



Judgment

apl1555.24

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CRIMINAL APPLICATION APL NO.1555 OF 2024

Appa Ninaji Dambre,
aged about 57 years, occupation: service,
r/o near Agrasen Bhawan, Jawahar Nagar,
taluka and district Akola. **Applicant.**

:: V E R S U S ::

1. State of Maharashtra,
through Police Station Officer,
Anti Corruption Bureau,
taluka and district Akola.

2. Balkrishna Sitaram Ramchavare,
occupation: service (health Assistant, DPHC,
Kurum, tahsil Murtijapur)
r/o Zilla Parishad Nagar, Khadki,
district Akola. **Non-applicants.**

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Shri A.S.Mardikar, Senior Counsel assisted by Shri Ved
Deshpande, Advocate for Applicant.
Mrs.H.N.Prabhu, APP for NA No1/State.
Mrs.Sunita Paul, Counsel for NA No.2.

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CORAM : **URMILA JOSHI-PHALKE, J.**
RESERVED ON : **09/03/2026**
PRONOUNCED ON : **17/03/2026**

JUDGMENT

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1. Heard learned counsel appearing for the respective parties. **Admit.** Heard finally by consent.

2. By this application under Section 482 of the CrPC, the present applicant is seeking quashing of FIR in connection with Crime No.3049/2013 registered with non-applicant No.1 police station for offences under Sections 7, 10, 12, 13(1)(d), and 13(2) of the Prevention of Corruption Act, 1988 (the P.C.Act) and consequent proceeding arising out of the same bearing Special Case (ACB) No.18/2015 pending before learned District Judge-2, Akola.

3. Non-applicant No.2 (the complainant), serving as Health Assistant at Kurum, in Primary Health Centre, Zilla Parishad, taluka Murtijapur, district Akola approached the office of the Anti Corruption Bureau (the office of the bureau) with an allegation that he approached the applicant, serving as Administrative Officer, Zilla Parishad, Akola, for the purpose of his promotion. At that time, the

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applicant has demanded Rs.50,000/- for sending file of the complainant for regularization of suspension and promotion to the General Administration Department. Since the complainant did not want to pay the bribe amount, he approached the office of the bureau and lodged a complaint. After receipt of the complaint, officer of the bureau conducted pre-verification and verification panchanamas. The conversation recorded between the complainant and the applicant disclosed that there was a demand of Rs.50,000/- from the complainant and, therefore, a raid was conducted. The investigating agency also collected spectrographic report of all verification panchanamas. During the investigation, pre-trap and post-trap panchanamas are drawn and the applicant was found accepting the amount of gratification and, therefore, after completion of the investigation, chargesheet was submitted against the applicant.

4. The present application is filed on two grounds viz.:

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(i) that there is an inordinate delay in commencing and concluding the trial. The right of the applicant of speedy trial is infringed under Article 21 of the Constitution of India and, therefore, the FIR deserves to be quashed; and

(ii) that the applicant is falsely implicated in the alleged offence and, therefore, no purpose would be served by forcing him to face the trial.

5. Learned Senior Counsel for the applicant mainly stressed upon the inordinate delay in trial and submitted that the FIR is registered against the applicant on 6.2.2013. After completion of the investigation, chargesheet was filed in August 2015. Since the date of the chargesheet, the trial is not commenced. Now, for more than ten years, the trial is pending before the trial court and there is no possibility of conclusion of the trial in near future. In view of that, the application deserves to be allowed.

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He, on the merits also, submitted that the entire investigation papers nowhere disclose that there is demand and acceptance on the part of the applicant and, therefore, he submitted that basic ingredients of the offence as to the demand and acceptance itself are not established and, therefore, the application deserves to be allowed.

6. In support of his contentions, learned Senior Counsel for the applicant has placed on record the entire Roznama of the proceeding of the trial court.

He has also placed reliance on following decisions:

(1) Associated Construction vs. Pawanhands Helicopters Limited, reported in (2008)16 SCC 128, and

(2) Santosh De vs. Archana Guha and ors, reported in 1994 Supp (3) SCC 735.

7. *Per contra*, learned APP for the State has strongly opposed the said contentions and submitted that as far as merits of the matter is concerned, during the verification

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panchanama itself, it revealed that the applicant has demanded the amount for forwarding the file of the complainant for the purpose of promotion and, therefore, the trap was laid and during the trap, he was found accepting the gratification amount through co-accused.

Thus, there is a *prima facie* case against the applicant and, therefore, the application on merits deserves to be rejected.

She submitted that, as far as the ground of delay is concerned, the matter came up for hearing before the court after charge was framed on 2.1.2019. Other co-accused, namely Dilip Pandey, had moved an application for discharge before the Special Court and the same came to be decided on 11.10.2019. Thereafter, charge was framed. After framing of the charge, due to the Covid Pandemic Situation commenced in March 2020 and continued upto March 2021 and, thereafter, Phase-II of Covid Pandemic

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started and lasted till December 2021, the trial could not progressed. Thereafter, summons were issued to witnesses on 24.1.2022. However, witnesses were absent and, therefore, the matter was adjourned. Thereafter, several efforts are made by the prosecution seeking presence of witnesses. On 17.1.2023, examination-in-chief of the complainant commenced. Either due to strike or for one or the other reason, the trial could not be commenced. The prosecution would, now, proceed with the trial if this court gives suitable directions.

In view of that same, she prayed for rejection of the application.

8. Having heard learned counsel appearing for the respective parties and perused the entire record available, investigation papers disclose that on receipt of the complaint from the complainant, to ascertain genuineness

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of allegations against the applicant, the officer of the bureau has laid a pre-verification panchanama.

During the pre-verification panchanama, it revealed that as there is a substance in the allegations, Voice Recorder was kept with the complainant and he was asked to have a communication with the application. Accordingly, verification panchanama was drawn.

During the verification panchanama, it revealed that the applicant has demanded the amount of gratification from the complainant.

Another verification panchanama was also drawn, which also substantiates the contention of the complainant that there was a demand from the applicant. Therefore, a pre-trap panchanama was drawn wherein panchas were given understanding regarding procedure to be carried out. The complainant was also instructed. Thereafter, the trap

was laid and during the trap, the applicant was found accepting the amount through co-accused Dilip Pandey.

The Voice Samples of the applicant as well as other co-accused were collected and after completion of the investigation, chargesheet was submitted against the applicant.

Thus, as far as merits of the matter is concerned, which, at this stage, sufficiently shows involvement of the applicant in the crime.

9. Here, observations of the Hon'ble Apex Court in the case of **The State of Chhattisgarh vs. Aman Kumar Singh and ors, reported in AIR 2023 SC 1414** are relevant, wherein in paragraph No.49 it is observed as under:

“49. We preface our discussion, leading to the answers to the above two questions, taking note of a dangerous and disquieting trend that obviously disturbs us without end. Though it is the preambular promise of the Constitution to secure social justice to the people of India by

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striving to achieve equal distribution of wealth, it is yet a distant dream. If not the main, one of the more prominent hurdles for achieving progress in this field is undoubtedly 'corruption'. Corruption is a malaise, the presence of which is all pervading in every walk of life. It is not now limited to the spheres of activities of governance; regrettably, responsible citizens say it has become a way of one's life. Indeed, it is a matter of disgrace for the entire community that not only on the one hand is there a steady decline in steadfastly pursuing the lofty ideals which the founding fathers of our Constitution had in mind, degradation of moral values in society is rapidly on the rise on the other. Not much debate is required to trace the root of corruption. 'Greed', regarded in Hinduism as one of the seven sins, has been overpowering in its impact. In fact, unsatiated greed for wealth has facilitated corruption to develop like cancer. If the corrupt succeed in duping the law enforcers, their success erodes even the fear of getting caught. They tend to bask under a hubris that rules and regulations are for humbler mortals and not them. To get caught, for them, is a sin. Little wonder, outbreak of scams is commonly noticed. What is more distressing is the investigations/inquiries that follow. More often than not, these are botched and assume the proportion of bigger scams than the scams themselves. However, should this state of affairs

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be allowed to continue? Tracking down corrupt public servants and punishing them appropriately is the mandate of the P.C.Act. “We the people”, with the adoption of our Constitution, had expected very high standards from people occupying positions of trust and responsibility in line with the Constitutional ethos and values. Regrettably, that has not been possible because, inter alia, a small section of individuals inducted in public service for ‘serving the public’ appear to have kept private interest above anything else and, in the process, amassed wealth not proportionate to their known sources of income at the cost of the nation. Although an appropriate legislation is in place to prevent the cancer of corruption from growing and developing, wherefor maximum punishment by way of imprisonment for ten years is stipulated, curbing it in adequate measure, much less eradicating it, is not only elusive but unthinkable in present times. Since there exists no magic wand as in fairy tales, a swish of which could wipe out greed, the Constitutional Courts owe a duty to the people of the nation to show zero tolerance to corruption and come down heavily against the perpetrators of the crime while at the same time saving those innocent public servants, who unfortunately get entangled by men of dubious conduct acting from behind the screen with ulterior motives and/or to achieve vested

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interests. The task, no doubt, is onerous but every effort ought to be made to achieve it by sifting the grain from the chaff. We leave the discussion here with the fervent hope of better times in future.”

10. Thus, in the light of observations of the Hon’ble Apex Court, it would not be in the interests of justice to quash the FIR.

11. Insofar as another ground, as to the delay in trial, is concerned, it is well settled that right to a speedy trial in all criminal prosecutions is an inalienable right under Article 21 of the Indian Constitution. This right is applicable not only to the actual proceedings in court but also includes within its sweep the preceding police investigations as well. The right to speedy trial extends equally to all criminal persecutions and is not confined to any particular category of cases. In every case, where the right to speedy trial is alleged to have been infringed, the court has to perform the balancing act upon taking into consideration all the attendant circumstances,

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enumerated above, and determine in each case whether the right to speedy trial has been denied in a given case. Where the court comes to the conclusion that the right to speedy trial of an accused has been infringed, the charges or the conviction, as the case may be, may be quashed unless the court feels that having regard to the nature of offence and other relevant circumstances, quashing of proceedings may not be in the interest of justice.

12. Learned Senior Counsel for the applicant has placed reliance on the decision in the case of **Santosh De vs. Archana Guha and ors** *supra* wherein it has been observed that, “trial of serious criminal cases pending for a long time, delay is not explained by the prosecution – accused is not responsible for the delay. In the circumstances, right of accused to speedy trial is violated.

13. Here, in the present case, there is no doubt that the chargesheet is filed long back in the year 2015. The

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charges are framed on 2.1.2019. Undisputedly, due to the Covid Pandemic Situation, work of the court was affected approximately, till 2021. From the Roznama, it reveals that on several occasions, the matter was listed before the court. However, the prosecution could not secure presence of witnesses and, therefore, the trial could not commence.

14. Now, the trial is already commenced and on 17.1.2023, examination-in-chief of the complainant is already recorded. The report of learned Judge below was also called. Though explanation given by learned Judge below is not acceptable, circumstances on record show that the prosecution has already taken efforts to secure presence of witnesses, but could not secure the presence. Therefore, the trial could not commence.

15. At this stage, it would be relevant to refer the decision in the case of **Pankaj Kumar vs. State of Maharashtra, reported in MANU/SC/7818/2008** wherein the Hon'ble Apex Court considered exposition of Article 21

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and observed that, “the exposition of Article 21 in **Hussainara Khatoon and ors vs. Home Secretary, State of Bihar, reported in MANU/SC/0119/1979** was exhaustively considered afresh by the Constitution Bench in the case of **Abdul Rehman Antulay and ors vs. R.S.Nayak, reported in MANU/SC/0326/1992**. Referring to a number of decisions of this Court and the American precedents on the Sixth Amendment of their Constitution, making the right to a speedy and public trial a constitutional guarantee, the Court formulated as many as eleven propositions with a note of caution that these were not exhaustive and were meant only to serve as guidelines. For the sake of brevity, we do not propose to reproduce all the said propositions and it would suffice to note the gist thereof. These are: (i) (1992) 1 SCC 225 fair, just and reasonable procedure implicit in Article 21 of the Constitution creates a right in the accused to be tried speedily; (ii) right to speedy trial flowing from Article 21 encompasses all the stages, namely the stage

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of investigation, inquiry, trial, appeal, revision and retrial; (iii) in every case where the speedy trial is alleged to have been infringed, the first question to be put and answered is -- who is responsible for the delay?; (iv) while determining whether undue delay has occurred (resulting in violation of right to speedy trial) one must have regard to all the attendant circumstances, including nature of offence, number of accused and witnesses, the work-load of the court concerned, prevailing local conditions and so on-- what is called, the systemic delays; (v) each and every delay does not necessarily prejudice the accused. Some delays may indeed work to his advantage. However, inordinately long delay may be taken as presumptive proof of prejudice. In this context, the fact of incarceration of accused will also be a relevant fact. The prosecution should not be allowed to become a persecution. But when does the prosecution become persecution, again depends upon the facts of a given case; (vi) ultimately, the court has to balance and weigh several relevant

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factors--'balancing test' or 'balancing process'--and determine in each case whether the right to speedy trial has been denied; (vii) Ordinarily speaking, where the court comes to the conclusion that right to speedy trial of an accused has been infringed the charges or the conviction, as the case may be, shall be quashed. But this is not the only course open and having regard to the nature of offence and other circumstances when the court feels that quashing of proceedings cannot be in the interest of justice, it is open to the court to make appropriate orders, including fixing the period for completion of trial; (viii) it is neither advisable nor feasible to prescribe any outer time-limit for conclusion of all criminal proceedings. In every case of complaint of denial of right to speedy trial, it is primarily for the prosecution to justify and explain the delay. At the same time, it is the duty of the court to weigh all the circumstances of a given case before pronouncing upon the complaint; (ix) an objection based on denial of right to speedy trial and for relief on that

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account, should first be addressed to the High Court. Even if the High Court entertains such a plea, ordinarily it should not stay the proceedings, except in a case of grave and exceptional nature. Such proceedings in High Court must, however, be disposed of on a priority basis.”

The Hon’ble Apex Court further observed that, “it is, therefore, well settled that the right to speedy trial in all criminal persecutions is an inalienable right under Article 21 of the Constitution. This right is applicable not only to the actual proceedings in court but also includes within its sweep the preceding police investigations as well. The right to speedy trial extends equally to all criminal persecutions and is not confined to any particular category of cases. In every case, where the right to speedy trial is alleged to have been infringed, the court has to perform the balancing act upon taking into consideration all the attendant circumstances, enumerated above, and determine in each case whether the right to speedy trial has been denied in a given case. Where

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the court comes to the conclusion that the right to speedy trial of an accused has been infringed, the charges or the conviction, as the case may be, may be quashed unless the court feels that having regard to the nature of offence and other relevant circumstances, quashing of proceedings may not be in the interest of justice. In such a situation, it is open to the court to make an appropriate order as it may deem just and equitable including fixation of time for conclusion of trial.”

16. Tested on the touchstone of the broad principles, enumerated above, I am of opinion that in the instant case, the right of the applicant under Article 21 of the Constitution stands violated.

At the same time, considering the nature of allegations levelled against the applicant and in the light of the observations of the Hon’ble Apex Court in the case of **The State of Chhattisgarh vs. Aman Kumar Singh and ors**

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supra, the Constitutional Courts owe a duty to the people of the nation to show zero tolerance to corruption and come down heavily against the perpetrators of the crime while at the same time saving those innocent public servants, who unfortunately get entangled by men of dubious conduct acting from behind the screen with ulterior motives and/or to achieve vested interests. The task, no doubt, is onerous but every effort ought to be made to achieve it by sifting the grain from the chaff.

17. In this view of the matter, it would be appropriate in the interests of justice to direct learned Judge below to expedite the trial and dispose of the same as early as possible and preferably within six months. Accordingly, I proceed to pass following order:

ORDER

(1) The criminal application is **rejected**.

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(2) Learned District Judge-2 and Additional Sessions Judge, Akola is directed to make every endeavour to dispose of the trial as early as possible and preferably within a period of six months from the date of receipt of writ of this order, without seeking any extension.

(3) Needless to mention that, while disposing of the trial, learned District Judge-2 and Additional Sessions Judge, Akola shall not be influenced by observations made in this order as the same are only for deciding the present application only.

Application stands **disposed of**.

(URMILA JOSHI-PHALKE, J.)