

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 3147 OF 2021
IN
CRIMINAL APPEAL NO. 1235 OF 2019**

Khema Madhukar Zhope ..APPLICANT

VERSUS

The Intelligence Officer,
Directorate of Revenue Intelligence,
Mumbai and Another ..RESPONDENTS

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Mr. S.S. Patil, Advocate for applicant
Mr. D.G. Nagode, Standing Counsel for Respondent No.1
Mr. S.P. Sonpawale, A.P.P. for respondent no.2 - State

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**AND
CRIMINAL APPLICATION NO. 3232 OF 2021
IN
CRIMINAL APPEAL NO. 628 OF 2019**

Vikas Somnath Puri ..APPLICANT

VERSUS

Union of India and Another ..RESPONDENTS

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Mr. K.N. Shermale, Advocate for applicant
Mr. D.G. Nagode, Standing Counsel for Respondent No.1
Mr. S.P. Sonpawale, A.P.P. for respondent no.2 - State

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**CORAM : R.G. AVACHAT, J.
DATED : 24th JANUARY, 2022**

PER COURT :

1. Heard.

2. Applicant – Khema Madhukar Zope has been convicted for the offence under Section 8(c) punishable under Section 22(c) of the Narcotic Drugs and Psychotropic Substance Act ('N.D.P.S.') and sentenced to suffer rigorous imprisonment for twelve years and to pay fine of Rs.1,50,000/-, in default, to suffer rigorous imprisonment for three years and further convicted for the offence under Section 29 of the N.D.P.S. and sentenced to suffer rigorous imprisonment for twelve years and to pay fine of Rs.1,50,000/-, in default, to suffer rigorous imprisonment for three years. Applicant – Vikas Somnath Puri has been convicted for the offence under Section 8(c) punishable under Sections 22(c) and 23(c) of the N.D.P.S. and sentenced to suffer rigorous imprisonment for thirteen years and to pay fine of Rs.1,75,000/-, in default, to suffer rigorous imprisonment for thirty two months and further convicted for the offence under Section 27A of the N.D.P.S. and sentenced to suffer rigorous imprisonment for thirteen years and to pay fine of Rs.1,75,000/-, in default, to suffer rigorous imprisonment for thirty two months. These applications have been moved for suspension of substantive sentence of imprisonment mainly on the ground that they have undergone substantial portion of the sentence imposed.

3. Alongwith these applicants, there are five more accused persons. They have also been convicted in similar terms. They have already been granted suspension of substantive sentence of imprisonment. As such, a case

of parity does arise. Moreover, both the applicants have been behind the bars for little over eight years out of the term of imprisonment of twelve and thirteen years respectively, imposed against them.

4. Mr. Nagode, learned standing counsel for Respondent No.1 opposed for allowing the applications mainly on the ground of seriousness of the offences. He was ready to workout the appeals on merit.

5. Five of the seven accused have already been granted bail and their substantive sentence has been suspended pending the appeals. The applicants have no criminal antecedents. They have already undergone eight years of imprisonment out of twelve and thirteen years respectively, imposed against them. The appeals are not likely to come up for hearing in immediate future. On the ground of parity and for the reasons that the applicants have been behind the bars for little over eight years, this Court is inclined to allow these applications in terms of following order :-

ORDER

- (i) Both the applications are allowed.
- (ii) The execution of substantive sentence of imprisonment of both the applicants is suspended pending the appeals. The

applicants be released on their executing P.R. bonds in the sum of Rs.1,00,000/- (Rupees One Lakh) each with one surety each in the like amount.

(iii) The applicants shall not leave India without permission of this Court.

(iv) The applicants shall attend the trial Court once in two months i.e. on first working day of the month in between 11.00 a.m. to 05.00 p.m. during the pendency of the present appeals.

(R.G. AVACHAT, J.)

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