

BDP-SPS-

BHARAT
DASHARATH
PANDIT

Digitally signed
by BHARAT
DASHARATH
PANDIT
Date: 2023.02.24
12:03:14 +0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.397 OF 2023
IN
CRIMINAL APPEAL NO.214 OF 2016**

Sujit Vasant Nyaynirgune Applicant.

V/s

The State of Maharashtra Respondent.

Mr. Sanghraj Rupwate i/b Pooja Thakur for the Applicant.

Mr. A. R. Kapadnis, APP for the Respondent/State.

**CORAM: NITIN W. SAMBRE &
S. G. DIGE, JJ.**

DATE: FEBRUARY 22, 2023

P.C.:-

1] In Sessions Case No. 144 of 2011 for the offence punishable under Sections 143, 147, 148, 149, 302, 307, 342, read with section 336 of the Indian Penal Code, the Applicant came to be convicted and sentenced to suffer life imprisonment.

2] Our attention is invited to the fact that the role attributed to the Applicant and to co-accused Sujit Vitthal Sutar is similar. It is further claimed that the Applicant and said co-accused Sujit Vitthal Sutar are similarly placed and Sujit Vitthal Sutar is released on bail on 08/01/2021 in Interim Application No. 8 of 2021.

3] Our attention is also invited to the order dated 30/11/2022

passed in Interim Application No.2470 of 2022 wherein relief under Section 389(1) of Cr.P.C. is granted in favour of co-accused Atul @ Batli Ashok Deshmukh. As such, it is claimed that apart from parity Applicant has already suffered incarceration for a period of more than 10 years.

4] Learned APP opposed the bail on the ground that Applicant during parole has not surrendered within time and as such suffered conviction for a period of one year.

5] We have considered submissions.

6] Claim of parity is borne out of the record. Similarly placed accused Sujit Vitthal Sutar was ordered to be released on 08/01/2021. Applicant further suffered incarceration for a period of one year having been convicted for violation of parole conditions.

7] In the aforesaid backdrop, case for grant of relief under Section 389(1) of Cr.P.C. is made out.

8] Applicant is entitled to be released on bail on the ground of parity with the aforesaid two accused persons. Hence the following order:-

(i) During the pendency of present Appeal, the substantive sentence imposed upon the Applicant is suspended.

(ii) Applicant is released on bail on his furnishing PR bond in the sum of Rs 25,000/- (Rupees Twenty Five Thousand only) with two solvent sureties in the like amount.

(iii) Applicant shall undertake that he shall continue to reside at the address, to be communicated by him during the pendency of the present proceeding and he shall not leave that address.

(iv) Applicant shall not contact either complainant or any of the witnesses or their family members and not to indulge in any unlawful activities or business.

(v) Applicant shall report to Airoli Police Station on every 1st and 15th day of the month and maintain diary of his attendance duly countersigned by the Police Station In-charge or Senior Police Inspector of Airoli Police Station.

(vi) Terms and conditions of this Order shall be complied with within three weeks from today.

(vii) Failure to comply with these terms and conditions or to obey the same shall constitute breach of this Order and the Trial Court shall in that event

proceed to take him in custody in accordance with law.

(viii) Application is accordingly allowed and disposed off.

[S. G. DIGE, J.]

[NITIN W. SAMBRE, J.]