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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 594 OF 2025

Maula Nabisab Mulla

...Appellant

V/s.

The State of Maharashtra

...Respondent

Mr. N.N.Gawankar a/w. Mr.Advait Tamhankar, Ms.Padmaja Malgaonkar,
Mr.Manas Gawankar for Appellant.

Smt. M.M.Deshmukh, A.P.P. for Respondent – State.

Ms.Punam Patil, API, a/w. Mr.Kardile, PSI, ATS, Nashik Unit present.

CORAM : A. S. GADKARI AND
RAJESH S. PATIL, JJ.
DATE : 29th JULY, 2025

PC.:-

1) Appellant (Original Accused No.5) has filed the present Appeal under Section 21(4) of the National Investigation Agency Act, 2008 (NIA Act), impugning the Order dated 5th November, 2024, passed below Ex.56, in Special ATS Case No. 24 of 2023, by the learned District Judge – 1, Nashik, thereby rejecting his Application preferred under Section 439 of Criminal Procedure Code, for bail in the said case.

2) Heard Mr.Gawankar, learned counsel for the Appellant and Smt.Deshmukh, learned A.P.P. for the State. Perused record produced

before us.

3) The Appellant is original Accused No.5 in Special Sessions Case No.24 of 2023, pending on the file of learned Special Judge, Nashik, arising out of C.R. No.20 of 2021, registered with Anti-Terrorist Squad Police Station, Kalachowki, Mumbai, under Sections 121-A, 153-A, 120-B, 109, 116, 201 of the Indian Penal Code (for short, 'I.P.C.') and under Section 13(1)(b) of the Unlawful Activities (Prevention) Act, 1967, (for short, "the UAP Act").

4) It be noted here that, the Appellant has been charged with Section 13(1)(b) of UAP Act, which forms part of Chapter III of the said Act and therefore the rigors of Section 43-D(5) of the said Act are not applicable to it. Even otherwise, the maximum sentence prescribed under the said Section may extent to seven years with fine.

5) Record reveals that by a Judgment dated 11th June, 2024, the Appeals preferred by the Original accused Nos. 3, 2 and 6, *inter alia* seeking bail were dismissed by this Court. The said Judgment dated 11th June, 2024 was impugned by the said accused before the Hon'ble Supreme Court by way of filing different criminal Appeals. The Hon'ble Supreme Court by its Orders dated 2nd December 2024, 17th February 2025 and 22nd November 2024 respectively, was pleased to release the said accused on bail.

6) Perusal of the said Orders of the Hon'ble Supreme Court indicates that the Hon'ble Supreme Court apart from the merits, has also

considered the fact that there are about 190 prosecution witnesses to be examined; the appellants were in incarceration for more than two years and the stringent provisions of Section 43(D) (5) of the Unlawful Activities (Prevention) Act, 1967 are not applicable to the offence alleged against the Appellants.

6.1) It be further noted here that, by a Judgment dated 28th April, 2025, the co-ordinate Bench of this Court has released the Appellant No.7 on bail.

7) Mr.Gawankar, learned Advocate appearing for the Appellant submitted that, the role attributed to the Appellant is similar or rather lesser than that has been attributed to the other co-accused persons released on bail by the Supreme Court or by the co-ordinate Bench and therefore the principle of parity squarely applies to the Appellant also. He reiterates the fact that, there are about 190 witnesses to be examined by the prosecution and the Appellant is behind bars for more than 35 months as of today. He therefore prayed that, the impugned order may be set aside and the Appellant may be released on bail.

8) Smt.Deshmukh, learned A.P.P. pointed out the role played by the Appellant and tried to distinguish it from the roles attributed to the other accused persons. She therefore prayed that, the Appeal may be dismissed.

9) Perusal of record indicates that the Appellant has been

attributed with the role of graphic designing for creating posters of objectionable nature thereby spreading hatred in two communities and to flare up the emotions of a particular community. Perusal of the material on record indicates that the role attributed to the Appellant is similar to that is attributed to the Accused Nos. 2, 3, 6 and 7. The observations made by the Hon'ble Supreme Court in its Orders granting bail to Accused Nos. 2, 3 and 6 are squarely applicable to the Appellant also.

10) In view thereof, the Appellant is entitled to be released on bail on the ground of parity with Accused Nos. 2, 3, 6 and 7. The impugned Order dated 5th November, 2024 passed by the learned Judge of the Special Court below Ex.56, is accordingly set aside.

11) The Appellant is directed to be released on bail on the same terms and conditions as are imposed upon Accused No.7 viz. Mohammed Irfan Daulat Khan @ Maulana Irfan Khan by Judgment and Order dated 28th April, 2025.

12) Appeal is allowed in the aforesaid terms.

(RAJESH S. PATIL, J.)

(A.S. GADKARI, J.)