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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.72 OF 2015

Manish Ambre and Anr.	...	Applicants
V/s.		
The State of Maharashtra	...	Respondent

Mr.Milan Desai i/b Mr.T.R.Patel, for the Applicants.
Mr.Y.M.Nakhwa, APP for the State.
PI – B.S.Gaikwad, I.O. A.P.Marol Mumbai.

CORAM : REVATI MOHITE DERE, J.

DATED : 17th FEBRUARY, 2015.

PC.

1. Heard. Issue notice to the respondent – State. Learned APP waives notice on behalf of the Respondent – State.

2. Learned Counsel for the Applicants states that vide order dated 7th July, 2012, the learned Sessions Judge, Borivali Division, Dindoshi was pleased to release the applicants on bail by imposing certain conditions. He submits that one of the condition viz. Clause 5 of the said order was that “They shall not enter into the vicinity where the spot of incident i.e. office of Lucky Builder is situated” He submits that an application being Exhibit – 18 was preferred before the learned Sessions Judge, Borivali

Division, Dindoshi, seeking modification of the said condition of the order dated 7th July, 2012. He submits that learned Additional Sessions Judge, vide order dated 21st January, 2015, was of the opinion that the condition could not be modified, as it would amount to sitting in appeal and accordingly rejected the application.

3. Learned APP states that there was no impediment for the learned Additional Sessions Judge to consider the said application seeking modification and that an application seeking modification of the condition does not amount to sitting in appeal.

4. Perused the application and the impugned order, there can be no dispute that an application seeking modification of the condition of bail, which was granted by the same Court, would not amount to sitting in appeal, and as such the learned Sessions Judge clearly erred in not entertaining the application.

5. Accordingly the order dated 21st January, 2015, passed by the learned Additional Sessions Judge, City Civil and Sessions Court, Borivali Division, Dindoshi, is set aside and the application being Exhibit – 18 is

restored to its original file.

6. The learned Additional Sessions Judge shall consider the application seeking modification of the condition, which was imposed vide order dated 7th July, 2012 passed by the Sessions Judge in Bail Application No.199 of 2012, on its own merits. The said application shall be decided as expeditiously as possible.

7. The Application is allowed and disposed of in above terms.

8. Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)