

**IN THE COURT OF SESSIONS JUDGE AND JUDGE OF
SPECIAL COURT, DAMAN**

Spl.Case (CBI) No.01/2014

No.UTDD010007422014

CBI-State V/s. Nilesh Patel

Order Below Exh.55
(Passed on 12/09/2022)

1] This is an application for discharge by accused No.2 Nanji Makwana. The prosecution case is that the accused was serving as Assistant Engineer, PWD, Daman. Accused No.1 namely Nilesh Patel was the Junior Engineer and accused No.3 Himmat was the In-charge Executive Engineer, PWD, Daman. The accused persons, in furtherance of conspiracy, demanded Rs.8,16,000/- from the complainant for clearing his bills amounting to Rs.1,36,00,000/- approximately and on 03/09/2014 accused No.1 Nilesh was caught raid-handed while accepting Rs.2,00,000/- from the complainant. The present applicant/accused is contending that the charge-sheet does not reveal prima-facie case against him. The accused never made any demand of money from the complainant. It is contended that the accused had help the complainant for clearing the bill amount. It is further contended that the complainant himself had called the accused on mobile phone and stated that he wanted to talk something.

However, the accused asked the complainant to come to him. The accused never gave any reply to the complainant which may amount to demand of illegal gratification.

2] The application is opposed by the prosecution contending that there was criminal conspiracy hatched by the accused persons to accept illegal gratification from the complainant. The accused had knowledge of the bribe transaction since he had told the complainant on telephone that such thing are not to be discussed on phone and asked him to meet him in his office. It is contended that the accused had actually participated in the conspiracy.

3] Heard advocate for the accused and SPP Shri. Manprakash for the prosecution. I have gone through the case papers. It reveals that the telephonic conversation between the complainant and the accused was recorded. I have gone through that conversation. It reveals that the complainant had told the present applicant that he wanted to talk about the bill. He also told the accused that he wanted to give money as he had received half amount. The accused appears to have told the complainant that such thing were not to be discussed on phone and that he wanted to talk face to face. Thus, the transcripton reveals that the complainant wanted to give some money to the accused. If the accused was not to receive any money from

the complainant then he would have asked the complainant as to why he was giving money to him. Rather than disputing the say of the complainant, the accused had asked him not to talk such thing on phone and asked him to come to the office. The telephonic conversation between the complainant and accused reveals that there was talk about the money to be paid to the accused by the complainant which, the accused did not dispute. Thus, in my opinion there is prima-facie material to frame the charge against the accused. Hence, the order.

ORDER

Application is rejected.

Date : 12/09/2022
Place : Daman

[P. K. Sharma]
Special CBI Judge,
Daman.

CERTIFICATE

I affirm that the contents of this P.D.F. file judgment/order are same, word to word, as per the original Judgment/order.

Name of the Stenographer	:	Dhiraj S. Gajbhiye
Court	:	District & Sessions Court
Date	:	12/09/2022
Judgment/Order signed by the Presiding Officer on	:	12/09/2022
Judgment/Order uploaded on	:	14/09/2022