IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 125 OF 2024

The State of Maharashtra,
Through Superintendent of Police,
Anti Corruption, Beed. **… Applicant**

Versus

1. Sharad Shivraj Patil,
Age 30 years, Occupation Service,
Talathi Sajja,Dharmapuri,
R/o. Karegaon, Taluka Deglur,
District Nanded.
At present R/o. Mahapure Nivas,
Sai Nagar Parali,
Taluka Parali, District Beed.

2. Gopal Bamaji Phad,
Age 47 years, Occupation Sarpanch,
R/o Bhojnathwadi, Taluka Parali,
District Beed. **… Respondents**

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Mr. V. S. Badakh, APP for the Applicant-State.
Mr. Pratik A. Bhosle, Advocate for Respondent Nos. 1 and 2.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 13.10.2026
Pronounced on : 15.10.2026

ORDER :

1. Being aggrieved by the judgment and order of acquittal dated 30.03.2024 passed by the learned Additional Sessions Judge, Ambajogai, District Beed in Special (A.C.B.) Case No. 01 of 2018,

thereby acquitting the present respondents-accused from charge under Sections 7, 12, 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988 (for short, 'the PC Act'), the State intends to prefer appeal and hence, the instant leave application.

2. Learned APP would submit that there is no dispute that accused was Talathi and a public servant. He pointed out that complainant had approached accused for the work of mutation entry for which there was said to be demand of Rs.7,000/- and, therefore, when ACB received complaint from PW2, trap was duly planned by engaging panch. He pointed out that pre-trap panchanama for demand verification was got done and only on getting certain about demand of illegal gratification, main trap was laid. Learned APP would submit that both complainant and shadow panch are consistent. However, the learned Trial Court acquitted the accused merely on the ground that there was no demand and rather the acceptance was by accused No.2 and not by accused No.1. According to learned APP, there is incorrect appreciation of evidence and failure to apply law and, therefore, the said judgment is under challenge and, hence, he seeks leave.

3. Learned Counsel for the respondent would support the judgment and order of acquittal and for want of merits, he urges to

refuse leave.

4. Perused the evidence. **PW1** appears to be the sanctioning authority, who, in his evidence at Exhibit-30, stated that he had received a letter from the office of the Superintendent of Police, ACB, Aurangabad, addressed to the Collector, Beed, who, in turn, forwarded the papers to him. Then, he claims to have accorded sanction. However, as pointed out, in the cross-examination, he has admitted that accused was appointed by District Collector and mere posting was done by SDO. Consequently, appointing authority being Collector, it is doubtful whether this witness was competent to accord sanction.

5. As regards to demand is concerned, there has to be consistent evidence of complainant finding support from shadow panch.

6. **PW2** Complainant, in his evidence at Exhibit-56, deposed that his father expired in 2015. However, in the revenue record, there was mistake in the name of his father and so he approached for its correction with accused No.1. According to him, there was demand of Rs.7,000/- for correction of mutation entry. He deposed about approaching ACB, lodging complaint Exhibit-57, panch being called and he and panch both going for verification of demand and carrying

voice recorder. He claims that they reached office of accused, but he was not present and, therefore, telephonic contact was developed and they met in the premises. However, in his testimony, complainant has deposed that at such time he requested accused to reduce the amount and it was finally brought to Rs.6,500/-. Therefore, apparently, at the time of demand verification, there is no demand. Rather, directly complainant suggested reduction of amount of bribe. In paragraph No.10 of his examination-in-chief, he stated that during main trap, when he and panch went to accused, at that time, accused demanded bribe and further instructed to handover the currency to accused No.2. Thus, there is no acceptance by accused No.1.

. While under cross-examination, in paragraph No.15, he has admitted that when they went for verification of demand, at that time, other villagers were also present with accused No.1 and he further admitted accused saying to him 5 to 6 times that there was no question of taking money and to return home. Omission is brought in his statement that accused No.1 demanded Rs.6,500/-.

7. **PW3** shadow panch, though deposed of accompanying complainant for both demand verification as well as at the time of main trap, as pointed out, in paragraph No.12 of his cross-examination, he admits that every time when he accompanied

complainant, he was 20 to 25 feet away from the complainant and that no communication had taken place in his presence between complainant and accused No.1.

8. Therefore, in the light of above material on record and with such quality of evidence, no fault can be found in the judgment and order of acquittal. No purpose would be served by according leave. Hence, leave refused. Hence, the following order is passed :-

O R D E R

. Application stands rejected.

[ABHAY S. WAGHWASE, J.]

scm