

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**7 CRIMINAL APPLICATION NO.1178 OF 2021
IN APEAL/452/2016**

MAHESH S/O VASANT CHILWANTE (C-8916)
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Jaiswal Rupesh A
APP for Respondents : Mr. S.G. Sangle
...

**CORAM : RAVINDRA V. GHUGE &
S.G. MEHARE, J.J.**

DATED : 09th AUGUST, 2021

PER COURT:-

1. We have considered the submissions of the learned counsel for the applicant and the learned APP.
2. We have perused our judgment dated 25.02.2021 delivered in Criminal Appeal No.452 of 2016.
3. In paragraph 41 of the judgment, we have recorded as under:

“41. The learned prosecutor submits that the State would prefer an appeal for challenging this judgment before the Honourable Apex Court. In view of the said statement, while releasing the appellant/ accused from jail, he shall be subjected to the compliance of Section 437-A of the Code of Criminal Procedure, 1973 by furnishing a P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) and a surety of the like amount keeping in view the statement of the learned advocate that the appellant is in abject poverty

and though he was granted bail by this Court, he could not furnish the sureties.”

4. The learned advocate for the applicant submits that taking into account Section 445 of the Code of Criminal Procedure, 1973, the applicant can be granted time of 60 days to tender the surety. In so far as furnishing a P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) is concerned, there is no problem.

5. We find that though this Court has acquitted the appellant, and since the State desired to challenge the judgment before the Hon’ble Apex Court, we had directed the compliance of Section 437-A of the Code of Criminal Procedure, 1973. As the applicant could not furnish a surety, though he is able to furnish a P.R. Bond, in the sum of Rs.15,000/- (Rupees Fifteen Thousand), he is still behind bars.

6. This application is therefore allowed. As the applicant is willing to furnish a P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand), the same may be received by the competent authority and the applicant be released from jail in view of his acquittal, subject to the condition, which is recorded on his own submission, that he would furnish a surety in the amount of Rs.15,000/- on or before 08.10.2021, failing which he agrees to surrender to the jail authorities.

7. While tendering the P.R. Bond in the sum of Rs.15,000/-, before his release from jail, he would also submit a copy of the identity card (Aadhar Card) of two closest relatives along with their recent address proof and telephone numbers as well as his own cell number, if

(3)

he acquires one after being released from jail. He would also state the address where he would normally reside in this period of 60 days.

(S.G. MEHARE. J)

(RAVINDRA V. GHUGE, J)