

Dond

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 168 OF 2015

The State of Maharashtra	..Appellant.
Vs.	
Mohammed Sadaf Akram Shah & Anr.	.Respondents.

Mr. H.J. Dedhia, APP for the State.
Mr. R.P. Singh for the Respondents.

**CORAM: B.P. DHARMADHIKARI &
A.S. GADKARI, JJ.**

22nd July 2015.

P.C.

1 By the present appeal filed under Section 12 of the Maharashtra Control of Organised Crime Act, 1999 (for short MCOC Act), the appellant, State of Maharashtra has challenged the order passed by the learned Special Judge (Under MCOC Act) dated 25.10.2013 thereby releasing the respondent on bail as contemplated under Section 21(4) of the MCOC Act.

2 Section 12 of the MCOC Act mentions that, notwithstanding anything contained in the Code, an appeal shall lie from any judgment,

sentence or order, not being an interlocutory order, (emphasis supplied) of a Special Court to the High Court. It is by now the settled position of law that an order granting or rejecting the bail is an interlocutory order. The Supreme Court in the case of ***Usmanbhai Dawoodbhai Memon Vs. State of Gujrat [1988 (2) SC 271]*** has enunciated the said principle. The ratio laid down by the Supreme Court in the case of ***Usmanbhai Dawoodbhai Memon (supra)*** was relating to the provisions of Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA), which are pari-materia with the provisions of MCOC Act.

3 The learned Single Judge of this Court in the case of ***Premchand Pratap Surana Vs. State of Maharashtra [1995(1) Bom. C.R. 72]*** by following the ratio in the case of ***Usmanbhai Dawoodbhai Memon (supra)*** has also held that grant or rejection of bail is an interlocutory order. In view of above and in view of the specific proviso in Section 12 of MCOC Act, an appeal against the order of grant or rejection of bail under MCOC Act is not tenable.

4 In that view of the matter, the present Appeal is not maintainable and is accordingly disposed of by reserving the liberty to the

appellant-State to file an Application for cancellation of bail before the learned Single Judge of this Court, if so advised.

(A.S. GADKARI,J.)

(B.P. DHARMADHIKARI,J.)