

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPLICATION NO. 1145 OF 2019  
IN  
CRIMINAL APPEAL NO.791 OF 2014**

Raghvendra @ Nagendra Hanumanta Naik

....Applicant  
Org.Accused No.4

**Versus**

The State of Maharashtra

....Respondent

Mr. Kuldeep Patil along with Mr. Shailesh Chavan i/b. Ms. Priyanka Joshi,  
advocate for the applicant.  
Mr. H. J. Dedhia, APP for the State.

**CORAM : PRASANNA B. VARALE &  
V. G. BISHT, JJ.**

**DATE : 26<sup>th</sup> NOVEMBER, 2020.**

**P.C. :**

1. Heard Mr. Patil, learned counsel for the applicant and  
Mr.Dedhia, learned APP for the state.

2. The applicant is before this Court with a prayer for suspension  
of his sentence and enlargement of the applicant on bail pending appeal.  
The applicant along with 5 other accused persons faced trial for a charge  
under Section 302 read with Section 149 of the Indian Penal Code, 1860  
and in alternative read with Section 34, Section 120-B read with Section  
34, 147 and 148 of the Indian Penal Code, 1860 and Section 25(1B)(a)  
and Section 27(1) of the Arms Act.

3. Considering the evidence brought on record, the learned trial court was pleased to record the judgment and order of conviction and sentence to the applicant and other accused person. The appeal submitted by the present applicant is admitted on 1<sup>st</sup> December, 2014. The learned counsel for the applicant submitted before this Court that though this Court may not undertake the exercise of scrutiny of evidence at this stage, this Court may consider the ground of parity raised by the applicant. The learned counsel for the applicant invited our attention to the orders of this Court dated 13<sup>th</sup> February, 2018 and 22<sup>nd</sup> July, 2019. More particularly, Mr. Patil, learned counsel for the applicant, has placed heavy reliance on the order of the Division Bench dated 22<sup>nd</sup> July, 2019, to submit that the material against the present applicant and the material against the applicant – Dnyaneshwar Balu Patole in criminal application No.1146 of 2019 is nearly identical. Considering the alleged involvement of the applicant – Dnyaneshwar Balu Patole and in the backdrop of the fact that the applicant is behind the bars for more than 11 years and it will take sufficient longer time to take up the appeal for final hearing and disposal in view of the other pending appeals, the Division Bench was pleased to allow the application.

4. Mr. Dedhia, learned APP, opposed the application on the ground that there is more than sufficient material against the applicant to

show his active involvement in the offence and that there are also eye-witnesses supporting the case of the prosecution.

5. We have gone through the material placed on record including the copy of the judgment of the trial court as well as the orders of the Division Bench dated 13<sup>th</sup> February, 2018 and 27<sup>th</sup> February, 2019. We find considerable merit in the submission of the learned counsel for the applicant. It is not in dispute that while dealing with criminal application No. 1146 of 2019 preferred by Dnyaneshwar Balu Patole, the Division Bench of this Court was pleased to refer to the material evidence against Dnyaneshwar Balu Patole in the form of testimony of the eye-witnesses and considering the fact that the applicant is behind the bars for more than 11 years, by order dated 22<sup>nd</sup> July, 2019, the application of the applicant was allowed on certain conditions. We are of the opinion that the present applicant is entitled to receive the same treatment on the ground of parity. It is not in dispute that the present applicant is also behind the bars for more than 12 years. Accordingly the application is allowed.

6. The Applicant be released on bail on following terms and conditions :

(a) The applicant shall execute personal bond in the sum of Rs.25,000/ before the trial court for proper behaviour and for

remaining present on due dates before the Court in the present matter, with two independent sureties in the like amount;

(b) He shall give address at which he shall always be available during the pendency of this appeal along with his contact numbers;

(c) Similar details in relation to his sureties shall also be furnished;

(d) He shall not in any way directly or indirectly attempt to contact or pressurize either complainant or any of the witnesses in the matter.

(e) He shall keep vakalatnama of his advocate alive and valid till the appeal is finally decided by this Court and shall not be entitled to any fresh notice at the stage of final hearing;

(f) He shall report to the Superintendent/Registrar of Additional Sessions Court, Pune on first working Monday in every two months as a condition of his release;

(g) His failure to observe any of the terms and conditions mentioned above shall entitle the respondent-State to take him in custody forthwith;

7. The criminal application is, accordingly, disposed of.
8. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

**( V. G. BISHT, J.)**

**(PRASANNA B. VARALE, J.)**