



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 622 OF 2025

Sudhakar Malba Davkare

VERSUS

The State Of Maharashtra

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- Mr. Swapnil Joshi, Advocate i/by M/s. J.P. Legal Associates, Advocate for the Petitioner
- Mr. K. K. Naik, APP for Respondent - State

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CORAM : MEHROZ K. PATHAN, J.

DATED : 09.02.2026

PER COURT :

1. Heard Mr. Swapnil Joshi, learned counsel i/by M/s. J. P. Legal Associates, appearing for the petitioner, and Mr. K. K. Naik, learned APP for the respondent–State.

2. The petitioner challenges the order dated 04.12.2024, passed by the learned Trial Court, whereby the application filed by the petitioner under Section 227 of the Code of Criminal Procedure seeking discharge of the petitioner/accused No.1 in Crime No.123 of 2012 came to be rejected.

3. Learned counsel for the petitioner submits that during the course of investigation, a proposal was moved by the prosecution seeking sanction to prosecute the petitioner under Section 19 of the Prevention of Corruption Act, 1988. The competent authority, namely Maharashtra Jeevan Pradhikaran, by its communication dated

10.06.2015, refused to grant sanction to prosecute the present petitioner, who was working as a Deputy Executive Engineer with the Zilla Parishad, Chh. Sambhajinagar, at the relevant time. It is submitted that a specific ground in that regard was raised by the petitioner in the discharge application filed in December 2017. However, while deciding the said application, the learned Trial Court, by the impugned order dated 04.12.2024, has failed to consider the said specific ground and has rejected the application solely on the premise that there is sufficient material to proceed against the accused.

4. Learned counsel for the petitioner further submits that the impugned order reflects total non-application of mind on the part of the learned Trial Court. It is submitted that the refusal of sanction by the competent authority goes to the very root of the matter and strikes at the maintainability of prosecution under the Prevention of Corruption Act. Despite such a vital issue being specifically raised, the learned Trial Court has neither adverted to nor recorded any finding on the said aspect. Hence, the impugned order is liable to be quashed and set aside.

5. As against this, learned APP Mr. Naik opposes the petition and submits that the issue of sanction or its validity can be considered at any stage of the proceedings. It is submitted that the learned Trial

Court has taken into consideration the material available on record and has rightly found that there is sufficient ground to proceed against the petitioner. Therefore, no interference is warranted in the impugned order dated 04.12.2024.

6. I have carefully perused the material placed on record. It is evident that the competent authority, namely Maharashtra Jeevan Pradhikaran, had refused to grant sanction to prosecute the present petitioner for the offences punishable under the Prevention of Corruption Act. Consequently, the proposal moved by the prosecution under Section 19 of the said Act came to be rejected. It is also seen that by communication dated 14.02.2011, the department had informed that an enquiry was conducted regarding the alleged misappropriation pertaining to works carried out in the Zilla Parishad and the Enquiry Report concluded that there was no illegality or irregularity in execution of the work or in withdrawal of funds.

7. It can also be seen from the application filed by the applicant for discharge under Section 227 of the Cr.P.C. was a specific ground raised in paragraph No. 13 of the application wherein the applicant has pleaded the ground of sanction though the refusal of sanction is not pleaded in the said application. However, the invalidity of the sanction from the competent authority and the requirement of such sanction being mandatory to prosecute the applicant under the

provisions of Prevention of Corruption Act, is specifically raised. Thus, the learned Trial Court ought to have considered the said ground raised by the petitioner herein and ought to have answered the same and give some reasons either allowing or rejecting the same. The impugned order dated 04.12.2024 does not show any consideration of the particular ground of sanction raised by the petitioner herein and as such the same is liable to be quashed and set aside. Hence, the following order :-

ORDER

- A) The writ petition is partly allowed.
 - B) The impugned order dated 04.12.2024 is hereby quashed and set aside.
 - C) The learned Trial Court is directed to decide the discharge application of the petitioner afresh, in accordance with law, after taking into consideration all the grounds raised, including the ground relating to refusal of sanction by the competent authority.
 - D) Considering that the crime pertains to the year 2012, the learned Trial Court shall decide the said application expeditiously and preferably within a period of two (02) months from the date of receipt of this order.
8. With the aforesaid directions, the Writ Petition stands partly allowed and disposed of.

9. Needless to mention that this Court has not expressed any opinion on the merits of the discharge application. The observations made herein are only prima facie in nature and are confined to the adjudication of the present petition. The Trial Court shall decide the application for discharge independently and on its own merits, without being influenced by these observations.

(MEHROZ K. PATHAN, J.)