

DDR

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

**CRIMINAL APPLICATION NO. 1223 OF 2019
IN
CRIMINAL APPEAL NO. 230 OF 2015**

Bhausahab Pandurang Garad ..Applicant
vs.
The State of Maharashtra ..Respondent

.....
Mr. S.C. Halli for applicant.
Mr. S.S. Hulke, APP for State.
.....

**CORAM : RANJIT MORE &
M.S.KARNIK, JJ.**

DATE : 27th NOVEMBER, 2019

P.C.:-

The applicant is the original accused no. 2. He is mainly convicted for the offence punishable under Section 302 r/w. 149 of the Indian Penal Code and sentenced to suffer life imprisonment. Earlier two applications were filed by the present applicant for bail. The first Criminal Application bearing No. 135 of 2016 was rejected on merits. The second Criminal Application bearing No. 132 of 2019 was filed by the applicant for bail claiming parity with accused No.1 Pramod Garad and accused No.4 Hanmant

Bhagwat Garad. However, the said application was also rejected on the ground that lack of supporting material was not pressed into service when the first application moved by the applicant vide Criminal Application No. 135 of 2016 was rejected.

2. The present application is filed by the applicant on the ground of parity as well as on medical ground. The contention of the applicant that he is suffering from RVD (HIV infection) and he is on ART treatment since 2006. This is not disputed by learned APP. The record reveals that during the trial on several occasions the applicant was released on temporary bail for medical treatment.

3. Be that as it may, accused No.4 Hanmant and accused No.1 Pramod filed two separate applications bearing Application No.557 of 2017 and Application No. 392 of 2018. Learned APP does not dispute that the role attributed to the present applicant and accused Nos. 1 and 4 is identical. Both accused Nos. 1 and 4 have been released on bail by the Division Bench of this Court on 19/4/2017 and 27/11/2018 respectively.

4. The applicant is in custody since more than 6 years. In these circumstances, we are inclined to release the applicant on bail. The application is accordingly disposed of by passing following order.

ORDER

(i) The sentence awarded to the applicant is suspended and the applicant is directed to be released on bail on execution of P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one or two solvent sureties in the like amount to the satisfaction of the trial Court on condition that the applicant shall remain present at the time of the hearing of the Appeal.

(M.S.KARNIK, J.)

(RANJIT MORE, J.)