

**ORDER BELOW EXH. NO. 4 IN**  
**SPECIAL CASE (ACB) NO.02/2016**  
(State of Maharashtra Vs. Samson Babu Jadhav & Ors.)  
(CNR No. MHA050001742016)

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This is an application for discharge under Section 227 of the Code of Criminal Procedure, 1973 by accused Prakash Pandurangji Dange.

Prosecution Case in brief as is required to be noted to assess the application contentions is as follows:

2. One Shaikh Rahim Shaikh Najir resident of Akot (hereinafter referred to as “the complainant”) was convener of “Muslim Mehtar Safai Kamgar Sanghatna Vidarbh, Akot – Akola”. He is an illiterate person. He had applied for loan from “Mahatma Phule Magasvargiya Vikas Mahamandal Akola” for business. The said loan was demanded in the name of his daughter – Nargis Parvin Shaikh Rahim, son – Shaikh Harun Shaikh Rahim and son Shaikh Nasir Shaikh Rahim. The complainant had also started collecting applications for loan in respect of proposed business from Muslim and Hindu Mehtar (Sweepers). He used to inspire and co-operate those sweeper community persons to start business on loan proposals. Many such persons had thereby moved applications in the office of Mahatma Phule Magasvargiya Vikas Mahamandal Akola. As such, there were 120 applications for loan proposals in the said office.

3. Thereafter, the complainant met the District Manager of the said office to collect information in respect of those proposals. The District Manager thereupon informed the complainant that, upon receiving grants/amount from the Head Office, the amount of loans would be disbursed. He also told the complainant that, his office had asked for grants from the office of Regional Office Amaravati and that the Regional

Office does receive such grants from Head Office at Mumbai. Therefore the complainant went to the said regional office at Amaravati. He thereby went to meet the Regional Manager of Mahatma Phule Magasvargiya Vikas Mahamandal Akola at Amaravati. It was the month of Ramzan. At that time Regional Manager Shri Dange i.e. the present applicant told the complainant that, he should meet Shri Athwale (allegedly private agent of Shri Dange). Shri Dange also told him that, he (the complainant) should do as per the directions of Shri Athwale. Accordingly, the complainant met Shri Athwale. Shri Athwale asked the complainant as to how many persons' loan proposals have been sanctioned. The complainant told Shri Athwale that, there were 120 loan proposals/applications moved by persons of his acquaintance.

4. Thereupon Shri Athwale told the complainant that, the complainant would be required to pay Rs.1,500/- for each loan proposal. Meaning thereby the complainant would be required to pay Rs.1,500 x 120 = 1,80,000/- as bribe. It is only after such payment that the demand of loan amount/grants would be sent to Head Office at Mumbai. Shri Athwale further demanded Rs.60,000/- as part of bribe immediately within one or two days and rest of Rs.1,20,000/- would be required to be paid, as bribe at the time of distribution of loan amounts. Shri Athwale also told that, Rs.60,000/- as above should be paid as bribe at the earliest, else otherwise he would see to it that staff at the office of Mahatma Phule Magasvargiya Vikas Mahamandal Akola would take out some objections and loopholes in loan proposals and that the amount of bribe would not be disbursed. The complainant, thereafter, came to Akot. He met all the applicants who had moved loan proposals.

5. The complainant told the applicants about demand of bribe by Shri Dange. The complainant collected Rs.500/- from each of the loan applicants and as such collected Rs.60,000/- in four to five days. He,

thereafter, went to Amravati and met Shri Dange. Shri Dange thereupon affirmed and told that, the payment of bribe and the act of getting work done should be en-routed through agent Shri Athwale. Shri Dange also gave assurance to the complainant that, the work would get done. Thereafter the complainant met Shri Athawale in a restaurant in-front of his office. Shri Athawale took the complainant there for tea and asked whether the complainant had brought Rs.60,000/-. The complainant nodded in the affirmative.

6. Thereafter Shri Athwale assured the complainant that, the amount of grants would be asked from the Head Office and the loan amounts would be disbursed at the earliest. While demanding the amount of bribe (Rs.60,000/-) Shri Athwale took the complainant at a side and took him at a distance of one – two kilometers at a secluded place. Shri Athawale took Rs.60,000/- from the complainant. He told the complainant that, there was no need to meet Shri Dange. Thereafter Shri Athwale brought back the complainant near the office of Divisional Commissioner. The complainant, thereafter, returned to Akot. Thereafter the process of release and disbursement of loan did start. On 16.12.2013 Shri Athwale made phone call on the cell-phone of the complainant (7709937362). The said call was made from cell phone No. 9823048891. Shri Athwale told the complainant that, Shri Dange would talk to him. Thereafter, Shri Dange told the complainant that remaining amount of bribe i.e. Rs.1,20,000/- should be arranged and for that he would come to Akola at the office of Mahatma Phule Magasvargiya Vikas Mahamandal Akola on 17.12.2013. Saying so, Shri Dange cut the phone.

7. On 17.12.2013 the complainant went to Akola at the office of Mahatma Phule Magasvargiya Vikas Mahamandal Akola. He met Shri Jadhav – District Manager of Mahatma Phule Magasvargiya Vikas Mahamandal Akola. Shri Jadhav told him that, 120 loan proposals were of

the persons who were acquainted with the complainant and that he would take out the cheque of loan amounts and that the complainant should give Rs.1,50,000/- to him (Shri Jadhav). Shri Jadhav also told the complainant that, he would see and manage Shri Dange and Shri Athwale. The complainant thereupon asked Shri Jadhav as to whether Shri Dange and Athwale had come. Shri Jadhav told him that, Shri Dange and Athwale were come on the next day. Shri Athwale thereafter made phone call to the complainant and told him that, he(the complainant) should come with the bribe amount as all the cheques of loan amounts were to be distributed on that day only. The complainant thereupon told Shri Athwale that, he would come with the bribe amount on 18.12.2013. According to the complainant, he was not willing to give the amount of bribe to the tune of Rs.1,50,000/-. However, if the said amount of bribe is not given, Shri Dange, Shri Athwale and Shri Jadhav would delay the disbursement of loans. Therefore out of compulsion, the complainant agreed to give bribe of Rs.1,50,000/- which the complainant had collected from his relatives out of hand loans.

8. Upon such complaint, the ACB Akola did start the action. Pre-trap panchanama was prepared in presence of panchas. The panchas were appraised about trap of acceptance of bribe by the above persons and verification in respect of demand of bribe by the accused persons was done. On 26.12.2013, Shri Athawale had told the complainant that, he should bring Rs.1,20,000/- as remaining bribe and take all the cheques. Accordingly on 27.12.2013, the said demand was verified. On that day Shri Athwale had told that, he could not meet as he was out of station. Again on 16.01.2014, the complainant and panch went to the office of Mahatma Phule Magasvargiya Vikas Mahamandal Akola. Audio was recorded in respect of demand of bribe. It was revealed that, amount of Rs.1,50,000/- was demanded as bribe by Shri. Jadhav. Subsequently on

18.02.2014, there was verification about demand of bribe by Shri Athwale. It was ascertained that, the amount of Rs.1,20,000/- was demanded for Shri Dange. On 09.04.2014, there was again verification panchanama about demand of bribe wherein Shri Jadhav was found demanding Rs.1,95,000/- as bribe.

9. On 11.04.2014 an amount of Rs.1,23,000/- in the form of currency notes of Rs.1,000/- (total 123) were brought by the complainant. Additionally 54 currency notes of Rs.500/- were brought. There were additional 34 currency notes of Rs.1,000/- and 22 currency notes of Rs. 500/- brought by the complainant. Those were taken into custody under panchanama for being used as trap amount. Personal search of the complainant was taken. Police Inspector Shri Mahalle brought a sealed bottle and one torch. The sealed bottle contained anthracene powder. It was illuminating in ultraviolet light from the torch. The currency notes were smeared with anthracene powder. Panchas and the complainant were appraised about the raid procedure and the panchanama to that tune was prepared on 11.04.2014.

10. On 11.04.2014, panchas, Dy.S.P Kankal, P.I. Mahalle and staff went near Hotel Tirumala. The complainant went into the Hotel and made predetermined sign by moving his hand on his head which was indication of acceptance of bribe. The time of the same was 5.40 p.m. Immediately the panchas and police persons/ACB officers went inside. P.I.Mahalle asked panch No.1 Dr.Prashant Joshi about the amount of bribe. He pointed to a person wearing green full sleeves shirt and black full pant. His name was Mangesh Ingle. He had accepted the amount of bribe of Rs.1,95,000/- and had put in a carry bag. Mangesh Ingle was nabbed and his arms were kept away. P.I. Mahalle and raiding officers informed Shri Ingle about their identity. P.I. Mahalle took into custody the carry bag which was in the hands of Shri Ingle. It was alongwith the amount of

bribe. It contained two packets, respectively containing Rs.1,50,000/- and Rs.45,000/-. It was found illuminating in ultraviolet rays. After raid, the currency notes numbers were found tallied. The articles were seized. P.I. Mahalle lodged report in respect of demand and acceptance of bribe of Rs. 1,95,000/-. Mangesh Ingle who actually accepted the bribe was private driver of Shri Jadhav. Thereupon Crime No.3041/2014 for offences punishable under Section 7, 8, 13(1)(d) and 13(2) of the Act came to be registered. Upon investigation charge-sheet came to be filed against accused persons alleging commission of offences supra.

11. The applicant moved the present application seeking discharge. According to the applicant, he is an innocent person. Name of the applicant was not appearing in FIR. Therefore, there is no evidence at all to frame charge against him. There is no allegation made against the applicant. The complaint was lodged on 11.04.2014, however, loan amount was disbursed to 62 candidates in the month of October-2013, 29 candidates in month of November 2013, 14 candidates in month of December 2013, 06 candidates in month of January 2014, 12 candidates in February 2014 and 04 candidates in month of March 2014. As such, there was loans disbursed to 129 candidates prior to lodging of complaint i.e. prior to 11.04.2014. Therefore, there is no basis on which the demand of bribe could have been asked for. Accordingly, there is no prima facie case to frame charge.

12. According to the applicant, the respective borrowers/loan applicants had moved a complaint against complainant that, he was extorting money from loan applicants. Therefore, the complainant was told by the applicant that, the applicant should not enter in his office. As such, there was discord between the complainant and the applicant. The FIR does not mention specific day, date and time about meeting the alleged middle man. There was no demand made by the applicant. There

was also no communication between the applicant and the complainant. There was already payment of loan amount/benefits even prior to the date of alleged trap. In fact, in the month of September-2013 the proposals were already sent to Bombay Head Office. The applicant had no control over 129 loan cases. The applicant had no role to play in the said business and no reason to demand bribe. There was failure of raid twice. There was no demand proved against the applicant. Accordingly, no case is made out to frame charge. In this premise, the applicant prays for discharge.

**13.** Learned A.PP. opposed the claim of discharge by submitting that, there is sufficient material to frame charge in the form of pre-trap panchanamas, verification panchanamas and the actual raid. The alleged contentions in the application would be required to be considered after trial. Those can not be prejudged at this stage. Accordingly, the application be rejected.

**14.** Heard Ld. Advocate for the applicant/accused and Ld. APP for the State Prosecution. Perused the available material.

**15.** Points for determination and findings thereon are as follows.

Sr. No.	Points	Findings
1.	Does the applicant shows that upon consideration of the record of the case and the documents submitted therewith and after considering the submissions, there is no sufficient ground for proceeding against the applicant?	No
2.	Whether the applicant is entitled to discharge?	No
3.	What order?	The application is rejected.

**REASONS****AS TO POINTS NO. 1 TO 2**

16. While appreciating merits of the claim of discharge, it may be noted at the outset that, the Court is required to consider record of the case, documents submitted therewith and submissions of the parties. In this regard it may be noted that, the court is not expected to delve into overt defence of the accused which is expected to be considered after full-fledged trial. Thereby the defence that there was alleged extortion by the complainant qua the borrowers/loan applicants should not be subject matter for consideration while dealing with the claim of discharge. The contentions raised and the argument advanced by the applicant/accused in this premise is devoid of merits.

17. One of the grounds while seeking discharge as projected by the applicant/accused is that, 129 loan applicants had actually received the amount of loan and as such there was no need to pay bribe, again lands in the same arena of overt defence of the accused which needs to be assessed after the full-fledge trial. Whether such 129 loan applicants had actually received the amount of loan, in absence of overt defence material, the same can not be assessed at this stage, much less to extent pretrial discharge. Non-projecting specific time, date, month and year of meeting of the applicant with the complainant and middle man also can not be considered as ground of discharge in as much as the same at the most pertains to an evidentiary fact. Non-availability of such evidentiary fact, per-se does not vitiate the prima facie case which is otherwise evident from the pretrap panchanamas, trap actually effected and cogent material roping the applicant/accused as one of the instrument of demand and acceptance of bribe. The discharge in this premise can not be granted.

18. Additionally the official course of business about Head Office

at Bombay, Regional Office at Amaravati and disbursement of loan at the office of Mahatma Phule Magasvargiya Vikas Mahamandal Akola is required to be proved by giving an opportunity to the Prosecution. The trial is required to be conducted for that matter.

**19.** Having regard to the foregoing circumstances, there is no material or circumstance which would warrant exercise of discretion of discharge. Even otherwise there is ample material to frame charge in the form of FIR, the complaint, pretrap panchanamas, actual trap and statements of witnesses. For these reasons, the claim of discharge is unwarranted by law and facts. The application in the result, needs to be rejected. Hence, the order-

**ORDER**

	The application is rejected.
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Place : Akot.  
Date :21.02.2026.

**(B. M. Patil)**  
**Special Judge,**  
**Akot.**