ARUNA SANDEEP TALWALKAR
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 138 OF 2025
IN
CRIMINAL APPEAL NO. 29 OF 2025
WITH
CRIMINAL APPEAL NO. 29 OF 2025

Indra Lalbahadur Khatri. … Applicant
Versus
State of Maharashtra & Ors. … Respondents

WITH
CRIMINAL APPEAL NO. 493 OF 2018
WITH
CRIMINAL APPEAL NO. 967 OF 2015
WITH
CRIMINAL APPEAL NO. 968 OF 2015

Mr. Sudeep Pasbola a/w. Mr. Chinmay Godse, Mr. Vishal Kolekar, Mr. Yash Kamble, Mr. Digambar Tamanke i/b. Mr. Randhir Kale, Advocate for Applicant.
Mr. A.A. Palkar, APP for Respondent/State.

CORAM : M. S. KARNIK &
SANDESH D.PATIL, JJ.

DATE : 9th OCTOBER, 2026

P.C. :

1. Heard the learned Counsel for the Applicant and the learned APP for the State.

2. This is an application for suspension of the sentence and for enlarging the Applicant on bail. There are in all 7 accused. The

Applicant is accused No. 1.

3. It is the case of the prosecution that one driver by name Arif who was employed by Iqbal Kaskar was shot dead by the Accused No. 1 on 17th May, 2011 at about 9.30 p.m. Accused No. 1 and Accused No. 2 were apprehended by local public when they were trying to flee away by taxi. The investigation revealed that there were 7 accused. They were chargesheeted under the provisions of Section 3(1)(i), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (for short 'MCOC Act'). Accused Nos.1 and 2 were convicted for offences punishable under Section 302 read with Section 34 of the Indian Penal Code and Section 27 of the Arms Act.

4. The learned Advocate for the Applicant submitted that the Applicant has already undergone the sentence more than 13 years 4 months without remission and 15 years with remission. He submits that it will take some time to decide the matter on merits and hence the Applicant be released on bail.

5. Mr. Palkar, Learned APP for the respondent-State vehemently opposed the present application. It is submitted that the role of the Applicant is main in as much as he is the person

who carried out the shoot out. He contended that there are proper findings rendered by the Court and therefore, pending this Appeal, the Applicant may not be released on bail.

6. We have heard the learned Senior Counsel Mr. Pasbola appearing for the Applicant. He has relied upon the order dated 14th August, 2026 passed by this Court in Interim Application No. 4358 of 2023 whereby the Accused No. 4 was released on bail. Although the role attributable to the present Applicant is that he has used fire arms to carry out assault on deceased Arif and the same has resulted in death, the matter is pending before us. There are about 43 witnesses.

7. Taking into consideration the voluminous evidence and the pendency of the proceedings before us, it is not possible for us to decide the matter immediately. In view of these facts and circumstances of the case, relying upon the principle laid down in *Saudan Singh Vs. State of Uttar Pradesh, 2022 SCC Online SC 697*, we are inclined to suspend the sentence and enlarge the Applicant on bail inspite of the opposition from the learned APP for the Respondent. The Applicant voluntarily undertakes to reside outside limits of Mumbai and Mumbai Suburban districts. Hence,

we pass following order :

(i) The sentence imposed by the trial Court in MCOC Special Case No. 14 of 2011 by the Judgment and order dated 19th August, 2015 in respect of the applicant-original accused No.1- Indra Lalbahadur Khatri is suspended during the pendency of the present appeal.

(ii) The applicant-original accused No.1- Indra Lalbahadur Khatri is enlarged on bail in MCOC Special Case No. 14 of 2011 on his furnishing P. R. bond of Rs.One Lakh with one or more solvent local sureties in the like amount.

(iii) The applicant-original accused No.1 shall report after every fortnight between 11.00 a.m. and 1.00 p.m to the nearest police station to his residence.

(iv) The applicant shall furnish the details of his residential address and contact details to the Special Court before his enlarging on bail.

(v) The applicant shall undertake to remain present at the time of final hearing of the appeal. In case of two consecutive defaults in attendance, prosecution is at liberty to file an application for cancellation of bail.

(vi) The Applicant shall deposit passport, if any, to the concerned police station and he shall not leave State of Maharashtra without prior permission of this Court.

8. The Interim Application is allowed in the aforesaid terms and disposed of.

(SANDESH D.PATIL, J.) (M. S. KARNIK, J.)