

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.1508 OF 2025
IN
CRIMINAL APPEAL NO.131 OF 2025

1. Toukir Khan Muktar Khan ...Applicants
2. Iqbal Ahmed Ejaz Ahmed
3. Aabid Hussain Afjal Hussain alias
Aabid Shikari

Versus

The State of Maharashtra ...Respondent

Mr. Sandhyanshiv, Advocate for Applicants.
Ms. S.D. Shinde, APP for the State.

CORAM: MADHAV J. JAMDAR, J.
DATED : 20th June 2025

P.C.:

1. At the outset, Mr. Sandhyanshiv, learned Counsel appearing for the Applicants states that as Ms. Shinde, learned APP has submitted that as far as Applicant No.3- Aabid Hussain Afjal Hussain alias Aabid Shikari (Accused No.5) there are three antecedents, he seeks withdrawal of this Interim Application as regards Applicant No.3 with liberty to file fresh application by giving particulars of all antecedents.

2. As far as other Applicants i.e. Applicant No. 1- Toukir Khan Muktar Khan (Accused No.3) and Applicant No. 2-Iqbal Ahmed Ejaz Ahmed (Accused No.4), they have been convicted by the learned Additional Sessions Judge, Malegaon by Judgment and Order dated 6th January 2025 passed in Sessions Case No.117 of 2023 for the offence punishable under Section 25 read with Section 4 of the Arms Act, 1959 and they have been sentenced to undergo rigorous imprisonment for 3 years and 6 months each and to pay fine of Rs.3,000/- each and in default in payment of fine thereof, to undergo further rigorous imprisonment for a term of six months each.

3. The Criminal Appeal No. 131 of 2025 is already admitted by a learned Single Judge by Order dated 4th April 2025. The Accused No.3 was arrested on 6th August 2023 and during trial he was not released on bail. The Accused No.4 was arrested on 6th August 2023 and released on bail on 17th October 2023.

4. Mr. Sandhyanshiv, learned Counsel for the Applicants states that the Accused Nos.3 and 4 have no antecedents. He submits that independent witnesses i.e. panch witnesses- PW 1 and 2, have not

supported the prosecution case and therefore the Applicant Nos.1 and 2 be released on bail by suspending the sentence.

5. On the other hand, learned APP strongly opposes the Interim Application. She submits that the Applicant Nos.1 and 2 were found in possession of knife and sword on the spot. She submits that although the panch witnesses have not been supported the prosecution case, they have accepted that the signatures on the panchanama are their signatures. She further submits that PW-3 is the Police Constable, who was part of the raiding party and he is also the complainant. She submits that the evidence of PW-3 clearly shows involvement of the Applicants in the crime. She therefore submits that the Interim Application be dismissed.

6. As the punishment is for 3 years and 6 months and the Applicant No.1 is behind bar for 1 year and 10 months and the Applicant No.2 was behind bar for 7 months and as there are no antecedents against the Applicant Nos.1 and 2, the said Applicants can be released on bail during pendency of the Appeal by suspending the sentence on certain terms and conditions.

7. Accordingly, the Applicant Nos.1 and 2 can be enlarged on bail by imposing conditions. In view thereof, the following order:

ORDER

(a) The sentence of imprisonment imposed by the learned Additional Sessions Judge, Malegaon, District Nashik, by Judgment and Order dated 6th January 2025 in Sessions Case No.117 of 2023 is suspended during pendency of Criminal Appeal No.131 of 2025 concerning Applicant No.1 (Accused No.3) – Toukir Khan Muktar Khan and the Applicant No.2 (Accused No.4) - Iqbal Ahmed Ejaz Ahmed and both are directed to be released on bail on executing PR Bonds in the sum of Rs.50,000/- each with one or two local solvent sureties in the like amount to be furnished by each of them;

(b) On being released on bail, the Applicant No.1 and 2 shall furnish his cell phone number and residential address to the Trial Court and shall keep the same updated, in case of any change thereto;

(c) The Applicant No.3 - Aabid Hussain Afjal Hussain alias Aabid Shikari is granted leave to file fresh application seeking suspension of sentence.

8. The Interim Application is allowed and disposed of in the aforesaid terms with no order as to costs.

(MADHAV J. JAMDAR, J.)