

Sumedh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1874 OF 2024

IN

APPEAL NO. 71 OF 2019

Mohammed Sajid Marghoob Ansari

...Applicant

Versus

The State of Maharashtra

...Respondent

WITH

APPEAL NO. 72 OF 2019

Mohamad Majid Mohamad Shafi

...Petitioner

Versus

The State of Maharashtra

...Respondent

WITH

APPEAL NO. 1075 OF 2023

Muzzammil Ataur Rahman Shaikh

...Petitioner

Versus

The State of Maharashtra

...Respondent

WITH

APPEAL NO. 553 OF 2021

Naveed Hussain Khan Rasheed Hussain Khan

...Petitioner

Versus

The State of Maharashtra

...Respondent

WITH
APPEAL NO. 554 OF 2021

Mohd Faisal Ataur Rahman Shaikh	...Petitioner
<i>Versus</i>	
The State of Maharashtra	...Respondent

WITH
APPEAL NO. 555 OF 2021

Suhail Mehmood Shaikh	...Petitioner
<i>Versus</i>	
The State of Maharashtra	...Respondent

WITH
APPEAL NO. 556 OF 2021

Asif Khan Bashir Khan alias Juned alias Abdulla	...Petitioner
<i>Versus</i>	
The State of Maharashtra	...Respondent

WITH
APPEAL NO. 557 OF 2021

WITH
INTERIM APPLICATION NO. 1238 OF 2024
IN
APPEAL NO. 557 OF 2021

Ehtesham Qutubuddin Siddique	...Petitioner
<i>Versus</i>	
The State of Maharashtra	...Respondent

WITH
APPEAL NO. 655 OF 2022
WITH
INTERIM APPLICATION NO. 1228 OF 2024
IN
APPEAL NO. 655 OF 2022

Zameer ahmed Latifur Rehman Shaikh	...Petitioner
<i>Versus</i>	
The State of Maharashtra	...Respondent

WITH
APPEAL NO. 1104 OF 2023
WITH
INTERIM APPLICATION NO. 2742 OF 2022
IN
APPEAL NO. 1104 OF 2023

Tanveer Ahmed Mohd Ibrahim Ansari	...Petitioner
<i>Versus</i>	
The State of Maharashtra	...Respondent

WITH
CRIMINAL CONFIRMATION CASE NO. 2 OF 2015
WITH
INTERIM APPLICATION NO. 2742 OF 2022
IN
CRIMINAL CONFIRMATION CASE NO. 2 OF 2015

WITH
INTERIM APPLICATION NO. 3547 OF 2023
IN
CRIMINAL CONFIRMATION CASE NO. 2 OF 2015
WITH
INTERIM APPLICATION NO. 3671 OF 2023
IN
CRIMINAL CONFIRMATION CASE NO. 2 OF 2015
WITH
INTERIM APPLICATION NO. 683 OF 2022
IN
CRIMINAL CONFIRMATION CASE NO. 2 OF 2015

The State of Maharashtra ...Petitioner
Versus
Kamal Ahmed Mohd Wakil Ansari & Ors ...Respondents

WITH
APPEAL NO. 333 OF 2022

Shaikh Mohd Ali Alam Shaikh ...Petitioner
Versus
The State of Maharashtra ...Respondent

WITH
APPEAL NO. 71 OF 2019
WITH
INTERIM APPLICATION NO. 1874 OF 2024

IN
APPEAL NO. 71 OF 2019
WITH
INTERIM APPLICATION NO. 1892 OF 2024
IN
APPEAL NO. 71 OF 2019
WITH
INTERIM APPLICATION NO. 3520 OF 2023
IN
APPEAL NO. 71 OF 2019

Mohammad Sajid Margub Ansari ...Petitioner
Versus
The State of Maharashtra ...Respondent

Mr Mihir Desai, Senior Advocate, with Pritha Paul, for the
Applicant in IA/1874/2024 in Criminal Appeal No. 71/2019.
Mr Raja Thakare, Senior Advocate, with AM Chimbalkar, Spl. PP,
Mankuvar Deshmukh, PP, Akash Kavade, Siddharth Jagushte,
Aishwarya Sharma, for the ATS/State.
Mr Prashant Mohite, PI, ATS-present.
Mr Sudhakar Kamble, Senior Jailer, Nashik Central Prison, present.
Ms MM Deshmukh, APP, for the Respondent-State.

CORAM M.S.Karnik &
Kamal Khata, JJ.
DATED: 8th May 2024

PC:-

INTERIM APPLICATION NO. 1874 OF 2024

1. Learned counsel for the Applicant seeks leave to implead Mumbai University as a party Respondent to this Application. Amendment to be carried out forthwith. We request Mr. Rui Rodrigues to appear on behalf of the Mumbai University.

2. Heard learned Senior Advocate Mr. Desai for the Applicant, learned Senior Advocate Mr. Raja Thakare for the ATS and learned Advocate Ms. Deshmukh for the State. This is an application for permitting the Applicant- Mohammad Sajid Margub Ansari to attend the second semester law examination held by Siddharth Law College, Fort from 3rd May 2024 to 15th May 2024. The next examinations are scheduled to be held on 9th May 2024 and 15th May 2024. The Applicant is the original accused No. 7 in MCOCA Special Case No. 21/2006. On 11th September 2015, the learned Special Judge, MCOCA, Sessions Court, Greater Mumbai convicted the Applicant for the offences punishable under Sections 121A, 122, 123, 201 read with Section 120B of the Indian Penal Code, Sections 10(a)(i), 13(1), 16, 20 of the Unlawful Activities (Prevention) Act, 1967, Sections 3(1)(i), 3(1)(ii), 3(2), 3(4) of the

Maharashtra Control of Organised Crime Act, 1999 and Sections 4(ii) read with Section 6 of Explosive Substances Act. The Applicant preferred an Appeal challenging his conviction and sentence which is pending in this Court. The Applicant has undergone actual imprisonment for more than 17 years and 5 months. The Applicant during his incarceration pursued further education. In 2015, he has sought permission of the Special Court to take admission in 3-year LL.B. degree in order to pursue a career in law. That permission was granted on 19th August 2015. The Applicant is a bonafide student of the People's Education Society, Siddharth College of Law, Anand Bhavan, Mumbai. The Applicant vide order dated 8th June 2022 in Interim Application No. 1641 of 2022 and vide order dated 24th April 2023 in Interim Application No. 1580 of 2023 was permitted to attend the papers of the first Semester on certain terms and conditions.

3. Learned Senior Advocate Shri Raja Thakare for the ATS opposed the Application. It is submitted that the Applicant is a high risk prisoner, security concerns are involved. It is submitted by Ms.

Deshmukh APP for the State that the Applicant can always appear for the examination by online mode. However, we are informed that Mumbai University does not permit the same.

4. For the reasons mentioned in the application and having regard to the oral submissions made, further that the applicant was previously permitted to appear for the exam, we are inclined to allow the Applicant to appear for the exam on certain terms and conditions.

5. The Applicant is allowed to appear for the examination scheduled to be held on 9th May 2024 and 15th May 2024 at Siddharth Law College, Mumbai. In our opinion, considering that the Applicant is incarcerated for more than 17 years and also having regard to the fact that the Applicant is pursuing an educational career, it would be harsh to ask him to bear the exorbitant escort charges insisted by learned APP.

6. The Applicant is allowed to appear for the examination on the aforesaid dates on the following conditions:

- (a) The Applicant be taken from Nashik Central Prison to the venue of the examination on the aforesaid dates without insisting for the escort charges.
- (b) The Authorities of Nashik Central Prison should arrange for deputing security personnel at the venue of the examination and near the Applicant while he appears for the examination.
- (c) The Authorities of Siddharth Law College should agree for providing of a separate hall and separate invigilator to enable the Applicant to undertake the examination on the aforesaid dates and should also agree for allowing a cordon of security personnel around him at the time of examination.
- (d) The Authorities of Nashik Central Prison should provide adequate safeguards for safety and security of the Applicant during the travel as well as examination period.

7. List the Application on 10th June 2024 as the next schedule date of the examination is 12th June 2024.

(Kamal Khata, J)

(M.S.Karnik, J)