

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 282 OF 2017
IN
CRIMINAL APPEAL NO. 715 OF 2016**

Lalsing Amarsing Barela

...APPLICANT

versus

The State of Maharashtra

...RESPONDENTS

.....
Mr. P.B. Patil, Advocate for applicant

Mr. P.G. Borade, APP for Respondent - State

.....

**CORAM : S.S. SHINDE AND
K.K. SONAWANE, JJ.**

DATED : 23rd JANUARY, 2017.

Order :-

1. Present application is filed by the applicant-original accused to release him in bail in pending criminal Appeal No. 715 of 2016 filed against impugned judgment and order of the acquittal dated 13-08-2015, passed by the learned Additional Sessions Judge, Dhule, in Sessions Case No. 63 of 2015. The applicant failed to comply the provisions as contemplated under section 390 of the Code of Criminal Procedure. In the circumstances, the learned trial court has issued NBW against the applicant - original accused. In response to NBW, the applicant was arrested on 02-01-2017 and has produced before the learned trial court. Thereafter, he was remanded to Magisterial Custody.

2. Considering the attaining circumstances on record, it would not be proper to keep the applicant behind bar pending hearing the appeal. The applicant has already been acquitted for the offences punishable under sections 302 and 201 of the Indian Penal Code by the trial court. In case, he is allowed to remain in jail pending appeal it would nothing but an incarceration by way of punishment, pre-hearing of appeal against acquittal.

3. In the light of above, the applicant - original accused be released forthwith on furnishing P.R. bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with one solvent surety in like amount before the concerned trial court, Dhule.

4. The criminal application is allowed in above terms and stands disposed of accordingly.

5. The parties to act upon authenticated copy of this order.

Sd/-

[K. K. SONAWANE, J.

Sd/-

[S.S. SHINDE, J.]

MTK