

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 4795 OF 2024****IN****CRIMINAL APPEAL NO. 1222 OF 2024**

Javed Matiullah Khan @ Sultan

... Applicant

Vs.

The Union Territory of Dadra Nagar Haveli Daman
and Diu & Anr.

... Respondents

Mr. Rishi Bhuta a/w. Mr. Vivek Pandey, Mr. Shyam Tripathy, Ms. Saakshi Jha, Mr. Prateek Dutta, Mr. Omer Khuraja, Ms. Bhavi Kapoor and Ms. Karishma for the Applicant.

Mr. Ashwin Thool a/w. Mr. Ayush Singh and Ms. Archishmati Chandramore for Respondent No.1.

Mr. Ashish I. Satpute, APP for the Respondent-State.

**CORAM : A. S. GADKARI AND
RANJITSINHA RAJA BHONSALE , JJ.**

DATED : 18th NOVEMBER, 2025.

P. C. :-

1) This is an Application for suspension of sentence and releasing the Applicant (original accused No.1) on bail during the pendency of Appeal.

2) Applicant is convicted under Section 302 read with Sections 34 and 120-B of the Indian Penal Code and Section 27 of the Arms Act and sentenced to undergo life imprisonment with a fine of Rs.15,000/- by the

learned Sessions Judge, Daman at Daman in Sessions Case No. 9 of 2020 by its Judgment and Order dated 22nd August, 2024.

3) Perusal of record indicates that, original accused Nos.3, 5 and 7 and absconding Accused Sunil Jadhav had fired from fire arms on deceased Salim Bharvatiya on 2nd March, 2020, when the said deceased was present in his shop. The role attributed to the Applicant is of harboring the assailants after the offence is committed. The trial Court has recorded a finding that, the Applicant was in contact with the other accused persons, namely, accused Nos. 3 to 7 before and after the alleged incident and therefore the Applicant is a member of the conspiracy hatched by all the accused persons.

4) It is thus clear that, the Applicant was not actual assailant and as noted earlier, the allegation against the Applicant is of giving shelter to the assailants either before or after they committed the said crime. The Applicant as of today has undergone more than 5 ½ years of incarceration. Taking into consideration the huge pendency, the possibility of hearing substantive Appeal of the Applicant in near future is remote.

After taking into consideration the overall facts, we are of the opinion that, during the pendency of the Appeal of the Applicant, the substantive sentence imposed upon him can be suspended and he can be released on bail.

- 5) Hence, the following Order:-
- i) During the pendency of Appeal, preferred by the Applicant, the substantive sentence imposed upon the Applicant vide Judgment and Order dated 22nd August, 2024, passed by the learned Sessions Judge, Daman, in Sessions Case No. 9 of 2020, is suspended and the Applicant be released on bail on his furnishing PR bond of Rs. 50,000/- with one or two local sureties in the like amount.
 - ii) Before his release from jail, the Applicant shall give his prospective residential address and the mobile and/or landline number on which he or his any close relative can be contacted.
 - iii) After his release from jail, the Applicant shall attend the Nani Daman Police Station, Daman, on every first Monday of each month between 11.00 a.m. and 1.00 p.m. initially for a period of one year and thereafter on every first Monday between 11.00 a.m. and 1.00 p.m. of every third calendar month i.e. four times in a year till the disposal of Appeal.
 - iv) In case of two consecutive defaults in complying with the aforesaid conditions, the Prosecution is at liberty to file an application for cancellation of bail.
- 6) Application is allowed in the aforesaid terms.

(RANJITSINHA RAJA BHONSALE, J.)

(A. S. GADKARI, J.)