



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 133 OF 2025

The State of Maharashtra,
Through : Police Inspector,
Police Station, City Chowk, Aurangabad,
District Aurangabad.

... Applicant
(Ori. Prosecution)

Versus

Mangal Kalidas Shrikant,
Age : 52 years, Occu. Service Sr. Clerk,
R/o. Flat No. 4, Udyog Onkar Apartment,
Ulkanagari, District Aurangabad.

... Respondent
(Ori. Accused)

.....
Mr. S. M. Ganachari, APP for the Applicant-State.
Ms. Monica Bagwe, Advocate for the Respondent.
.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 22.01.2026

Pronounced on : 23.01.2026

ORDER :

1. This application for leave is by State on account of judgment and order of acquittal dated 09.05.2025 passed by learned Special Judge (P.C. Act), Aurangabad in Special Case (ACB) No. 100028 of 2013.

2. In brief, present respondent Mangal, who was working as a clerk in Municipal Corporation, allegedly demanded bribe to the tune

of Rs.2,000/- from complainant for mutating his name on account of transfer of property. On negotiations, said figure was brought down to Rs.1,000/-. Complainant, as was not willing to pay the bribe, he approached ACB, lodged complaint on the basis of which, trap was planned and executed and after apprehension of accused, she was chargesheeted and tried by the Special Judge for commission of offence under Sections 7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 (for short, 'PC Act').

3. In support of its case, prosecution adduced evidence of in all four witnesses. Learned Judge appreciated the oral and documentary evidence and on analyzing the same, reached to a finding that, prosecution failed to prove the charges, and by extending benefit of doubt, acquitted the accused vide judgment and order dated 09.05.2025.

4. It is the above order which is intended to be questioned and therefore, learned APP would point out that here, after receipt of complaint, independent pancha was called and necessary instructions were given to complainant as well as shadow pancha. That, even prior to main trap, demand verification was got done. That, script of the conversation which was tape-recorded, was also obtained and finally,

on 03.06.2013, main trap was executed. That, accused demanded bribe and thereafter complainant complied, upon which she accepted the bribe and kept it in the purse. That, there were anthracene traces to her hand as well as the purse. Thus, according to learned APP, prosecution had established both, demand and acceptance, beyond reasonable doubt and therefore, by applying Section 20, learned trial court ought to have drawn presumption for accepting the case of prosecution. He pointed out that there is erroneous appreciation of evidence. That, even the finding that, there was no work of complainant with accused, is erroneous. That, sanction also was perfectly valid, but such evidence was not taken into account and as such, according to him, prosecution has a good case on merits in appeal and consequently he prays to accord leave.

5. In answer to above, learned counsel for the respondent-accused would point that, at the threshold, there was a delayed complainant. Secondly, according to her, complainant had no work at all with the accused and this has been admitted by the very sanctioning authority and therefore, it is her submission that, there being no motive, question of demand of bribe does not arise. She emphasized that accused was mere clerk who was involved in the work of mere processing the application, and she was not authorized to carry out or

grant mutation entries. That, in fact it was the work of ward officer and there is admission of prosecution's own witnesses to that extent.

6. As regards to demand is concerned, she pointed out that there was no oral or verbal demand and rather, it was allegedly by means by gestures which in no terms indicated demand of bribe. She further pointed out that, as regards to acceptance is concerned, defence of accused is of planting while respondent-accused was away from the table for lunch time. She pointed out that, there is variance in the description of alleged purse from which tainted currency was said to be seized. She pointed out that according to complainant, who actually allegedly gave bribe, colour of the purse was said to be of cream colour, but seizure is of black purse. Thus, it is her submission, that even if there are traces of anthracene powder, possibility of thrusting or planting to implicate accused cannot be ruled out. She pointed out that, even tainted currency was in the purse which was kept in a office cupboard and the currency was not in her hand or person. Therefore, for all above reasons, she justifies the order of acquittal and prays to refuse leave.

7. Heard. Perused the papers. It is emerging that on receipt of complaint from one Vishal Mirikar, ACB authorities planned trap and

further allegedly executed it. For establishing the charges, it is incumbent upon the prosecution to demonstrate and establish demand and acceptance. The crucial witnesses on this point are PW1 complainant and PW2 pancha. Initially Investigating Officer decided to get it verified as to whether there was demand at all or not, and accordingly he sent complainant as well as pancha to the office of accused, where, according to PW1-complainant, he had talked with accused about his work and accused allegedly demanded Rs.1,000/- which, on negotiations, was brought down to Rs.700/- and on the pretext of bringing said amount after withdrawing it from ATM, both witnesses came back. He further deposed that, subsequently when they approached accused, she was not present at her place. Therefore, complainant made phone call upon which she reached there. He deposed that, that time she indicated him to give money and so he took out the money which she accepted and kept in her purse.

From above testimony in chief itself, as pointed out, it is clear that this witness has deposed about accused making indications to give money i.e. by means of gesture. There was no oral demand of money.

In cross, he answered that accused told him about house tax and water tax to the tune of Rs.1800/- and 1000/- respectively, and for recording name of complainant to the house, transfer fees was Rs.1,000/-. Therefore, as stated above, very aspect of demand of bribe has come under shadow of doubt.

8. PW2, who was in the company of complainant, deposed that, he and complainant went to the office of accused where they met her. Even he stated that accused demanded money by making indications i.e. by way of gestures. Witness thereafter informed the court that he does not remember what happened further. Therefore, not finding him deposing as like PW1, he was declared hostile by learned APP and was further cross examined. Therefore, there is no corroboration to the testimony of complainant.

9. During cross of Investigation Officer, suggestions were given that, whether he verified during investigation as to whether there was really any work of complainant with accused, and Investigating Officer has admitted that on 30.05.2013, no work of complainant was pending with the accused and on such date, property of complainant was already transferred.

10. Even sanctioning authority has answered that, it is the Ward Officer who is competent to transfer and not accused. Resultantly, there is force in the submission that accused being clerk, had no authority to transfer property in the name of the applicant. Resultantly, moot question arises is, when accused was not competent or authorized to transfer, what was the reason or motive for her to put up demand.

11. It seems that though efforts were done to record conversation, voice recorded was not played in the trial court and even very complainant had no opportunity to listen to it.

12. It seems that, tainted currency was found in the purse which was kept in the cupboard. Learned APP has submitted that there were anthracene traces to both the hands of accused, however, such admission has come in the evidence of PW2 after he was declared hostile. Thereafter, as this witness had shown inability to recollect the things, he was given panchanama and documents to read while in the witness box and after reading the same, he deposed accordingly. Complainant himself has stated that after tainted currency was carried and he and pancha approached accused, she was not available at the place. There is defence of planting in absence of accused.

Therefore, mere finding tainted currency in the purse itself is not sufficient to hold that there was acceptance. Further as pointed out, according to seizure, purse is black in colour, but according to complainant, the purse in which accused allegedly kept the tainted currency was of cream colour, Therefore such variance also renders prosecution case doubtful.

13. With above quality of evidence, no fault can be found in the order passed by the trial court. No case being made out for interference, following order is passed :

ORDER

- I. Leave is refused.
- II. The application is dismissed.

[ABHAY S. WAGHWASE, J.]