



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

**CRIMINAL APPLICATION NO. 532 OF 2025
IN APEAL/102/2025**

SHAIKH AMAR SHAIKH AKBAR
VERSUS
THE STATE OF MAHARASHTRA

...

Senior Counsel Mr. Rajendraa Deshmukh i/b Mr. Deshmukh Devang
Rajendraa, Advocate for Applicant
Mr. S. R. Wakale, APP for Respondent-State

...

**WITH
CRIMINAL APPLICATION NO. 526 OF 2025
IN APEAL/40/2025**

SHAIKH SHAHABAJ SHAIKH KALIM
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Senior Counsel Mr. Rajendraa Deshmukh i/b Mr. Deshmukh Devang
Rajendraa, Advocate for Applicant
Mr. S. R. Wakale, APP for Respondent-State

....

**WITH
CRIMINAL APPLICATION NO. 112 OF 2025
IN APEAL/24/2025**

SAYYED NASER SAYYED NOOR
VERSUS
THE STATE OF MAHARASHTRA

...

Mr. Nilesh S. Ghanekar, Advocate for Applicant
Mr. S. R. Wakale, APP for Respondent-State

...

**WITH
CRIMINAL APPLICATION NO. 285 OF 2025
IN APEAL/54/2025**

SHAIKH IMRAN @ KALA SHAIKH RASHID
VERSUS
THE STATE OF MAHARASHTRA

...
Mr. Salunke Sudarshan Jeevanrao, Advocate for Applicant
Mr. S. R. Wakale, APP for Respondent-State

...
WITH
CRIMINAL APPLICATION NO. 234 OF 2025
IN APEAL/42/2025

SHAIKH UBED SHAIKH BABU
VERSUS
THE STATE OF MAHARASHTRA

...
Mr. Jadhav Satej S., Advocate for Applicant
Mr. S. R. Wakale, APP for Respondent-State

....
WITH
CRIMINAL APPLICATION NO. 27 OF 2025
IN APEAL/9/2025

AAVEJ KAZI MUKHID KAZI
VERSUS
THE STATE OF MAHARASHTRA

...
Mr. Jadhav Satej S., Advocate for Applicant
Mr. S. R. Wakale, APP for Respondent-State
Mr. Joslyn A. Menezes, Advocate for the intervenor-informant (in all the above criminal application)

....
CORAM : NITIN B. SURYAWANSHI AND
SANDIPKUMAR C. MORE, JJ.

RESERVED ON : 29/07/2025

PRONOUNCED ON : 05/08/2025

P. C. :

1. All these applications are filed by the respective applicants, who are convicted accused persons in MCOC Special Case No.51 of 2020 under the judgment and order dated 13/12/2024 passed by the learned Special Judge (MCOCA), Beed.

2. The special Judge has convicted these applicants / accused alongwith co-accused for the offences punishable under Sections 147, 148, 195-A r/w 149, 302 r/w 149, 120-B r/w 3(1) (i) of the Maharashtra Control of Organised Crime Act, 1999, u/s 201 r/w 149 of Indian Penal Code, 1860 and u/s 3(2) of the Maharashtra Control of Organised Crime Act, 1999. They are sentenced to suffer life imprisonment and other imprisonments for the aforesaid offences alongwith fine amounts. By way of these applications, the applicants – accused are seeking suspension of their respective substantive sentences of imprisonment and their release on bail during the pendency of their respective appeals. The applicants have also claimed suspension of the sentences of depositing amount of fine.

3. The case of the prosecution in short is that the present applicants – accused alongwith other co-accused, on 19/09/2019 at about 2.30 to 3.00 p.m., came on the spot of incident i.e. tea stall of Usmabhai, adjacent to Sana Function Hall, situated on Nagar Road, Beed in one white coloured Scorpio and on two motorcycles. They were armed with deadly weapons like sword, Kukri, sickle, dagger, iron rod, knife, revolver etc. One Sajed Ali i.e. brother of the informant – Javed Ali, was present in the tea stall. Earlier to this incident, accused No.1 Anwarkhan alongwith

some of these applicants – accused, had made demand of extortion from Sajid Ali and others and on nonpayment of the same, assaulted Sajid Ali with deadly weapons and attempted to kill him. As such, a criminal prosecution was already going on against the applicants and other co-accused in that respect. The applicants – accused and other co-accused were pressurising Sajid Ali to settle the case for which he was not ready. Therefore, at the time of incident in the instant matter, all these applicants alongwith co-accused assaulted Sajid Ali with deadly weapons and inflicted stab injuries to him. As Sajid Ali fell down on the spot in the pool of blood due to such assault, the applicants and other co-accused fled from the spot. The learned Special Judge thereafter conducted the trial and held these applicants – accused and other co-accused guilty for the offences as mentioned above and convicted them as per the judgment and order in the aforesaid case.

4. Learned senior counsel Mr. Rejendra Deshmukh while arguing on behalf of applicant Shaikh Amar Shaikh Akbar i.e. original accused No.12 in Criminal Application No.532 of 2025 and also on behalf of applicant Shaikh Shahabaj Shaikh Kalim i.e. original accused No.11 in Criminal Application No.526 of 2025, submits that the prosecution has examined 44 witnesses and on behalf of some of the accused, 5 defence witnesses were also

examined. According to him, all the accused had taken a defence that they were involved falsely in the present crime only due to political rivalry. He submits that though it was alleged that applicant Shahabaj was holding Kukri, but no blood was detected on the same. Likewise, no blood was also detected on the clothes of Shahabaj. He pointed out that applicant Shaikh Amar was also having a Kukri, but though human blood was found on the said Kukari, it cannot be concluded that it was the blood of deceased, which was of blood Group-AB. According to him, only on the trouser of Shaikh Amar blood of Group-AB was found. He pointed out that though PW-23 i.e. Momin Kousar Babamiya was cited by the prosecution as an eye witness, who stated about enmity between the deceased and the accused, but his conduct was doubtful since there was no immediate disclosure of the incident by him, either to the doctor or police. Learned senior counsel Mr. Deshmukh further pointed out that applicant Shaikh Amar and Shaikh Shahabaj are behind bars for about six years. According to him, none of the witnesses has in fact told as to which accused had which weapon. Thus, he concluded with the submission that false implication of these applicants might be possible.

5. Learned counsel Mr. Nilesh Ghanekar while arguing on behalf of applicant Sayeed Naser i.e. original accused No.6 in Criminal

Application No.112 of 2025, submits that applicant Sayeed Naser Sayyed Noor is behind bar for 5 years and 10 months. According to him, applicant Sayyed Naser Sayyed Noor was not at all present on the spot of incident but he was in fact working at distant place in Telangana State in the shop of one of the defence witnesses. He pointed out that applicant had examined DW-1, 3 & 5 and also relied on CCTV footage produced on record indicating that at the time of incident, he was working in the shop at Telangana. He further submitted that despite such trustworthy defence of alibi, the learned trial court failed to consider the same in positive manner. Therefore, he requested to allow the application of this applicant – Sayyed Naser Sayyed Noor and prayed for suspension of his sentence and to release him on bail.

6. Learned counsel Mr. S. J. Salunke on behalf of the applicant Shaikh Imran @ Kala Shaikh Rashid i.e. original accused No.15 in Criminal Application No.285 of 2025, submits that though as per the evidence on record, one iron rod was shown to be seized from this applicant, but no blood-stains were found on the said iron rod. He pointed out that it was only alleged by the prosecution that this applicant Shaikh Imran was trying to deter the public gathered on the spot from interference and to save the deceased. He specifically pointed out that this applicant was not having any criminal

antecedents to his credit. He, thus, prayed for release of this applicant by suspending the substantive sentence of imprisonment alongwith the order of depositing fine amount.

7. Similarly, while arguing on behalf of applicant Shaikh Ubed Shaikh Babu i.e. original accused No.8 in Criminal Application No.234 of 2025 and applicant Aavej Kazi Mukhid Kazi i.e. original accused No.14 in Criminal Application No.27 of 2025, learned counsel Mr. Satej Jadhav submitted that applicant Shikh Ubed was not at all involved in the crime but his name was taken by the informant only because he was relative of accused No.1 Anwar Khan, who in the past, attempted to kill the deceased. So far as role of applicant Aavej Kazi Mukhid Kazi is concerned, learned counsel Mr. Jadhav submitted that applicant Aavej Kazi Mukhid Kazi was allegedly holding a wooden log and did not make any assault but only preventing public from intervening. He pointed out that there was no recovery from applicant Aavej Kazi Mukhid Kazi and he was involved only because the main accused i.e. accused No.1 Anwar Khan got married with his sister. He specifically pointed out that there were no criminal antecedents to his credit so as to attract charge under MCOC Act. As such, he prayed that both these applications be allowed.

8. On the contrary, learned APP strongly opposed the submissions made on behalf of the applicants by their respective learned counsel. He pointed out that there is evidence of 5 eye witnesses on record and the informant i.e. PW-18 has deposed specifically that there was involvement of all the applicants in the assault. He pointed out that there were recoveries of weapons used in the crime at the instance of these applicants. Prosecution has established their presence on the spot with trustworthy and reliable evidence. According to learned APP all these applicants alongwith co-accused are involved in various crimes of serious nature, committed in the past. He further submitted that all these applicants alongwith co-accused have committed brutal murder of deceased Sajed Ali in broad day light. Therefore, learned APP submitted that considering the evidence against these applicants, their respective applications be dismissed summarily.

9. On the other hand, learned counsel Mr. Joslyn A. Menezes for the intervenor i.e. the informant Javed Ali in the instant case, has also strongly opposed the applications and adopted the arguments advance by the learned APP. According to him, there is ample evidence on record about the involvement of all these applicants, who mercilessly eliminated Sajed Ali - deceased by causing severe

stab wounds. As such, he also prayed for dismissal of all these applications.

10. Heard respective submissions of the learned counsel representing the applicants and learned APP and learned counsel for the intervenor. With their assistance, we have also gone through the voluminous record.

11. On going through the entire material on record, it reveals that in the past also the applicants and other co-accused had assaulted deceased Sajed Ali in the year 2013 on account of refusal to give extortion money and therefore, crime under Section 307 of IPC alongwith other sections, was registered against them. It has come on record that Sajed Ali i.e. deceased was not ready to settle criminal prosecution arising out of that incident with the applicants and other accused. As such, motive to repeat the assault on deceased is apparent in the instant case. Further, the prosecution has examined 44 witnesses, out of which, 5 are eye witnesses. It is not in dispute that death of Sajed Ali was due to multiple stab wounds. Five eye witnesses examined by the prosecution, have given evidence about the involvement of the present applicants and other co-accused. It is significant to note that it has come in the evidence that applicant Shahabaj was

holding Kukri at the time of assault and applicant Shaikh Amar was also having same weapon on which human blood was detected. Moreover, blood stains of Group-AB which was of deceased, were also found on the trouser of applicant Shaikh Amar. Further, both these applicants, namely Shaikh Shahabaj and Shaikh Amar, are involved in various crimes of a serious nature along with other co-accused as per the record. Therefore, considering the material against them, we are not inclined to grant any relief to them at this juncture.

12. So far as applicant Sayyed Naser Sayyed Noor is concerned, three eye witnesses have named him being involved in the incident. Moreover, a dagger was seized at his instance. Though he had taken a defence of alibi that at the time of incident, he was working far away in a shop at Telangana State and also relied on CCTV footage to that effect, but learned Special Judge after considering the said evidence, refused to rely on the same for the reasons mentioned in the judgment. Further, as many as six crimes of serious nature are registered against the applicant alongwith other co-accused. Therefore, considering the prima facie material on record about his involvement, we are not inclined to grant any relief to him at this juncture.

13. Applicant Shaikh Imran @ Kala Shaikh Rashid i.e. accused No.15, is seeking suspension of his sentence on the ground that he has no criminal antecedents and though the prosecution has alleged that he was having iron rod, but none of the witnesses could state any specific role played by him in the assault. Moreover, no blood stains were also found on the said iron rod allegedly recovered at his instance. Further, there are no crimes of serious nature registered against him in the past. Same is the case in respect of applicant Aavej Kazi Mukhid Kazi i.e. original accused No.14. There are also no criminal antecedents to his credit and role attributed to him is only that he was holding a wooden log at the time of the incident. The eye witnesses have also not stated any specific role of this applicant in the assault. According to the case of prosecution, he was seen preventing others from intervening during the assault. However, it is important to note that though it was alleged that he was holding a wooden log, but there is no recovery of such wooden log at his instance.

14. So far as applicant Shaikh Ubed Shaikh Babu i.e. original accused No.8 is concerned, prosecution claims that he was holding a dagger at the time of incident and recovery of the said dagger is also there at his instance. Moreover, blood was also found on the said dagger. Further, the record reveals that three crimes of

serious nature alongwith other accused were also registered against him prior to the present incident.

15. Therefore, considering all these aspects, we find that there is evidence on record to show the active involvement of applicants namely Shaikh Amar Shaikh Akbar, Shaikh Shahabaj Shaikh Kalim, Sayyed Naser Sayyed Noor and Shaikh Ubed Shaikh Babu in the assault. Further they were also having dangerous weapons like Kukri, dagger etc. Serious crimes are registered against these applicants alongwith other accused in the past. However, in respect of applicant Shaikh Imran @ Kala Shaikh Rashid and applicant Aavej Kazi Mukhid Kazi, there are no criminal antecedents. Moreover, the respective roles ascribed to them also indicate that they had not taken part in the actual assault. Therefore, considering all these aspects, we intend to grant relief only to applicant Shaikh Imran @ Kala Shaikh Rashid and applicant Aavej Kazi Mukhid Kazi, at this juncture. However, we deem it appropriate that these applicants/accused shall deposit fine of Rs. 1,50,000/- each out of the total fine amount imposed upon them by learned Trial Judge. In view of the same, we pass the following order.

ORDER

- (i) Criminal Application No. 285 of 2025 filed by Shaikh Imran @ Kala Shaikh Rashid i.e. original accused No.15 is hereby allowed and his substantive sentence of imprisonment as well as sentence of depositing fine amount shall stand suspended during pendency of his Criminal Appeal No.54 of 2025, subject to deposit of an amount of Rs. 1,50,000/- out of total fine amount in the Trial Court, within a period of one month. On depositing such partial fine amount, he be released on execution of his P.B. of Rs. 25,000/- with one or more sureties in the like amount. Bail in Trial Court.
- (ii) Criminal Application No.27 of 2025 is hereby allowed only to the extent of applicant Aavej Kazi Mukhid Kazi i.e. original accused No.14 and his substantive sentence of imprisonment as well as sentence of depositing fine amount shall stand suspended during pendency of his Criminal Appeal No.9 of 2025, subject to deposit of an amount of Rs. 1,50,000/- out of total fine amount, in the Trial Court, within a period of one month. On

depositing such partial fine amount, he be released on execution of his P.B. of Rs. 25,000/- with one or more sureties in the like amount. Bail in Trial Court.

(iii) The applications of remaining applicants are dismissed.

(SANDIPKUMAR C. MORE, J.)

(NITIN B. SURYAWANSHI, J.)

VS Maind/-