



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 148 OF 2025

The State of Maharashtra

...Applicant

Versus

Govind Pandurang Rathod,
Age: 67 years, Occ: Retired,
Resident of Old Ausa Road,
Sadguru Nagar, Latur,
Dist. Latur

...Respondent

- Mr. S. G. Sangle, APP for the Applicant/State
- Mr. Joydeep Chatterji, Advocate for the Respondent

CORAM : ABHAY S. WAGHWASE, J
RESERVED ON : JANUARY 20, 2026
PRONOUNCED ON : JANUARY 21, 2026

ORDER :

1. Dissatisfied by the judgment and order of acquittal passed by learned Special Judge (ACB), Udgir dated 11.06.2024 in Special ACB Case No.02 of 2015, State has pressed into service instant leave application to question the said judgment.

2. Learned APP for the Applicant/State would point out that, on receipt of complaint from PW 1 for demanding bribe of Rs.1,50,000/- for helping mediation and settlement between complainant and her husband, ACB authorities planned and executed trap. Independent

panch was engaged and both complainant and shadow panch were given necessary instructions. That, prior to main trap, verification was got done. That, there was transcript of conversation of accused and complainant. That, main trap was successful wherein there was demand and acceptance but the same has not been correctly appreciated by learned Trial Court. He further pointed out that, minor omissions and variances were given undue importance. He would submit that, prosecution has good case on merits and, therefore, he urges for grant of leave.

3. In answer to above, learned Counsel for Respondent/Accused would submit that, prosecution has miserably failed to bring home the charges. He pointed out that, crucial aspect like demand itself was not proved by prosecution and there was omission to that extent in the statement of crucial witness. He also pointed out that, there are material omissions in the statement of complainant and shadow panch and they both being inconsistent, story of prosecution has come under shadow of doubt. He pointed out that, conversation between complainant and accused was in Kannada language, which was foreign to the complainant. That, even transcript is in Kannada but translator has not been examined by the prosecution. He further submitted that, here severe blow was suffered by prosecution on account of its failure in

not examining the sanctioning authority. For all above reasons, he justifies the impugned judgment and order of acquittal.

4. Heard. Re-appreciated the evidence.

5. PW 1 complainant, namely, Vaijanath Tondare approached ACB and reported that, his daughter Meena was married with Shivaji and due to marital discord, one Archana had lodged report against husband & in-laws at Udgir Police Station where accused was working as police officer. He further reported that, parties from both sides were called at police station for settling the matter wherein Archana agreed to settle the matter for Rs. 40,00,000/- but on negotiations, the figure was brought down to Rs.10,00,000/-. It is the story of prosecution that, for mediating and bringing out settlement, accused demanded Rs.1,50,000/- as reward for bring settlement and also took Rs.50,000/- in advance. However, as there was insistence for remaining amount, ACB authorities were approached and the complaint was entertained and investigated and finally accused was chargesheeted.

At trial prosecution has adduced evidence of PW1 complainant, PW 2 Tukaram Upparwad, panch witness, PW 3 Forensic Expert, and PW 4 I.O.

Evidence of PW 1 Complainant is at Exhibit 31 and evidence of PW3 2 is at Exhibit 35. These two witnesses are star witnesses of

prosecution.

6. From the evidence of complainant, it is emerging that, on 02.08.2014 he along with panch approached police station to meet the accused in his cabin. However, this witness seems to have asked shadow panch Tukaram to wait outside the cabin. Therefore, apparently PW 2 is not party to the alleged conversation of demand. Therefore, there is absence of corroboration to the testimony of complainant on the very point of demand.

7. Further, according to complainant, there was demand of Rs.75,000/- by accused. This is contrary to the story of prosecution. Further, in his statement to I.O. demand by accused is missing and, therefore, there is material omission. Thus, complainant has attempted to improvise his version.

8. Another distinct feature is that, though attempt was made to prepare transcript of alleged conversation of complainant and accused, it is emerging that, said panchnama was in Kannada language. However, the person through whom translation was got done does not seem to have been examined. Even Kannada language was foreign to PW 2 shadow panch and, therefore, he is unable to understand the very conversation between complainant and accused. Therefore, the very

aspect of demand has come under serious doubt.

9. As pointed out, here accused was police officer and before prosecuting him, it was incumbent upon I.O to get proper sanction from concerned authority, who was competent to appoint and remove accused, but sanctioning authority itself was not examined for the reasons best known to the prosecution.

10. Even in support of evidence in the form of voice recording, 65-B certificate has not been procured.

11. Resultantly, as submitted, evidence of prosecution is rendered doubtful on above several counts and, therefore, with such quality of evidence, this Court does not find that, no fruitful purpose would be served by according leave. Hence, I proceed to pass following order:

ORDER

- (a) Leave is refused.
- (b) Application for leave to appeal by State stands dismissed.

(ABHAY S. WAGHWASE, J.)

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