnum, the prosecution presented an application

for recalling the order of closing of evidence contending that the witness, namely, Vaishali Pawar was present and prosecution was required to be examined, the accused protested the application. After hearing the parties, the learned Additional Sessions Judge rejected the application observing that by order dated 05.03.2025, the evidence of prosecution was closed; as such, could not recall its own order of closing the evidence

5. Equally, the petitioner/State filed another application seeking examination of additional prosecution witnesses. The same was opposed by the Accused on the ground of delay. The offence was of the year 2014, and the application being filed at a belated stage in the year 2025, the Ld. Sessions Judge, in the light of the order of closure of evidence, rejected the application. Aggrieved by the same, the Petitioner has filed this application.

6. Learned A.P.P. for the Petitioner submits that due to work load and individual difficulties of the Investigating Officers, the prosecution could not take appropriate steps for securing the presence of Investigating Officer for recording evidence. The learned trial court closed the evidence on the ground that the trial is pending for long. Immediately, on the subsequent date, the prosecution filed the application for setting aside the same. It was submitted that if the Investigating Officer is not permitted to be examined then same would impede the prosecution case. The

learned trial Court ought to have granted an opportunity for examination of witnesses. Further, assurance was given that the prosecution would not to seek any unnecessary adjournments and would conduct the trial on day to day basis. As such, prayed to allow the application.

7. In support of the submissions, the learned A.P.P. has argued that both the Investigating Officers have filed their respective affidavits on record as per the order of this Court, dated 26.06.2025, assuring that they would adduce the evidence as and when summoned by the trial Court.

8. The Respondent has filed the affidavit-in-reply, wherein it is contended that the offense is of the year 2014, while the charge was framed in the year 2017. After the commencement of evidence in the year 2022, the prosecution has examined only three witnesses. As per Roznama, witness summons, bailable warrants were issued to Investigating Officers, namely, Vaishali Pawar and Ashwini Bhosale by the trial court on multiple occasions. Despite offering numerous opportunities, the three witnesses failed to appear before the trial Court. Therefore, observing such casual conduct and disobedience on the part of Investigating Officers, the learned Additional District Judge closed the prosecution evidence on 05.03.2025. Therefore, the Trial Court has rightly dismissed the application of the prosecution.

9. Learned counsel for the respondent/accused further submits that the case is pending for last 10 years. As such, the attempt by prosecution was to prolong the trial unnecessarily causing prejudice to the Accused. As such, prayed to reject the present application.

10. After considering the submissions and materials on record, it is clear that repeated opportunities were granted to the prosecution for examination of witnesses. Moreover, this Court while issuing notice had sought explanation from the respective Investigating Officers, in relation to their failure to appear before the trial Court. In compliance thereof, the affidavit is filed before this Court, wherein it is undertaken that the prosecution shall examine the witnesses on day to day basis and shall not seek unnecessary adjournment/s.

11. Admittedly, the prosecution was granted sufficient opportunity to examine the witnesses. However, due to unavoidable reasons as stated in the affidavit, the Investigating Officers were not available for examination due to death of family members. As such, could not appear before the Court.

12. Considering the affidavit filed by Investigating Officer before this Court, it would be appropriate to provide an opportunity to examine the said witnesses. Since the accused would also have

an opportunity to cross-examine the witnesses, no prejudice would be caused to the accused. Thus, in the interest of justice, the present application deserves to be allowed. Hence, the following order;

ORDER

- (i) The Criminal Writ Petition is allowed in terms of prayer clauses "B" and "C".
- (ii) The orders dated 19.04.2025 and 26.05.2025 passed by the learned District and Additional Sessions Judge-11, Aurangabad, in Special Case (ACB) No. 28 of 2015, are quashed and set aside.
- (iii) The prosecution shall conclude its evidence within Ten weeks from receipt of this order, and unnecessary adjournments shall not be granted.
- (iv) The learned trial Court shall proceed with the matter expeditiously and decide the case on its merits, in accordance with law.
- (v) No order as to costs.

[SACHIN S. DESHMUKH]
JUDGE

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