IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.383 OF 2026
IN CRIMINAL APPEAL NO.967 OF 2022
WITH
CRIMINAL APPLICATION NO.3131OF 2026
IN CRIMINAL APPEAL NO.967 OF 2022

DNYANESHWAR PRAKASH KARHALE
VERSUS
THE STATE OF MAHARASHTRA

....
Mr. ParimalR. Jalit h/f Ms. Bawankule Rajshree M., Advocate for the applicant
Mr. G. A. Kulkarni, APP for Respondent-State
....

CORAM : SANDIPKUMAR C. MORE &
VAISHALI PATIL-JADHAV, JJ.

Date : 12/10/2026

PER COURT :

1. Heard rival submissions.

2. The applicant, who is Accused No. 1 in the main appeal, has filed both these applications seeking suspension of the substantive sentences of imprisonment imposed upon him by the learned Additional Sessions Judge-3, Hingoli, in Sessions Case No. 49 of 2016, vide judgment and order dated 18/10/2022 and his release on bail during the pendency of the appeal. However, Criminal

Application No. 3131 of 2026 has been filed seeking his temporary release on bail on the ground that his father, aged 87 years, is suffering from cancer.

3. Admittedly, the applicant has been convicted under Section 302 of the Indian Penal Code and sentenced to suffer imprisonment for life and to pay a fine of Rs. 5,000/-, with a default clause. He has also been convicted under Section 307 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for ten years and to pay a fine of Rs.2,000/-, with a default clause.

4. Learned counsel for the applicant submits that the applicant has been in custody for a considerable period of approximately nine years, since he was arrested on 18/06/2016. According to learned counsel, having regard to the prolonged period of incarceration, the applicant deserves to be released on bail during the pendency of the appeal.

5. Per contra, the learned APP strongly opposes the submissions advanced on behalf of the applicant. The learned APP submits that though the Hon'ble Supreme Court has, in certain cases, directed the release of accused persons on bail having regard to their prolonged incarceration, but the current position of law is that an

accused cannot be released on bail merely on the ground of long incarceration. The nature and manner of commission of the offence must also be taken into consideration while deciding an application for suspension of sentence and release on bail during the pendency of an appeal.

6. Admittedly, the applicant had earlier filed Criminal Application No.4272 of 2022 seeking similar relief. At that time, the applicant did not press the said application and sought liberty to file a fresh application confined to the ground of prolonged incarceration. Upon perusal of the order dated 21/02/2024 passed in the said criminal application, it is evident that this Court was, at the relevant time, not inclined to grant suspension of the applicant's sentence on merits. Accordingly, liberty was granted to the applicant to file a fresh application on the ground of prolonged incarceration. However, upon perusal of Criminal Application No. 383 of 2026, it appears that the applicant has again sought release on bail on merits, in addition to relying upon the ground of prolonged incarceration. As observed hereinabove, the suspension of sentence and release of a convict on bail during the pendency of an appeal cannot be considered solely on the ground of prolonged incarceration; the merits of the case must also be taken into consideration. In the circumstances, when this Court had earlier

declined to grant relief to the applicant on merits, no order releasing him on bail can be passed subsequently merely on the ground of prolonged incarceration.

7. So far as Criminal Application No. 3131 of 2026 is concerned, the applicant seeks temporary release on bail on the ground that his 87-year-old father is suffering from cancer. However, the applicant has an alternative remedy of seeking temporary release on furlough or parole, subject to the applicable rules and conditions. In view of the availability of such an alternative remedy, we are not inclined to grant the applicant temporary release on bail in Criminal Application No. 3131 of 2026.

8. In view of the foregoing discussion, both the criminal applications stand rejected.

[VAISHALI PATIL-JADHAV]
JUDGE

[SANDIPKUMAR C. MORE]
JUDGE