



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH : NAGPUR

**Criminal Application (APL) No. 984 of 2024**

Tejraj Hauslal Rahangdale,

Aged about 57 years, Occupation:  
Employment, R/o Gajanan Colony,  
Kudava, Gondia, District Gondia

... Applicant

**// VERSUS //**

1. State of Maharashtra  
through its Police Station Officer,  
Police Station Gondia City, District  
Gondia

2. Prashant S/o Ashok Meshram,  
Aged 42 Years, Occupation :  
Agriculturist, R/o Ekodi, Tah. Gondia,  
District Gondia.

... Non-applicants

Shri Virat Mishra Advocate a/w Shri Kabir Jhamb, Advocate and Ms.  
Gauravi Mishra, Advocate for the applicant.  
Shri G.S.Umale, APP for the non-applicant/State

**CORAM : NITIN B. SURYAWANSHI &  
PRAVIN S. PATIL, JJ.**

**Reserved on : 24<sup>th</sup> February, 2025.  
Pronounced on : 10<sup>th</sup> March, 2025.**

**ORAL JUDGMENT : (PER : PRAVIN S. PATIL, J.)**

**Rule.** Rule is made returnable forthwith. By consent of the learned counsel for the parties, the matter is taken for final disposal.

2. By way of present application, the applicant is seeking to challenge the First Information Report dated 4<sup>th</sup> August, 2023 registered

at Police Station Gondia City, District Gondia vide Crime No. 0512 of 2023 for the offence punishable under Sections 7 and 12 of the Prevention of Corruption Act, 1988 (in short hereinafter referred as “PC Act”) against the applicant.

3. In short, the case of prosecution is that the non-applicant no.2 is involved in the poultry farming business. He applied for chicken birds under the scheme namely “Maharashtra Navinya Purna Yojna”. On 22<sup>nd</sup> December, 2022 his online application under the Government scheme was sanctioned and he was allotted 1000 poultry/chicken birds under the scheme. Then, he submitted the required documents at Panchayat Samiti, Gondia to Livestock Development Officer. At the relevant time, accused no.1 namely Jayantprakash Ishwardas Karwade was holding the post of Livestock Development Officer. On his instructions, non-applicant no.2 started the work of construction of shed for his poultry farm, and the same was completed on 20<sup>th</sup> March, 2023. He informed the said fact to Livestock Development Officer. On this information accused no.1 i.e. Jayantprakash Ishwardas Karwada inspected the shed and told non-applicant no.2 to visit the Panchayat Samiti Gondia in order to collect his cheque sanctioned under the scheme. Informant received the first cheque of Rs.68,500/- through the present applicant. Applicant was/is holding the post of Live-Stock Supervisor in the office. From the said amount informant purchased 1000 cockerel poultry and started his business of poultry farm in the shed which he has constructed.

4. Non-applicant no.2 after starting his poultry farm business, requested accused no.1 to release his second installment under the scheme. On 31<sup>st</sup> July, 2023, accused no.1 i.e. Jayantprakash Ishwardas Karwade visited the shed constructed by the non-applicant no.2 and confirmed the purchase of 1000 poultry by obtaining photos of the constructed shed. At that time accused no.1 demanded the bribe of Rs.12,000/- to the non-applicant no.2 for releasing the second installment of Rs.1,00,000/-. Non-applicant no.2 was not willing to pay the bribe to the accused no.1 therefore he had lodged the complaint to the non-applicant no.1.

5. Accordingly, on 3<sup>rd</sup> August, 2023, a trap was arranged by non-applicant no.1 and informant along with panchas were sent to Panchayat Samiti Gondia to verify the demand of accused no.1 i.e. Jayantprakash Ishwardas Karwade. According to non-applicant no.2, on 3<sup>rd</sup> August, 2023 when he visited the office, accused no.1 i.e. Jayantprakash Ishwardas Karwade by giving the signal, directed him to sit on the outside chair of his office. At that time in the office of accused no.1, the present applicant and one Mahendra Hagru Gharde (accused no.2) were already present. After coming out of the room, the present applicant handed over the file to the informant and stated that “ek kaam karo inke sath file leke DD office main chale jao, yeh wahah de dena”. Accordingly, non-applicant no.2 went with Mahendra Gharde (accused no.2) on his motor-cycle at Gorelal Chowk. Accused no.2 stopped his motor-cycle at Gorelal Chowk and accepted the amount of bribe from informant, he was caught red handed by the raiding squad. Accordingly,

on the basis of this incidence, FIR No. 0512/2023 was registered at Police Station Gondia City, District Gondia against Jayantprakash Ishwardas Karwade, Mahendra Gharde under Sections 7 and 12 of PC Act on 4<sup>th</sup> August, 2023.

6. It is stated by the prosecution that, during the course of investigation, it was found that present applicant had helped the accused persons to get the bribe amount from the non-applicant no.2. Accordingly, his name was added in crime No. 0512 of 2023 on 21<sup>st</sup> May, 2024. The applicant has filed this application for quashing of these proceedings.

7. Heard Shri Virat Mishra, learned counsel for the applicant and Shri G.S.Umale, learned Additional Public Prosecutor for the non-applicant/State.

#### SUBMISSIONS OF APPLICANT

8. Applicant pointed out from contents of FIR that, complainant/non-applicant no.2 has not raised any specific allegation against him. It is only alleged that after coming out from office cabin of accused no.1, the present applicant stated to complainant/non-applicant no.2 that he should go with accused no.2 along with his file at D.D.Office and handover the same to accused no.2 at that office. On the basis of this allegation, no offence is made out against applicant under the provisions of PC Act.

9. It is the submission of the applicant that in the entire trap, he is nowhere involved. He is neither perpetrator nor the receiver of the bribe amount. As such his name was not included in the First Information Report. On the contrary, he was panch witness at the time of seizure of office documents by Investigating Officer. Applicant states that without there being any iota of evidence against him, later on his name was added in the array of accused.

10. There is no material showing that there was any kind of demand by applicant and played any role in accepting the bribe amount. Therefore, no offence is made out against him under the provisions of Prevention of Corruption Act.

#### SUBMISSIONS OF PROSECUTION

11. Learned Additional Public Prosecutor vehemently opposed the application by stating that there is a specific role attributed to the applicant as he has stated that complainant/non-applicant no.2 should go with accused no.2 Mahendra Gharde and handover the file to him at D.D. Office. As such applicant is involved in the Crime and his name is rightly added in charge-sheet.

#### ANALYSIS AND CONCLUSION.

12. After considering submission of both the parties and on perusal of First Information Report (FIR), it is clear that there is no material available against the applicant to prosecute him under Section 7

of the PC Act. Neither there is demand of bribe at his instance nor he has played any role in accepting the bribe amount. Even the informant has not made any specific allegation that present applicant had played a major role in the entire episode. Only allegation against the applicant is that after coming out from the office room of accused no.1 along with accused no.2, he had handed over the file to the informant and asked him to go with accused no.2 to the DD Office and handover to him the file at that place. Merely on these allegations it cannot be said that applicant has participated in the crime.

13. Furthermore, in the present case, there is no statement nor any proof available on record stating that present applicant demanded gratification from the complainant for any work. So also in the entire trap except the statement as stated above from the trap panchanama, there is no material against applicant. As such, there is absolutely no material showing the involvement of applicant, on the basis of which, prosecution can be continued against him. There is no material to frame charge against applicant.

14. Hon'ble Apex Court in the case of Soundarajan Vs. State Rep. By the Inspector of Police Vigilance Anti Corruption, Dindigul reported in 2023 SCC Online SC 424 held that, for establishing the commission of an offence punishable under Section 7 of the PC Act, proof of demand of gratification and acceptance of the gratification is a *sine qua non*. It is further held that it is not a simple demand for money, but it has to be a demand for gratification. If the factum of demand of

gratification and acceptance thereof is proved, then the presumption under Section 20 can be invoked, and the Court can presume that the demand must be as a motive or reward for doing any official act. This presumption can be rebutted by the accused. This judgment of Hon'ble Apex Court of India is squarely applicable to the facts of present case to hold that no offence is made out against applicant.

15. As such in absence of any material against the applicant, to allow the prosecution to prosecute the applicant is nothing but abuse of process of Court and further no fruitful purpose will be served by continuing the prosecution against applicant.

16. For the aforesaid reasons, Criminal Application No. 984 of 2024 is allowed. First Information Report vide Crime No. 0512 of 2023 dated 4<sup>th</sup> August, 2023 registered at Police Station Gondia City, District Gondia for the offence punishable under Sections 7 and 12 of the Prevention of Corruption Act is hereby quashed and set aside to the extent of applicant **Tejraj Hauslal Rahangdale**.

17. Rule is made absolute in the above terms.

[PRAVIN S. PATIL, J.]

[NITIN B. SURYAWANSHI, J.]