

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 1317 OF 2014

Shantanoo Narayan Karandikar ... Applicant.

V/s.

State of Maharashtra ... Respondent.

Mr. A.P. Mundargi, Advocate i/by Shradha Sawant for the Applicant.

Mrs. P.P. Bhosale, APP for the State.

CORAM : M.L.TAHALIYANI, J.

DATE : 13 JANUARY, 2015

P.C. :

1 Admit. Heard finally.

2 Heard learned counsel Mr. Mundargi appearing for the applicant. The applicant is USA citizen and has not visited India for last about 7 years. He is facing trial for the offence punishable under Maharashtra Ownership of Flats Act, 1963 (MOFA Act) and 420 of the Indian Penal Code in a criminal case no. 263 of 2009. An application for discharge has been submitted before the trial Magistrate. But the trial Magistrate has refused to hear the discharge application, on the ground that the applicant did not appear before him. The prayer of the applicant for exemption from his personal appears before the court has also been rejected.

3 The applicant has, therefore, moved this court by way of filing this criminal application under section 482 of the IPC. It may be mentioned here that the hearing on the discharge application has nothing to do with the appearance of the applicant before the trial court. The trial court can hear the application for discharge without personal presence of the applicant. Insistence of the trial court for attendance of the applicant before the trial court is, in my opinion, unreasonable. Advocate for the applicant can submit arguments without presence of the applicant.

4 Hence, I pass the following order :

- i. The applicant is exempted from personal appearance till the discharge application filed by him is heard and decided by the trial court.
- ii. Discharge application filed by the applicant shall be heard on merits as early as possible.
- iii. The present application stands disposed of accordingly.

(JUDGE)