

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1627 OF 2026

IN

CRIMINAL APPEAL NO. 129 OF 2020

Pravin @ Vitthal Prakash Avhad .. Applicant/Appellant

V/S.

State of Maharashtra .. Respondent

Ms. Sana Khan a/w. Mr. Jinay Jain, for the Applicant/Appellant.

Ms. Pallavi Dabholkar, APP, for the respondent/State.

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CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ.

DATE : 17th SEPTEMBER 2026.

ORDER: *(Per Shreeram Shirsat, J.)*

1. Heard Ms. Sana Khan, the learned counsel for the Applicant /Appellant and Ms. Pallavi Dabolkar, APP, for the State.

2. The Applicant is seeking bail and suspension of sentence pending the appeal primarily on the ground that he has suffered a long incarceration for a period of more than 10 years.

3. The Applicant / Appellant has been convicted by a judgment and order dated 26.12.2019 passed by the Additional Sessions Judge, Nashik in Sessions Case No. 122/2016 for the offences punishable under Sections

143, 148, 302, 325 and 452 of the IPC and sentenced to suffer imprisonment for life. Against the said order of conviction, the Applicant/Appellant has preferred an Appeal before this Court, being Criminal Appeal No. 129 of 2020, which is pending before this Court.

4. The Ld. Counsel for the Applicant submitted that Interim Application No. 3150/2023 preferred by the Applicant was withdrawn on 18.10.2023 as the Court was not inclined to grant relief, however liberty was granted to mention the appeal for final hearing and to prepare the paper book within six months.

5. The Learned Counsel for the Applicant relied upon the judgments of *Saudan Singh v. State of Uttar Pradesh*, (2023) 17 SCC 446 , *Sonadhar v. State of Chhattisgarh*, (2022) SC 788 and *Rushikesh (Bhaiyya) Sharad Suryawanshi v State of Maharashtra*, Criminal Appeal No. 4191 of 2026 @ *SLP (Cri.) Nos 14868 of 2026* .

6. The contention of the Learned Counsel for the Applicant is that the Applicant has been incarcerated for a period of more than 10 years and that the appeal is not likely to be heard in the near future. She submitted that the Applicant is in jail since the date of his arrest. She also submitted that there are no extenuating circumstances or any criminal antecedents against the Applicant and therefore urged that the Applicant be released on bail on any terms and conditions.

7. *Per Contra*, the Learned APP strongly opposed the release of the Applicant on bail pending the Appeal and submitted that the Applicant is involved in a serious offence and is convicted under Section 143, 148, 302, 325 and 452 of the IPC. The Ld. APP submitted that the offence has been committed by the Applicant along with his friends out of vengeance in a very calculated manner. The Ld. APP submitted that the deceased was assaulted using iron rods, which led to the death of the deceased and therefore submitted that the Applicant does not deserve to be released on bail pending the appeal.

8. It will be pertinent to mention that this court on 16/7/2026 had taken note of the fact that the earlier bail application was withdrawn and that the Ld. Counsel for the Applicant had submitted that the Applicant had undergone incarceration for 10 years. However, this court was of the opinion that this appeal along with the other connected appeals can be taken up for final hearing and had fixed the date for hearing for 5/8/2026. The Ld. Counsel further submitted that thereafter on couple of occasions the appeal did not reach due to the other criminal appeals which were going on in which the accused were in jail, much prior in point of time as compared to the present Applicant. The Ld. Counsel for the Applicant therefore had mentioned the Interim Application for bail on the ground that the appellant has completed 10 years and that the appeal is not likely

to be taken up for final hearing in near future.

9. We had asked the Ld. APP to call for a report from the jail authorities to ascertain the actual years of imprisonment undergone by the Applicant. Initially the report dated 18.8.2026 which was called, did not provide the complete details and therefore the Ld. APP was once again asked to call for the complete details so as to ascertain the actual years of imprisonment.

10. The Learned APP has placed on record the record sheet/custody report of the Applicant dated 21.8.2026, submitted by the Superintendent of Jail, Open Prison, Paithan, wherein it has been mentioned that the Applicant has undergone 10 years 3 months and 21 days of actual imprisonment

11. In **Saudan Singh** (supra), the Apex Court has been pleased to observe as under :

“7. There may be cases where for whatever reason the advocate may not be present as has been set out in the report of the High Court but if they have already completed 14 years of actual sentence, the State itself should take an appropriate stand and the learned Judge can himself pass appropriate orders to at least examine those cases for release and the absence of the advocate cannot come in the way in such a scenario.

8. We have put to learned AAG and the learned counsel for the High Court that a list should be prepared of all cases where the person has served out a sentence of 14 years, is not a repeat offender, and in any case if in these cases at one go bail can be granted and cases remitted for examination under the Uttar Pradesh Prisoners Release on Probation Rules, 1938. In all these cases, there is a high possibility that if these people are released, they may not be even interest in prosecuting their appeals.

9. The second category of cases can be one where the person has served out more than 10 years of sentence. In these cases also at one go bail can be granted unless there are any extenuating circumstances against him.

10. We are quite hopeful that the High Court will adopt the aforesaid practice and thus prevent the Supreme Court to be troubled with such matters."

12. We are of the opinion that in terms of categorization specified by the Supreme Court in the case of ***Saudan Singh*** (supra), and since the Applicant has served more than 10 years of actual imprisonment, the bail application of the Applicant can be considered.

13. The Applicant has undergone actual imprisonment of more than 10 years. The Applicant is now in open jail with a remark of good conduct and there are no criminal antecedents. There are less chances of the appeal being taken up for hearing in the near future and therefore taking into consideration all the factors stated above, we are inclined to release the applicant on bail pending the appeal.

14. At this stage, we may also refer to the decision of the Apex Court in ***Sonadhar v. State of Chhattisgarh*** (supra), wherein it has been observed that, "*we are of the view that all persons who have completed 10 years of sentence and appeal is not in proximity of hearing with no extenuating circumstances, should be enlarged on bail.*"

15. We also refer to the observations made by the Apex Court in ***Dinesh Paul @ Daniel Khajekar v. State of Maharashtra (Criminal Appeal No. 2987***

of 2023), where it is observed that “*the appellant has undergone incarceration for a period of more than 11 years. In fact, the High Court ought to have granted relief under Section 389 of Code of Criminal Procedure, 1973 to the appellant.*”

16. The Ld. Counsel for the Applicant has also placed reliance on the recent order passed by the Hon’ble Apex Court in the case of ***Rushikesh (Bhaiyya) Sharad Suryawanshi v State of Maharashtra supra***, wherein the Hon’ble Apex Court has been pleased to release the Applicant on bail pending the appeal. In the said case the Apex Court had also taken into consideration the facts of the case and thereafter by observing that the Appellant therein had undergone a period of 8 years and the appeal before the High Court is of the year 2025, had released the appellant on bail The order came to be passed in the peculiar facts and circumstances of the case.

17. In any event taking into consideration the dictum of the Apex Court in the case of ***Saudan Singh v. State of Uttar Pradesh (supra) Sonadhar v. State of Chhattisgarh***, (supra), ***Dinesh Paul @ Daniel Khajekar v. State of Maharashtra*** (supra), we are inclined to allow this application. As a consequence, the Applicant is found to be entitled to be released on bail during the pendency of the appeal.

ORDER

A) The Application is allowed.

B) The sentence of imprisonment imposed by the Additional Sessions Judge, Nashik in Sessions Case No. 122/2016 vide judgment dated 26.12.2019 is suspended during the pendency of the appeal, and the Applicant is released on bail on the following conditions:

i) The Applicant is directed to furnish a personal bond and a surety bond in the sum of Rs. 50,000/- (Rupees Fifty Thousand) with one or more local sureties.

(ii) The Applicant is directed to mark his attendance at the Upnagar Police Station, Nashik, on the first Monday of every month for a period of one year initially, and thereafter once in six months till the disposal of the appeal, preferably on the first Monday of January and June of every year. In case of two consecutive defaults in complying with the aforesaid condition, the prosecution will be at liberty to file an application for cancellation of bail.

(iii) The Applicant is directed to furnish his residential address and phone number and inform the police if there is any change in the address or phone number.

(iv) The Applicant shall not leave the State of Maharashtra without informing the Upnagar Police Station, Nashik.

(v) The Applicant shall not leave the country without prior permission of the Court and shall deposit his passport, if any, with this Court.

(vi) The Applicant shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case.

(vii) The Applicant shall not misuse his liberty and/or flout any of the conditions imposed herein.

(viii) The Applicant shall not commit any offense during the period of his release.

(ix) The Applicant shall make himself available at the time of the final hearing of the appeal.

18. The Application for bail and suspension of sentence is disposed of.
All other pending applications stand disposed of.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)