



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 128 OF 2025

The State of Maharashtra
Through : Police Station,
Phulambri, Aurangabad,
District Aurangabad.

....Applicant

Versus

Vitthal Gangadhar Dabhade
Age: 26 years, Occu.: Service,
R/o. Wadodbazar, Aurangabad,
District Aurangabad.

.....Respondent
(Ori. Accused)

.....

APP for Applicant : Mr.VM.Jaware
Advocate for Respondent : Mr. Nilesh S. Ghanekar

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 07 APRIL, 2026

PRONOUNCED ON : 10 APRIL, 2026

ORDER :

1. This leave to file appeal is on behalf of State, who is desirous of challenging judgment and order dated 21-05-2025 passed by learned Special Judge (ACB), Aurangabad in Special ACB Case No.8 of 2013, thereby acquitting present respondent/accused for offence under Sections 7, 13(1)(d), 13(2) of the Prevention of Corruption Act.

2. Learned APP pointed out that, present accused/respondent is a Police Constable serving in Wadodbazar Police Station. That, for effecting service of notice on a complaint filed by complainant's niece against her husband, accused has demanded bribe of Rs.800/- i.e. to effect service and to submit report. That, on receipt of complaint to that extent, Anti Corruption Bureau (ACB), Aurangabad had planned trap and even successful in executing it. It is pointed out that, demand was got verified, panchanama of conversation was drawn. That, there was recovery from accused. In spite of so, it is his submission that, learned trial Court acquitted the accused by holding that there was no work pending. Moreover, entire evidence has been incorrectly appreciated. That, crucial aspect of demand proved through conversation was not taken into account. That, acquittal resulted on account of inappropriate appreciation of evidence and failure to consider law. That, there are several good grounds to be agitated in appeal. Hence, he seeks leave.

3. Learned counsel for respondent would support order of acquittal by pointing out that, here, initial demand which was allegedly made on phone has not been substantiated. That, moreover, complainant has improvised his version as to when exactly

demand was raised. That, his testimony was not in the line of prosecution case. He further pointed out that, prior to demand, there was offer. That, there were variances in the testimony of complainant and shadow pancha and therefore, according to him, learned trial Court committed no error in acquitting accused.

4. Heard. Perused record.

5. It appears that accused is a Police Head Constable and for effecting service of notice in a case filed by niece of the complainant, he has demanded Rs.800/-.

PW1 seems to be the complainant, who has filed report with ACB. The main complaint is at exh.55 and it goes to show that there was telephonic conversation with accused. However, apparently CDR is not placed on record by investigating machinery to substantiate conversation pertaining to work or demand. There seems to be three occasions for complainant and accused to interact i.e. on 11-11-2012, 15-11-2012 and 21-11-2012. However, as stated above, CDR has not been collected by the investigating machinery.

6. As pointed out, from the testimony of PW1 complainant, it is emerging that, on 21-11-2012, prior to any demand from accused, there seems to be offer by complainant by asking whether any amount is required and he is ready to pay the same. Even, during conversation, which allegedly took place between complainant and accused while taking tea, it is clear that there was initiation of offer from complainant's side. Contents of the complaint exh.55 and testimony of complainant are not corroborating each other.

Though prosecution has taken pains to get conversation recorded, complainant and shadow pancha are not consistent. According to complainant, discussion had taken place at vicinity of Bus Stand of Phulambri, but contrary to it, testimony of shadow Pancha shows that discussion had taken place in a Restaurant. Further, as pointed out, even demand is not specific as complainant has quoted two distinct amounts i.e. Rs.700/- and Rs.800/- and therefore, initial demand is also not specific. Contents of exh.68, which is panchanama of script of demand verification, does not match with contents of complaint.

7. Learned trial Court has observed that there was no work

pending with accused and on this point also there is both, evidence of complainant as well as shadow pancha. Complainant himself has admitted that accused had informed him about service of notice to accused.

8. Thus, prior to filing of the complaint exh.55, service of notice was shown to be effected on concerned party by the accused. Therefore, even aspect of motive to put up demand comes under shadow of doubt. Therefore, there are several shortfalls and lacunae in the prosecution case. Initial demand itself has not proved beyond reasonable doubt and therefore, in the light of above discussions, there being no merits, application deserves to be rejected. Hence, following order.

ORDER

(I) Leave is refused.

(II) Application is rejected.

(ABHAY S. WAGHWASE)
JUDGE