



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO.132 OF 2025

The State of Maharashtra,
Through Police Inspector,
Sillod City Police Station, Sillod,
Tq. Sillod, Dist. Aurangabad

... Applicant
(Orig Prosecution)

Versus

1. Anil Govindrao Machewad,
Age : 42 years, Occu. : Service,
(Sub Divisional Officer),
R/o. Flat No.102, Sai Residency,
Building, Paithan Road, Vitkheda,
Aurangabad.
2. Ratnakar Mahadu Sakhare,
Age : 52 years, Occu. : Service,
R/o. Plot No.6, Alka Society, N-9,
MHADA, HUDCO, Aurangabad.

... Respondents
(Orig. Accused)

.....
Mr. S. K. Shirse, APP for Applicant-State.
Mr. N. S. Ghanekar, Advocate for Respondent No.1.
Mr. Kuldip S. Kahalekaer, Advocate for Respondent No.2.
.....

CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 14 JANUARY 2026
PRONOUNCED ON : 17 JANUARY 2026

ORDER :

1. As State is desirous in questioning the judgment and order of acquittal dated 20.03.2025 passed by learned Special Judge (under P.C. Act), Aurangabad in Special Case (ACB) No.01 of 2019, thereby acquitting accused from charges under sections 7, 12 and

13(1)(d) read with section 13(2) of Prevention of Corruption Act, 1988, instant leave application has been pressed into service.

2. Anti Corruption Bureau (ACB) authorities entertained the complaint at the instance of PW2 Shaikh Usman, who reported that, in his appeal before the Sub Divisional Officer, for granting relief of stay, accused no.1 Sub Divisional Officer had put up demand of Rs.50,000/- and had directed it to be paid on his behalf to accused no.2. On receipt of complaint to this extent, ACB authorities planned trap by arranging panchas by getting verification done and then directing PW2 complainant and PW3 shadow panch to visit the office of accused and to pay the bribe on demand. Accused no.2 allegedly demanded and accepted the bribe amount of Rs.10,000/- on behalf of accused no.1, and therefore, after apprehension of both accused nos.1 and 2, investigation was carried out and upon completion thereof, they were duly charge-sheeted and tried vide Special Case (ACB) No.01 of 2019 for offence under sections 7, 12 and 13(1)(d) read with section 13(2) of P.C. Act.

At trial, prosecution adduced evidence of in all four witnesses and also relied on documentary evidence. On appreciating and analyzing the above evidence, learned Special Judge reached to a finding that, prosecution failed to prove the demand and acceptance as well as sanction to be not in accordance with law, and on all above

counts, acquitted both the accused vide judgment and order dated 20.03.2025, for which leave is sought.

3. Learned APP would submit that, on receipt of complaint from PW2 Shaikh Usman, ACB authorities first arranged the panchas and initially took the steps for getting demand verification confirmed by recording the version of accused. On due satisfaction, further trap was planned, which was finally executed. Accused no.1 demanded Rs.50,000/- for favouring the order in appeal and for granting stay. That, both PW2 complainant and PW3 shadow panch, who had been to the office of accused, have narrated in their evidence about demand as well as acceptance. Therefore, according to him, though the demand is by way of gestures, there was acceptance, and therefore, learned trial court ought to have accepted the case of prosecution. He further pointed out that, even trial court has erred in holding that sanction is not valid. According to him, there is incorrect appreciation of evidence and as prosecution has a good case on merits in appeal, he urges for leave.

4. Per contra, both learned counsel for respondents accused would submit that, prosecution had miserably failed to bring home the charges. According to them, at the outset, demand itself was said to be by way of gestures that to be by accused no.1 and as such there

was no verbal demand. They further pointed out that, there is no evidence to show that, at his direction, accused no.2 was to accept the bribe. Learned counsel took this court through the answers given by PW2 complainant and PW3 shadow panch and submit that case of prosecution has suffered severe dent as both of them have admitted that there was no demand by accused no.1 nor there was any demand by accused no.2. They further pointed out that, when complainant entered the cabin of accused no.1, at that time, accused no.2 was outside, and as such, had no opportunity to hear the conversation. For all above reasons, both learned counsel submit that, neither demand nor acceptance is proved, and therefore, they justifies the order of acquittal passed by learned trial court. Learned counsel also pointed out that, even on the count of sanction, there was non application of mind, and therefore, on all above counts, prosecution has miserably failed, and therefore, according to them, there is no perversity or illegality committed by learned trial court in acquitting the accused and so they urge to refuse leave.

5. Heard. Perused the papers and impugned judgment. It seems that, appeal was pending before accused no.1 Sub Divisional Officer and accused no.2 is said to be his Stenographer.

PW2 complainant's case is that, he had approached accused no.1, who had allegedly initially demanded Rs.50,000/- for

favouring order in appeal and asked him to pay Rs.10,000/- for grant of stay. However, complainant, in his examination in chief, has stated that demand by accused was made by way of gestures.

6. As pointed out, at that point of time, even PW3 shadow panch has admitted that he was outside the cabin and he did not hear the conversation between accused no.1 and PW2 complainant. PW2 complainant in his cross has admitted that, during his visit to the cabin of accused no.1, on 27.12.2017, he was scolded for not coming without prior permission and chit and was sent back. This is corroborated by PW3 shadow panch. Evidence of PW2 complainant shows that, he alone went to inside, but PW3 shadow panch has stated that, he did not hear the conversation about any demand being raised by accused no.1. Admittedly, as stated, demand is said to be by way of gestures, and there was no verbal demand.

7. Both witnesses have admitted that, there was no demand by accused no.2. Therefore, with such quality of evidence, the case of prosecution about demand and acceptance has come under shadow of doubt. There is nothing to show that accused no.2 accepted the amount on behalf of accused no.1. Rather, it is brought on record that PW2 was annoyed for being asked for entering without prior permission and chit. Therefore, there are several other factors which

contribute to the credibility of the prosecution case. As regards to sanction is concerned, accused no.1 is Sub Divisional Officer ranking officer, steps were expected to be taken by the Chief Minister office to accord the Sanction, but there is no evidence in that regard and therefore, even sanction to prosecute through PW1, is rightly held to be invalid. Therefore, for all above reasons, there is no point to be dealt in appeal and hence, leave is required to be refused. Accordingly, I proceed to pass the following order :

ORDER

- (i) Leave is refused.
- (ii) Application is rejected.

(ABHAY S. WAGHWASE, J.)