

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

APPLICATION FOR LEAVE TO APPEAL NO. 77 OF 2017

Shoukat Babulal Tamboli ...Applicant
vs.
Babulal Yaquob Pathan and Anr. ...Respondents

Mr. B. A. Lawate - Advocate for the Applicant
Mr. S. R. Agarkar - APP for the Respondent-State

CORAM : S. M. MODAK, J.

DATE : 10th JULY, 2023

P. C. :-

1. Heard learned Advocate Shri Lawate for the Applicant
Though Respondent-accused is served, he has not appeared. The
Court of the JMFC, Malshiras has acquitted the Respondent on
following two grounds:-

- a) Cheque return memo is not proved (para nos. 18
and 19)
- b) The accused has admitted during cross-
examination that he was indebted and there was
different loan against him. (para no. 19)

2. According to the Applicant's counsel these findings are
not correct and they are against the evidence which are adduced on

record. He brought to my notice the following evidences:-

- a) Evidence of his banker Rakesh at Exh. 46.
- b) Exh. 21 which is agreement in between the Complainant and accused which is referred in chief examination.

3. It is true that these two documents are not appreciated by the trial court. Arguable case is made. Hence the following order.
Leave is granted.

APPEAL

- 4. Appeal is admitted. Record and proceeding is called. It is already received.
- 5. Let action be initiated under Section 390 of the Criminal Procedure Code.
- 6. Learned Magistrate to grant him bail for an appropriate amount.

[S. M. MODAK, J.]