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

CRIMINAL APPLICATION NO. 145 OF 2014

The State of Maharashtra

....Applicant

V/s.

Amit Madhukar Bhogle & Ors.

... Respondents

Ms. J.S. Lohokare, APP for Applicant/State.

CORAM : A.S.GADKARI, J.

DATE : 10th JANUARY 2018.

P.C.:

1] This is an application for cancellation of bail granted to the respondents, by the learned Judge, Special Court-1, Mumbai in Bail Application Nos. 1 and 2 of 2014 by its Order dated 6th January 2014¹³ and 7th January 2014 respectively under the provisions of Section 167(2) of Cr. P.C.

2] The learned APP for the Applicant/State submitted that, the Trial Court did not consider the fact that in the present case the Investigating Agency has invoked the provisions of MCOC Act and therefore

the Trial Court ought not to have even granted in-default bail to the respondents.

3] By now it is the settled position of law that, it cannot said that a new period of 90 days would commence from the date when approval was accorded under Section 23 of the MCOC Act for initiating investigation for any offence under the said Act. That for the application of the proviso of Section 167(2), there is no necessity to consider when the investigation could legally have commenced. That on the expiry of the said period the further custody become unauthorised and hence it is mandated that the arrested person shall be released on bail if he is prepared to and does furnish bail. The Hon'ble Supreme Court has enumerated the aforestated proposition in the case of State of Maharashtra Vs. Mrs. Bharati Chandmal Varma @ Ayesha Khan reported in 2002 ALL MR (Cri) 1215 (S.C.)

4] In view of the above, I find no merits in the application. Application is accordingly dismissed.

(A.S.GADKARI, J.)