

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

CRIMINAL APPLICATION NO.723 OF 2016

Shri Shahaji Balbhim Madne ... Applicant

Vs.

The State of Maharashtra .. Respondent

Mr.Ranjeet Patil i/b P.S. Hagare for the Applicant
Mr.S.S. Hulke, APP, for Respondent – State

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: JANUARY 13, 2017

P.C. :

1. Not on Board. Upon mentioning, taken on Board.
2. This application is moved under section 389(2) of the Criminal Procedure Code praying that the order dated 27.10.2014 passed by the learned Sessions Judge, Solapur at exhibit 12 in Criminal Appeal No.1 of 2011 be quashed and set aside and the applicant be released on bail.
3. The applicant was convicted for the offence under section 294 of the Indian Penal Code for two years by judgment and order dated the learned J.M.F.C., Madha dated 30.12.2010 against

which he preferred Appeal No.1 of 2011 at Sessions Court, Solapur, which is lying on the file before the learned Sessions Judge. He was granted bail in the appeal by order dated 6.1.2011. When he was on bail, he did not attend on all the Court dates in the appeal proceedings. He went outside to earn his livelihood and, therefore, he was not present on 13.10.2016 and on earlier few days. Therefore, the learned Sessions Judge cancelled his bail and sent him behind bars. Thus, since 13.10.2010, he is in prison, hence, this application.

4. The learned Counsel for the applicant has submitted that he has already completed 14 months during the trial and now further three months in jail. He is convicted only for two years and thus, though he has challenged the said conviction, he is in prison since last 17 months. Further, he pointed out that no such condition of seeking permission of the Court for leaving the jurisdiction of the Court was imposed at the time of granting bail on 6.1.2011 in appeal.

5. The learned Prosecutor has opposed the application and defended the orders passed by the learned Sessions Judge.

6. Perused the previous orders. The submissions of the learned Counsel are correct that no such condition of seeking permission before leaving jurisdiction of the Court was imposed by the learned Sessions Judge at the time of granting bail. Considering the facts of the case, the period of conviction and the period undergone by him in the prison and also the fact that the criminal appeal is pending since 2011, I set aside the order passed by the learned Sessions Judge dated 27.10.2014 and grant bail to the applicant on the following terms:

- i) The applicant shall be released on bail upon furnishing the same bail as per the earlier order of the learned Sessions Judge dated 6.1.2011, however, with fresh bond;
- ii) The applicant shall attend all the Court dates.

7. The Criminal Application is disposed of accordingly.

(MRIDULA BHATKAR, J.)