

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

CRIMINAL APPLICATION NO. 77 OF 2017

Malappa Shivappa Kore & ors. ... Applicants

vs.

State of Maharashtra ... Respondent

Mr. Ritesh Thobade, Advocate for the applicants.

Ms. N. S. Jain, A.P.P. for the State/respondent.

Coram : Smt. R. P. SondurBaldota, J.

Date : 31st January, 2017

P.C. :

1. This application challenges the order dated 9th January, 2017 by which the Sessions Court, Solapur has rejected the applicants application Ex.18 for being released on bail.

2. The applicants are the appellants in Criminal Appeal No.26 of 2011. After their appeal was admitted and the sentence against them was suspended on 10th May, 2011, they had been released on execution of P.R. Bond of Rs.10,000/- each with surety in the like amount. Thereafter the appellants consistently remained absent from the Court. Consequently on 21st September, 2015 an order of issuance of non-bailable warrant was passed against them. However the warrants were not actually issued. The same came to be issued after a gap of more than two months on 1st December, 2016. The applicants arrested and produced before the Sessions Court on 9th January,

2017. Since then they are in jail.

3. The applicants had contended before the Appeal Court that their absence was not intentional. The Appeal Court disbelieved their claim since no evidence to that effect was produced. It noted that after filing of the appeal and suspension of sentence against them, they not only remained absent but have committed an offence punishable under Section 229A of Indian Penal Code by jumping the bail granted to them earlier.

4. Mr. Thobade, the learned advocate for the applicants states that the applicants are farm labourers and they were moving from place to place in search of job and consequently had not attended to the Court proceedings. He states that the applicants are willing to undertake to remain present on each date of the Court and in the event of their single lapse in attendance, they may be taken in custody.

5. Considering the facts and circumstances, I am of the opinion that the applicants may be granted one opportunity. Hence the order impugned in the petition is set aside. Their application at Ex.18 is allowed on the same terms as the order dated 10th May, 2011. The applicants shall furnish fresh surety in terms of the order. The applicants shall also file an undertaking in the Appeal Court that they shall attend every date of the appeal proceedings and in the event of a single laps without leave of the Court the order granting bail to them shall stand cancelled without any further reference to the Court.

[Smt. R. P. SondurBaldota, J.]