

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.540 OF 2018

IN

CRIMINAL APPEAL NO.383 OF 2018

Zumardas Baludas Vaishnav
V/s.

...Applicant

The State of Maharashtra

...Respondent

.....

Mr. Taraq Sayed a/w. Mr. S.S. Bhandary, Advocate for the Applicant.

Mr. S.V. Gavand, APP for the Respondent/State.

....

CORAM : A.M.BADAR, J.

DATED : 12th OCTOBER 2018.

P.C. :

1. This is an application for suspension of sentence and releasing the applicant/accused on bail during pendency of the appeal filed by him.

2. The applicant/accused is convicted of the offences punishable under Section 8(c) read with Section 20(b)(ii)(B) of the Narcotics, Drugs and Psychotropic Substances Act, 1985

(hereinafter referred to as the 'NDPS' Act for the sake of brevity).

He is sentenced to suffer rigorous imprisonment for five years apart from payment of fine of Rs.25,000/- and in default to undergo further rigorous imprisonment for six months.

3. Heard the learned counsel appearing for the applicant. He argued that during pendency of the trial, the applicant was on bail and he has not misused his liberty. It is further argued that Bar of Section 37 is not applicable as the contraband is not of commercial quantity.

4. The learned APP opposed the application by contending that the offence alleged is serious as the applicant was found in possession of charas weighing 500 grms. at the public place.

5. I have considered the submissions so advanced.

6. Undisputedly, during pendency of the trial, the applicant was on bail. He has already undergone sentence of more than eight months. Short sentence of imprisonment is awarded on the applicant. Bar of Section 37 is not applicable to the case in hand as seized charas was weighed 500 grms. Commercial quantity is prescribed as 1000 grms. The appeal filed by the appellant may

not be filed heard a short period, considering pendency of the appeals before this Court.

7. In this view of the matter, the following order;

- : ORDER : -

- i) The application is allowed.
- ii) The substantive sentence of imprisonment imposed on the applicant/accused is suspended and he is directed to be released on bail on his executing fresh P. R. Bond of Rs.30,000/- and on furnishing one or two sureties in the like amount.
- iii) As a condition of this order, the applicant/accused should not repeat commission of similar offence in future.
- iv) The application is disposed of accordingly.

(A.M.BADAR J.)