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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL REVISION APPLICATION NO.07 OF 2026

State of Maharashtra,
Though Police Inspector,
Anti corruption Bureau, Akola
Office of ACB, District Akola.

.... APPLICANT

// VERSUS //

Shailendra s/o Tulshiram Bagate,
Aged 43 Years,
Occupation: Agent,
R/o. Kailash, Tekdi, Khadan,
District Akola.

....NON-APPLICANT

Mr. N. H. Joshi, APP for the State/applicant.
Mr. S. V. Sirpurkar, Advocate for non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 09/04/2026

ORAL JUDGMENT :

1. Heard.
2. **Admit.**
3. Heard finally with the consent of the learned APP for the State and learned Counsel for the non-applicant.
4. By this revision application, the State is challenging the order passed by the learned Special Judge, Anti-Corruption Bureau (ACB), Akola dated 18.12.2025 that remand application is rejected and accused Shailendra Tulshiram Bagate is set free forthwith.

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5. Heard learned APP for the State/applicant. He submitted that the crime was registered against the non-applicant under Section 7 of the Prevention of Corruption Act, on the basis of a report lodged by Milindkumar Bahakar, Deputy Superintendent of Police, ACB, on an allegation that he has demanded the gratification amount of Rs.50,000/- from the couple, who proposed to be married under the scheme of inter-caste marriages. On the basis of the said report, police have registered the crime, the applicant was arrested and he was produced before the Court for seeking police custody. The ground raised by the investigating agency was his voice sample requires to be obtained as well as other investigation is to be carried out and for that purpose his police custody is required.

6. The said application was considered by the learned trial Court and it is observed that accused Shailesh Bagate is not working in Social Welfare Office of Zilla Parishad, Akola. In remand report, occupation of the accused is shown as "Agent/Private Teacher". It is submitted by the Investigating Officer that the accused was working in the office and was provided sitting space there. Complainant thought him to be a public servant working in the office. There is no allegation that accused represented himself as a public servant. Even in that case, the offence of personation may be attracted. For application of S.7A, a private person shall accept undue

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advantage including money from the complainant as a motive or reward to induce a public servant, by corrupt or illegal means or by exercise of his personal influence to perform or to cause performance of a public duty improperly or dishonestly. Thus the personal influence shall be used by the accused on public servant to get the promise work done from him which the accused promised the complainant. Personal influence is meant to be used to get the work done from public servant and not to get bribe or other advantage from the complainant. Without implication of public servant or without allegations of the accused being acted as "Agent" of particular designated officer, S.7A of Prevention of Corruption Act may not be attracted and the remand application was rejected.

7. Learned APP submitted that in view of Section 167 of the Code of Criminal Procedure (Section 187 of the Bharatiya Nagarik Suraksha Sanhita, 2023) which deals with procedure when investigation cannot be completed in twenty-four hours. As after registration of the offence, the investigation could not be completed within twenty-four hours, therefore, the accused was produced before the Special Court for seeking his police custody, but the trial Court has not taken into consideration the request and set him free forthwith instead of sending him in the Judicial Custody. Thus, the proper procedure is not followed by the learned trial Court and the trial Court has set him free. Whether

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in the capacity of discharge or acquittal which is not clarified by the trial Court. In fact, the procedure which is given under Section 187 of the Bharatiya Nagarik Suraksha Sanhita is that whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 58, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of sub-inspector, shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary hereinafter specified relating to the case, and shall at the same time forward the accused to such Magistrate. Sub-Section (2) states that the Magistrate to whom an accused person is forwarded under this section may, irrespective of whether he has or has no jurisdiction to try the case, after taking into consideration whether such person has not been released on bail or his bail has been cancelled, authorise, from time to time, the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole, or in parts, at any time during the initial forty days or sixty days out of detention period of sixty days or ninety days, as the case may be, as provided in sub-section (3), and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary,

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he may order the accused to be forwarded to a Magistrate having such jurisdiction.

8. Thus, he submitted that in view of Section 187 Sub-section 2, if the Magistrate is not satisfied with the grounds raised by the prosecution only option available with the Magistrate is to send him in the Magistrate Custody and the order setting him free forthwith is illegal, erroneous and liable to be quashed and set aside. He further submitted that the voice sample of the present non-applicant was required and therefore, his custody was required, but the learned Magistrate has not consider the same also. For all above these grounds, the revision application deserves to be allowed.

9. Per contra, learned counsel Mr. Sirpurkar for the non-applicant submitted that considering that for the purpose of obtaining the voice sample, his custody was not at all required and the non-applicant is ready to cooperate with the investigating agency and also ready to give his voice sample, and therefore, his custody was not required. The other grounds which are raised in the remand application are not at all sufficient for remanding him in police custody, and therefore, the learned Magistrate has rightly considered the application and remand application is rejected.

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10. After hearing both sides and on perusal of the order passed by the Special Judge, ACB, Akola as well as the remand application, which was filed by the Investigating Officer stating that the present applicant has demanded the gratification amount from the couple who proposed to perform the marriage under the scheme of inter-caste marriage and the present applicant has demanded money from the reward amount and on receipt of the complaint, the crime came to be registered against the present applicant, and thereafter he was arrested and he was produced before the Court. The procedure which is given under the Chapter XIII under the information to the police or their powers to investigate. Section 187 deals with procedure when investigation cannot be completed in twenty-four hours. Sub-Section (1) specifically states that whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 58, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of sub-inspector, shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary hereinafter specified relating to the case, and shall at the same time forward the accused to such Magistrate. Sub-Section (2) states that the Magistrate to whom an accused

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person is forwarded under this section may, irrespective of whether he has or has no jurisdiction to try the case, after taking into consideration whether such person has not been released on bail or his bail has been cancelled, authorise, from time to time, the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole, or in parts, at any time during the initial forty days or sixty days out of detention period of sixty days or ninety days, as the case may be, as provided in sub-section (3), and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction.

11. Thus, even accepting that the Special Judge was not satisfied with the grounds raised in the remand application, he was under obligation to reject the prayer of the investigating agency to remand him in police custody and on his non-sanctification, applicant has to be remanded to the judicial custody instead of setting him free and instead of rejecting the application. The Special Judge has considered the aspect regarding whether he is a public servant or not for that purpose, some opportunity requires to be granted to the investigating agency to investigate whether he is coming within the purview of the public servant or not, he was discharging the public duty or not. Moreover, the investigation is also required to ascertain

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whether any other public servant is involved and therefore, at the remand stage, setting free to the present accused is an apparent illegality committed by the learned trial Court.

12. On perusal of the remand, admittedly, the police custody for obtaining the voice sample was not required, but in that circumstances, the learned Special Judge has to remand him into the Magistrate Custody and thereafter consider his bail application. However, rejecting the remand application and setting him free forthwith, which is an illegality committed by the learned Special Judge, Akola. Thus, it is apparent that the learned Special Judge has not considered the procedure when the accused is produced before the Court, when investigation is not completed in twenty-four hours. Thus, the illegality committed by the learned Special Judge is apparent in the present case, and therefore, the order dated 18.12.2025 passed by the learned Special Judge setting him free forthwith deserves to be quashed and set aside. In view of that, the revision application is allowed.

13. The accused/non-applicant shall be taken into Magistrate Custody. He is at liberty to file an appropriate application for seeking the bail before the appropriate Court.

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14. The learned Special Judge, ACB shall consider his bail application and on its own merits and give him directions as far as the voice samples are concerned.

15. The accused shall cooperate with the investigating agency and other aspects.

With this the revision application is disposed of.

(URMILA JOSHI-PHALKE, J)