2026:BHC-AUG:47337

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 31 OF 2026

The State of Maharashtra
Through Police Station Officer,
Police Station Sangamner City,
Tq.Sangamner, District Ahilyanagar. ….Applicant

Versus

Satish s/o Gajanan Dusane
Age: 47 years, Occu.: Service,
R/o. At Post Satana, Maruti Lane, Tilak Road,
Tq.Baglan, Disrict.Nashik. …..Respondent
(Ori. Accused)

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Mrs.A.S.Mantri, APP for Applicant.
Mr. Joydeep Chatterji, Advocate for Respondent.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 06 OCTOBER, 2026
PRONOUNCED ON : 08 OCTOBER, 2026

ORDER :

1. Instant application for leave to file appeal by State is on account of Judgment and order dated 09-12-2025 passed by learned Additional Sessions Judge, Sangamner in Special (ACB) Case No.3 of 2012 acquitting respondent herein from charges under Sections 7, 13(i)(d) read with Section 13(2) of the Prevention of Corruption Act.

2. Learned APP would point out that, case of prosecution in trial Court was that complainant had applied for loan for his tailoring business and for sanctioning the same, accused demanded bribe of Rs.5,000/-. That, Anti Corruption Bureau (ACB) received complaint to that extent from PW1 complainant and arranged and planned trap by engaging panchas. Learned APP pointed out that, both complainant and shadow pancha, in their evidence, have deposed about demand as well as acceptance. That, their testimonies on above aspects have remained intact, however, learned trial Court has misread the evidence and acquitted the accused. That, there is incorrect appreciation on the point of sanction also. That, prosecution has a good case on merits and therefore, she urges to accord leave.

3. Per contra, learned counsel for respondent would point out that, prosecution miserably failed to prove the charges. He pointed out that, demand itself is not proved. Moreover, the amount was required for payment of charges of DW1 a Chartered Accountant (CA), who was to be engaged to prepare project report. That, there was no demand of bribe. That, there is no corroboration from shadow pancha. That, even sanction is invalid for want of

application of mind and for above reasons, he justifies order of acquittal and prays to refuse the leave.

4. Heard. Perused the evidence.

5. Case of prosecution in trial Court was that PW1 complainant, who was in need of loan for setting up business of tailoring, had approached accused, who was working in Khadi Gramoudyog Mahamandal Office, Sangamner. According to him, accused demanded Rs.5,000/- for clearing the proposal and finally on negotiation amount was brought down Rs.3,000/-. Complainant claims that, he made upfront payment of Rs.1,500/- and when there was demand for remaining amount also, he approached Anti Corruption Bureau and gave complaint.

6. In view of nature of charge, it is to be first satisfied whether there was demand and acceptance and whether complainant's testimony is credible and further finding support from independent pancha witnesses.

7. It is noticed that PW1 complainant reported to ACB in complaint Exhibit 24 that, on 04-08-2009 accused demanded Rs.5,000/- for sanctioning loan and on the same day, he paid Rs.1,500/-. However, in witness box, he seems to have deposed that, on 05-08-2009, he paid Rs.1,500/-. Therefore, complainant does not corroborate his own complaint on the point of part payment.

8. According to PW1 complainant, pre-trap panchanama was drawn on 11-08-2009, however, contrary to it is the version of PW2 shadow pancha, as according to him, pre-trap panchanama was done on 10-08-2009.

Similarly, it is noticed that, according to complainant, he and shancha reached office of accused on 11-8-2009 at 12:30 noon, but his own companion PW2 shadow pancha gave timing of reaching office of accused as 03:30 p.m.

Therefore, as pointed out, complainant and shadow pancha are not consistent and lending support to each other. As stated above, it is not clear whether after initial demand of Rs.5,000/- when complainant claims that he paid Rs.1,500/-, how bribe amount Rs.3,000/- was reported in complaint.

9. Defence of accused is that complainant was illiterate. That, he was interested in raising loan above Rs.1,00,000/-. In view of such slab of loan, project report was necessary and that, at the request of complainant himself, accused had arranged services of DW1 Prakash Rangnath Sahane, a Chartered Accountant to prepare a report and his chargers were to the tune of Rs.3,000/- to Rs.4,000/- and the amount taken that day from complainant was towards the said work of report, to be handed over to DW1 Prakash.

In the light of such defence, DW1 Prakash seems to have been examined and it is noticed that this witness at Exhibit 52 did testify that accused had approached him for getting prepared project report for complainant and he tendered copy of report Exhibit 53 as well as charged fees of Rs.3,000/-, but he did not receive the amount and therefore, he despatched communication on 14-08-2009 to accused and he identified that letter at Exhibit 54.

Thus, here DW1 defence witness is specifically examined in support of defence of accused. Law is fairly settled that accused is merely expected to probabilize his defence. Here, by examining a witness DW1 and bringing on record above exhibited documents, indeed accused has probabilized his case.

10. Therefore, when there are material and several inconsistencies in the testimony of complainant and shadow pancha coupled with immediate statement of accused and further defence being substantiated, in the considered opinion of this Court, no fault can be found on the part of the learned trial Court in refusing case of prosecution. With such quality of evidence, in the considered opinion of this Court, no purpose would be served by according leave to file appeal. Hence, leave refused. Accordingly, following order is passed :

ORDER

Application is rejected.

(**ABHAY S. WAGHWASE**)
JUDGE

SPT