



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

CRIMINAL APPLICATION NO.2550 OF 2025
IN
CRIMINAL APPEAL NO.317 OF 2025

Vishnu Tulshidas Kale

...Applicant

VERSUS

The State of Maharashtra

....Respondent

.....

Shri. Mayur V. Salunke, Advocate for the Applicant

Shri. B. A. Shinde, APP for the Respondent – State.

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CORAM : NEERAJ P DHOTE, J.

RESERVED ON : NOVEMBER 06, 2025

PRONOUNCED ON : NOVEMBER 11, 2025

ORDER :-

. This is the Application for Stay to the Conviction and Sentence recorded by the learned Additional Sessions Judge and Special Judge, Latur in Spl. Case (ACB) No.06/2017 by the Judgment and Order dated 21.04.2025 convicting the Applicant / Appellant for the offence punishable under Section 7 of the Prevention of Corruption Act (for short, 'P.C. Act') and sentencing him to suffer Rigorous Imprisonment for 3 (three) years and fine of Rs.5,000/- (Five Thousand Only), in default to undergo Simple Imprisonment for 1 (one) month.

2. Heard the learned Advocate for the Applicant – Appellant and the learned APP for the State. Perused the papers on record.

3. It is submitted by the learned Advocate for the Applicant – Appellant that, the evidence on record show that the Panch Witness was not present at the relevant time. The evidence on record show that, the Informant was not willing to go ahead with the Prosecution, however he was coerced by the Investigating Officer to pursue with the case. The evidence on record further go to show that, the Applicant – Accused had given the Lease Deed to the Informant and his work was done and there was no need of any further proceeding which go to show that there was no occasion to demand the illegal gratification. The learned Trial Court has recorded contrary findings in the impugned Judgment. There are no antecedents of the Applicant – Appellant and he has a very good case on merits. If the Conviction is not stayed, the Applicant – Appellant will face dismissal from the services. He submitted that, the Application be allowed and the Conviction be stayed.

4. The learned APP opposed the Application. He submitted that, the evidence on record show that, the demand and acceptance of the illegal gratification was proved by appreciating the evidence available on record. The learned Trial Court has rightly convicted and sentenced the Applicant – Appellant and the Application be dismissed. In support of his contention, he cited the Judgements in the case of *K. C. Sareen vs. CBI, Chandigarh (2001) 6 SCC 584* and *Central Bureau of Investigation,*

New Delhi vs. M. N. Sharma, (2008) 8 SCC 549.

5. The above referred Judgments speak of the legal position that, *‘when Conviction is on a corruption charge against a public servant the appellate court or revisional court should not suspend the order of conviction during the pendency of the appeal even if the sentence of imprisonment is suspended. It would be a sublime public policy that the convicted public servant is kept under disability of the conviction in spite of keeping the sentence of imprisonment in abeyance till the disposal of the Appeal or revision’*. The Conviction of the Applicant - Appellant is admittedly for the offence punishable under Section 7 of the PC Act. Admittedly, the Sentence awarded to the Applicant has been suspended. The ground for stay to the conviction is that, the Applicant would be dismissed from the services as he is convicted. In the light of the principles in the above referred Judgments, the same can be no ground to stay the conviction. It is needless to state that in the event of success in the Appeal, the Applicant would be entitle to claim the service benefits to which he would have entitle had he not been convicted. In the backdrop of these observations and the legal position in the above referred Judgments, the Application deserves rejection. Hence, the following order.

ORDER

- (i) The Application is rejected.

(NEERAJ P. DHOTE, J.)

