

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

CRIMINAL APPEAL NO. 3 OF 2022

Udhav Rambhau Pawar

..APPELLANT

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....

Mr. P.P. More, Advocate for appellant

Mr. S.P. Sonpawale, A.P.P. for respondent no.1 - State

....

CORAM : R.G. AVACHAT, J.

DATED : 06th JANUARY, 2022

PER COURT :

1. Heard learned counsel for the appellant and learned A.P.P. for Respondent No.1 – State.

2. This Court, vide order dated 10th December, 2021, disposed of the applicant's criminal appeal (425 of 2021) in terms of following order :-

“3. The appeal is disposed of with liberty to the appellant to file application for regular bail before the appropriate Court. If such application is filed, the concerned Court shall decide it on its own merit. The interim protection granted by this Court by order dated 08.09.2021 shall remain in operation for a period of ten days from today i.e. till 20.12.2021.”

3. Thereafter, the applicant has appeared before the Trial Court. The Court concerned granted him interim bail upto 21st December, 2021. On that day, the applicant did not remain present before the Trial Court and the application for regular bail, therefore, was turned down with the following observations :-

“06. I have heard both sides. Shri. Kakade, learned counsel of applicant submitted that applicant has complied with directions of this Court. Investigating Officer does not need custody of applicant. Nothing remains to be investigated in this matter. When he was asked whether applicant/accused is present before Court, he submitted that applicant is not present. I think, this is not proper. He should have been present before this Court at the time of passing final order. Therefore, this court is not inclined to grant regular bail to applicant. The Investigating Officer may arrest applicant/accused and seek his custody by separate applications.”

As such, the Trial Court appears to have refused to continue the period of interim bail and rejected his application, not on merits but only on the ground of his failure to remain present before the Court.

4. In view of above, order dated 21st December, 2021 is hereby set aside. The period of interim bail granted by the Trial Court is extended for a period of one week i.e. upto 13th January, 2022. The proceedings of Criminal Bail Petition No. 1234 of 2021 are restored to it's stage before the impugned

order dated 21st December, 2021 was passed. The applicant shall appear before the Trial Court on 10th January, 2022. The Trial Court shall decide Criminal Bail Petition No. 1234 of 2021 on or before 14th January, 2022 without being influenced by any of the observations made herein.

5. Criminal appeal stands disposed of accordingly.

(R.G. AVACHAT, J.)

SSD