

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.1509 OF 2025
IN
CRIMINAL APPEAL NO.131 OF 2025

1. Abdul Rehman Mohammad Avesh	...Applicants
2. Shaikh Shabbir Shaikh Farukh @ Bire	
<i>Versus</i>	
The State of Maharashtra	...Respondent

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

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

P.C.:

1. This Interim Application is filed seeking suspension of sentence and release on bail of the Applicants i.e. Accused Nos.1 and 2 in Sessions Case No.117 of 2023 decided by the learned Additional Sessions Judge, Malegaon, District Nashik, by Judgment and Order dated 6th January 2025.

2. As the learned APP points out that there are antecedents against Applicant No.1-Abdul Rehman Mohammad Avesh, Mr. Sandhyanshiv, learned Counsel for the Applicants states that after taking proper instructions and incorporating the said details in the

Interim Application, fresh Interim Application will be filed on behalf of the Applicant No.1. He therefore states that he is restricting this Interim Application only on behalf of the Applicant No.2 (Accused No.2) i.e. Shaikh Shabbir Shaikh Farukh @ Bire.

3. The Accused No.2 has been convicted for the offence punishable under Section 25 read with Section 3 of the Arms Act, 1859 and sentenced to undergo imprisonment of 5 years and to pay fine of Rs.5,000/-.

4. The Criminal Appeal No. 131 of 2025 is already admitted by a learned Single Judge by Order dated 4th April 2025. The Accused No.2 was arrested on 6th August 2023 and during trial he was not released on bail.

5. Mr. Sandhyanshiv, learned Counsel for the Applicants states that the Applicant No.2 has 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 No.2 be released on bail by suspending the sentence.

6. On the other hand, learned APP strongly opposes the Interim Application. She submits that the Applicant No.2 was found in possession of one country made revolver and cartridges 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.

7. As the punishment is for 5 years and the Applicant No.2 is behind bar for 1 year and 10 months and as there are no antecedents against the Applicant No.2, the Applicant can be released on bail during pendency of the Appeal by suspending the sentence on certain terms and conditions. The applicant No.1 is granted liberty to file fresh Interim Application seeking bail giving all particulars of antecedents.

8. Accordingly, the Applicant 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.2 (Accused No.2) – Shaikh Shabbir Shaikh Farukh @ Bire and the said Applicant No.2 is directed to be released on bail on executing PR Bonds in the sum of Rs.50,000/- with one or two local solvent sureties in the like amount;

(b) On being released on bail, the Applicant No.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.1 – Abdul Rehman Mohammad Avesh is granted leave to file fresh application seeking suspension of sentence.

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

(MADHAV J. JAMDAR, J.)