



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO.92 OF 2025

The State of Maharashtra

... Applicant

Versus

Dr. Rajendra Balu Patil,
Age : 61 years, Occu. : Service,
R/o. Vrundavan Nagar, Plot No. 211,
Dongargaon Road, Shahada,
Near Hasti Bank, Shahada,
Dist. Nandurbar

... Respondent
(Orig. Accused)

.....
Mr. S. G. Sangale, APP for Applicant – State.
Mr. Joydeep Chatterji, Advocate for Respondent.
.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 04 FEBRUARY 2026

PRONOUNCED ON : 06 FEBRUARY 2026

ORDER :

1. State by invoking section 378(1)(b) of the Code of Criminal Procedure urges for grant of leave to question the judgment and order dated 08.05.2019 passed by learned Special Judge of ACB and Additional Sessions Judge, Nandurbar in ACB Special Case No. 14 of 2015 by which present respondent - original accused stood acquitted from charges under sections 7, 13(1)(d) punishable under section 13(2) of the Prevention of Corruption Act.

2. According to learned APP, on receipt of complain by PW2 complainant about demand of illegal gratification to the tune of Rs.20,000/- for clearing subsidy received by complainant, investigating machinery after summoning the independent panch witnesses, planned trap. That, demand verification was got done by recording conversation and thereafter main trap was planned. It was also successful. That, both demand as well as acceptance were cogently proved, but according to him, the same is not accepted by learned trial court solely on the ground that PW2 complainant had not partially supported prosecution and the entire case of prosecution has been disbelieved. He further pointed out that, even evidence of sanctioning authority has been not appreciated correctly. According to him, there is a good case on merits in appeal and so he prays to allow leave to file appeal.

3. Learned counsel for respondent would support the order of acquittal and submitting that as very complainant had not supported, crucial aspect of demand has not been proved. According to him, there was no entire script of alleged conversation. Moreover, electronic evidence on the point of recording of conversation was weak. That, entire conversation was not reflected in the script, and moreover, according to him, for want of natural sample of PW2 complainant, even such evidence was rendered valueless. He pointed out that, sanction also

is by unauthorized witness and for all above reasons, he justifies the order of acquittal and prays to refuse leave.

4. In the line of above submissions, evidence on record is visited. PW1 Shashank seems to be the sanctioning authority; PW2 Govind seems to be the complainant, who set law into motion; PW3 Shankar is the shadow panch; PW4 Mayur seems to be the Police Constable of ACB Office; PW5 Chandrashekar is an expert who issued Hash Value certificate of the recording of voice samples; and PW6 Sahebrao is the another Investigating Officer.

5. As there is no dispute that, the accused facing trial as a public servant, it is at the threshold required to be tested whether sanction to prosecute itself was valid as there is controversy to that regard.

6. On visiting evidence of PW1 Shashank at Exh.11, sanctioning authority, witness seems to have given his designation as Dy Secretary, Government of Maharashtra in Agriculture, Animal husbandry, Diary Development and Fishery Department in Mantralaya. According to him, he received all the relevant investigating papers pertaining to Crime No.3011 of 2015 of Nandurbar City Police Station. He claims to have

perused the papers and on getting satisfied about availability of prima facie substance, he accorded sanction to prosecute. He further deposed that, before sanctioning, he had also obtained sanction from the Ministry of the above department and it was also further forwarded before Law and Judiciary Department.

While under cross, he has admitted that head of his department is Secretary. He also admitted accused is the Class-I Officer. On being confronted a Government Resolution as regards to clause 4-A in view of the salary of employee exceeding Rs.10,650/-, sanction of Chief Minister to prosecute the employee was necessary. He admitted that, he did not obtain sanction from Chief Minister's officer or In-charge Minister. He admitted that, proposal letter Exh.12 is addressed to the Secretary of Maharashtra. After deposing that he was directed by Secretary to accord sanction, he admitted that he does not have any document to indicate that he was asked to accord sanction. He also admitted that Exh.18 shows that competent authority to accord sanction is Secretary. Therefore, when this witness was not Secretary and was rather Deputy Secretary, as submitted, sanction is not by authorized person.

7. Now, as regards to demand is concerned, it is settled law that, for attracting the charges it is expected of prosecution to first

substantiate that there was demand of bribe. Law is fairly settled that mere possession of money is of no use unless demand of bribe is itself proved. Here, PW2 complainant, who is examined at Exh.24, in his initial part of testimony deposed that for obtaining balance of Rs.28,500/-, when he visited office of Panchayat Samiti, accused demanded Rs.20,000/- to clear the balance amount, but subsequently while deposing regarding the events dated 25.02.2015, he started retracting and answered that no instructions were given by Anti Corruption Bureau office, they did not halt near the office of Panchayat Samiti and he denied being given any voice recorder. He also denied that, it was agreed to pay Rs.20,000/-. He denied accompanying panch witness, and therefore, finding him testified to above extent, learned APP finally seems to have cross examined his own witness very complainant i.e. after declaring him hostile.

8. What is seen from above testimony of complainant itself, it is clear that, this witness has not supported prosecution, and consequently, the crucial aspect of demand of bribe, which is the core of prosecution, itself renders doubtful.

9. Further, though shadow panch PW3 Shankar, an important witness, was made to step into witness box and he testified at Exh.29 about attending Anti Corruption Bureau Office, being introduced to the

complainant, hearing his story of demand of illegal gratification and causing signature over the complaint, followed instructions by ACB office regarding recording of conversation in voice recorder and accompanying complainant and finding accused not available in the office, they both returning back. Then he deposed about events that took place on 25.02.2015 regarding he accompanying complainant to the office of the accused where, according to him, there was conversation between complainant and accused, and accused demanding Rs.22,000/- for clearing the balance, he and complainant returning and conversation recorded in DVR being heard, and thereafter, script of conversation being drawn. Regarding main trap he has testified in paragraph no.18, but here again he stated that when he went with the complainant to the office of accused, accused was not present in the office, and therefore, complainant gave phone call on the mobile of accused and after sometime accused coming. They proceeding near the statute of Shivaji Maharaj and he deposed that he and complainant were facing towards accused and that time complainant removed the tainted currency and handed it to the accused, who allegedly accepted the same, which was followed by relay of signal.

10. Thus, what is emerging from above evidence is that on that day, while this witness was in the company of complainant, there was no

demand, and it is so evidence from his testimony from paragraph 18. This witness merely stated that, not finding accused in the office, complainant made call to him and after making such call, accused arriving there. Here, he does not speak about any demand being raised by accused and he rather states that, while and he and complainant were facing towards accused near Shivaji Maharaj Statue, at that time, complainant on his own handed over tainted currency to the accused. Thus, even from testimony of this witness, aspect of demand is itself coming under shadow of doubt.

11. PW4 Mayur seems to be the Police Constable, who was assigned the work of recording the conversation in DVR and drawing script and issuing certificate 65-B.

While under cross, he is unable to state in whose custody Exh.50 was lying for a period from 28.02.2015 to 09.01.2018. He admitted that, Exh.48 and 49, which are certificate of possession and removal of hash value and conversation Exh.48 drawn from the memory card, does not bear his signature. Therefore, the exercise of issuance of 65-B certificate is not free from doubt. For said reasons, case of prosecution is rendered doubtful.

PW5 Chandrashekhar also a police constable is on the same lines as like PW4.

PW6 Sahebrao is the Investigating Officer. While under cross, he has admitted that, in this case, complainant had received Rs.1,12,500/- by way of loan from Government and out of it, Rs.84,000/- were received by cheque. He admitted that, after going through the rules framed by Government on the point of same scheme, whatever amount is to be disbursed is through cross cheque. He also admitted that he did not come across during investigation that accused had authority to issue cheque. Therefore, when accused was not authorized to do the work expected by complainant, even the aspect of motives comes under shadow of doubt.

12. For all above reasons and on many counts as stated above, the case of prosecution having been rendered doubtful, this court does not find that any fruitful purpose would be served by according leave. Hence, the following order is passed :

ORDER

- (i) Leave is refused.
- (ii) Application for Leave to Appeal by State is rejected.

(ABHAY S. WAGHWASE, J.)