

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL WRIT PETITION NO. 4679 OF 2017**

Rajabhai @ Shanawaz @ Mohd. Farid  
Shaikh @ Mohd. Husain Mohd. Hanif  
Shaikh & Anr.

...Petitioners

Versus

The State of Maharashtra

...Respondent

Mr. Ganesh Gole i/b Mr. Ateet Shirodkar for the Petitioners

Mr. H. J. Dedhia, A.P.P for the Respondent-State

**CORAM : REVATI MOHITE DERE, J.**  
**WEDNESDAY, 10<sup>th</sup> JANUARY, 2018**

**P.C. :**

1            Heard learned counsel for the parties.

2            By this petition, the petitioners have impugned the order dated  
8<sup>th</sup> November, 2017 passed by the learned Additional Sessions Judge,  
Greater Bombay, in Criminal Revision Application No. 1082 of 2017.

3            Learned Counsel for the petitioners submits that there is non-  
compliance of Section 41A of the Criminal Procedure Code. He further

submits that similarly placed co-accused Mohd. Firoz Mohd. Hanif Shaikh has been enlarged on bail by the learned Magistrate and that in fact, the petitioners stand on a better footing than co-accused Mohd. Firoz Mohd. Hanif Shaikh.

4            Learned A.P.P submits that no interference is warranted in the impugned order dated 8<sup>th</sup> November, 2017. He submits that the petitioners be directed to surrender before the Magistrate on 15<sup>th</sup> January, 2018. He submits that the petitioners be granted liberty to file an application for bail and that the Magistrate be directed to decide the same afresh, on its own merits, in accordance with law, along with the application preferred by the State.

5            Learned counsel for the petitioners submits that the petitioners will appear before the learned Magistrate as directed by the Additional Sessions Judge and file an appropriate application seeking their enlargement on bail. The said statement is accepted. He further prays that the Magistrate be directed to decide the said application on the very same day.

6           Accordingly, no interference is warranted in the impugned order dated 8<sup>th</sup> November, 2017. The petitioners shall now appear before the Magistrate on 15<sup>th</sup> January, 2018. If an application is filed by the petitioners seeking their enlargement on bail, the same shall be decided by the learned Magistrate, on the same day. Similarly, if an application is filed by the prosecution, seeking custody, the same shall also be decided by the learned Magistrate on the very same day.

7           All contentions of both the parties are kept open. Learned Magistrate to decide the applications on its own merits, in accordance with law, uninfluenced by the observations made by the Sessions Court.

8           Writ petition is disposed of on the aforesaid terms.

9           All concerned to act on the authenticated copy of this order.

**REVATI MOHITE DERE, J.**