

SESSIONS CASE NO.17/2018.

THE STATE OF MAHARASHTRA VS. SHIVAJI SARJERAO
NAIKWADE.

(CNR : MHAK010004402018)

ORDER BELOW EX.3.

(Dated : 03.04.2025)

Applicant Shivaji Naikwade sought discharge in crime no.107/2016 registered at Channi police station, Tq. Patur, Dist. Akola through Anti Corruption Bureau, Akola for the offence punishable under S.7 & 15 of Prevention of Corruption Act, 1988.

2) In short, prosecution case is as follows :-

De-facto complainant Vasanta Rathod is a farmer. He purchased 147 teak trees from one Shivanand Dushetwar @ Rs.1550/- each. The plantation is situated at village Charmoli, block no.20. The complainant intended to cut the plantation, he submitted necessary documents in Patur Range Office of Forest Department. After completion of the work there, complainant went to Divisional Office, Akola on 6.4.2016 to obtain NOC for cutting trees. Accused who was working as Assistant Forest Conservator met him. He told that permission would be granted to cut 123 trees for which the complainant had to pay bribe of Rs.100/- per tree. Thus, he demanded bribe of Rs.12,300/-. He also told that on next day he was going to Patur and Medshi office. So he would go with the complainant to the plantation for inspection of trees and would accord NOC. As complainant did not want to give

bribe, he submitted complaint to the office of ACB, Akola.

3) ACB office followed usual procedure. Verification of complaint was carried. Then on 7.4.2016 the complainant, panchas and ACB staff went to Medshi office of Forest Department. The accused talked with the complainant in the office cabin. Then they went to the plantation site. There the accused confirmed the demand and instructed the complainant to give the amount to one Rajik or Babbu. Since the complainant worked with both of them on many times, he did not want to involve them as they would have been made accused on acceptance of amount. So it was decided that complaint would directly pay bribe to the accused. So trap was laid on 7.4.2016 & 26.4.2016 but both times it was unsuccessful. As ACB officials realized that accused would not directly accept bribe, trap procedure was dropped. FIR of demand was registered. In due course, charge-sheet has been filed. The accused has filed discharge application claiming that no case is made out for framing charge. State has opposed the application on various grounds.

4) Heard both sides. Ld. Advocate Shri P. D. Hatekar has submitted that there is no case of acceptance even there is no prima-facie evidence of demand of bribe. Accused returned the file of the complainant after completion of work. So there was no pending work with the accused. Entire case is false. He has urged to discharge the accused.

5) Per-contra, Ld. Spl. P.P. Shri has submitted

that discharging the accused will amount to acquittal without trial. After verification of complaint, verification of demand was made. The demand was recorded and verified. Hence, there is prima-facie material to proceed ahead. He has urged to reject the application.

6) I have gone through the investigation papers. It becomes clear that when complainant lodged complaint on 7.4.2016 initially it was verified. Thereafter, complainant, panch no.1 and friend of complainant went to the accused in Medshi office. All of them went to teak plantation in respect of which NOC for cutting was required. There the accused was satisfied and he asked the complainant to deposit the bribe amount with Rajik. In repeated talks, he asked the complainant to deposit the amount with Rajik or Babbu. This conversation is recorded in digital voice recorder kept in shirt pocket of the complainant. ACB officials listened recorded conversation and verified the demand. No doubt, the accused did not disclose amount at the time of verification, but from the conversation it is implicit that he demanded the amount as per earlier agreement. Subsequently two attempts of trap failed as the accused did not accept the bribe from complainant directly. Hence, ACB officials dropped further trap procedure. From these developments it can be safely inferred that there is prima-facie evidence of demand of bribe made by the accused. It is verified. Voice samples were sent for forensic examination and reports are received. Without going to trial, it is not possible to conclude whether demand

was made or not. Forensic evidence is available, which the prosecution tendered in evidence. Hence, there is prima-facie material to proceed ahead against the accused and it cannot be said that there is no material to frame charge against the accused. The application is devoid of merits and deserves to be rejected. Hence, following order.

ORDER

Application (Ex.3) is rejected.

Date:- 03.04.2025.

[A.D. Kshirsagar]
Special Judge
Special Court under
Prevention of Corruption Act, Akola.

NV Khokale (Stenographer)
Date of uploading : 03.04.2025.