

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

**CRIMINAL APPLICATION NO.1397 OF 2019
IN
CRIMINAL APPEAL NO.522 OF 2017**

Micheal Babu Argelo	...Applicant
Versus	
The State of Maharashtra	...Respondents

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Mr. Santosh Madhukar Deshpande for the Applicant.
Mr. Vidyadhar Gangurde, APP for the Respondent-State.
Mr. D.Y. Kadam, PSI present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

**DATED: 13th NOVEMBER, 2019.
(IN CHAMBER)**

P.C.:-

The Applicant herein is an accused No.9 in Sessions Case No.240 of 2014 on the file of Additional Sessions Judge, City Civil and Sessions Court, Greater Bombay. He has been convicted for offences under Sections 395 and 120B of the Indian Penal Code and sentenced to undergo rigorous imprisonment for 10 years and fine of Rs.10,000/- i/d to undergo simple imprisonment for one year.

2. By this application the Applicant has sought suspension of sentence and to release him on bail. The previous Bail Application

No.894 of 2017 was dismissed by this Court vide order dated 28th November, 2017. It was held that there was prima facie material to prove the involvement of the Applicant in commission of the offence. Considering the gravity of the offence and the manner in which the crime was committed this court had declined to suspend the execution of substantive sentence and to release Applicant on bail.

3. The learned counsel for the Applicant has submitted that the Applicant was arrested on 20/11/2013. He submits that the Applicant has already undergone more than five years of imprisonment. He states that the Applicant shall deposit the fine amount, if not already paid. He further states that the other accused, who have also been convicted for the same offence have already been released on bail on the ground that they have undergone more than 50% of substantive part of the sentence and that there is no likelihood of immediate hearing of the appeal. He has placed on record copies of the orders dated 31st July, 2017, 24th July, 2019 and 9th August, 2019, passed by the Court(Coram: Dama Seshadri Naidu, J.) and order dated 19th September, 2019 passed by the Court(Coram:A.M. Badar, J.)

4. The learned APP concedes that the Applicant has

undergone more than 50% of the sentence. He also concedes that the other co-accused have been granted bail and the Applicant is entitled for bail on the ground of parity.

5. I have perused the records and considered the submissions advanced by the learned counsel for the Applicant and the learned APP for the Respondent-State.

6. Though the previous application filed by the Applicant was rejected on merits, it is seen that the applications filed by the other co-accused have been allowed on the ground that they have already undergone more than 50% of the sentence. The role attributed to the present Applicant is identical to the role attributed to the other co-accused, who have been released on bail. Hence, the Applicant is entitled for bail on the principle of parity.

7. Hence, the following order is passed:-

(i) Application is allowed.

(ii) Substantive sentence of imprisonment imposed on the Applicant is suspended till the disposal of the appeal and he is directed to be released on bail, on his executing PR.

Bond in the sum of Rs.20,000/- and on his furnishing one or two sureties in the like amount and on payment /deposit of fine amount, if not deposited earlier.

- (iii) The Applicant should not contact first informant or victim or any witness in any manner.
- (iv) The Applicant's failure to abide by these conditions will entail the prosecution to apply for cancellation of bail now granted to the Applicant.

(SMT. ANUJA PRABHUDESSAI, J.)

Megha
Parab

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by Megha Parab
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