

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

ANTICIPATORY BAIL APPLICATION NO.28 OF 2018

Farzana Sharif Qureshi & Ors.

... Applicants

V/s.

The State of Maharashtra

... Respondent

Mr. Prashant Aher, a/w. Subhradeep Banerjee for the Applicant.
Smt. Rutuja Ambekar, APP for the Respondent – State.

CORAM : A.S.GADKARI, J.

DATE : 9th JANUARY 2018

P.C.:

. By the impugned Order dated 28.12.2017, the learned Additional Sessions Judge, Greater Mumbai rejected the application for pre-arrest bail of the applicants on the ground that the advocate appearing on the particular day was not ready to argue the matter. It appears from the record that the applicants were earlier protected by way of interim order of the Trial Court. That the ABA/1998/2017 was not heard on merits and is dismissed solely on the afore-stated ground. It is the settled position of law that a party or the client should not suffer for the fault of advocate.

2. In view thereof and in the interest of justice, ABA/1998/2017 is hereby restored to the file of the learned Additional Sessions Judge, Greater Mumbai and the learned Additional Sessions Judge is hereby directed to hear the matter on its own merits as per the law.

4. Till the ABA/1998/2017 is heard and decided on merits, interim relief granted by an Order dated 28.12.2017 by the said Court shall remain in force. The applicants alongwith their advocate shall appear before the learned Additional Sessions Judge on 16.01.2018 on 11.00 a.m. It is made clear that the advocate appearing for the applicants shall not seek adjournment on any given date and on any count. If the advocate seeks adjournment on any ground, the learned Judge is at liberty to pass an appropriate Order in that behalf.

5. Application is disposed off in the aforesaid directions.

(A.S.GADKARI, J.)