IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.649 OF 2026

Mohd. Iqbal Ibrahim Khan .....Appellant
Versus
The State of Maharashtra .....Respondent

WITH
INTERIM APPLICATION NO.2195 OF 2026
IN
CRIMINAL APPEAL NO.649 OF 2026

Ms. Payoshi Roy, Advocate a/w. Ulkesh Gangurde, Palak Dubey for the Appellant.

Ms. Gauri S. Rao, APP for the Respondent-State.

API Archana Kshirsagar and ASI Kalsekar, ATS Kalachowki, Mumbai are present in Court.

CORAM : SARANG V. KOTWAL &
RANJITSINHA RAJA BHONSALE, JJ.

DATE : 20th AUGUST, 2026

P.C. :

1. The Appellant has challenged the order dated 21.4.2026 passed by the learned Special Judge for the cases under NIA & UAPA, City Civil and Sessions Court, Greater Mumbai below Exhibit-62 in Special Case No.206/2023. In

effect, the Appellant is seeking his release on bail during pendency of the said trial. The Appellant is the original accused No.3. The Appeal is filed under Section 21(4) of the National Investigation Agency Act, 2008. The Appellant was arrested on 22.9.2022 and till today he is in custody.

2. Heard Ms. Payoshi Roy, learned counsel for the Appellant and Ms. Gauri Rao, learned APP for the Respondent-State.

3. The FIR in this case was lodged at Kalachowky police station, Mumbai on 21.9.2022 vide C.R. No.19/2022 under Sections 120-B, 121-A, 153-A of IPC and under Section 13(1)(b) of the Unlawful Activities (Prevention) Act, 1967 (for short, 'UAPA'). The investigation was taken over by the ATS, Mumbai. They filed a report on 2.2.2023. The said report was filed against the Appellant and four others under Section 13(1)(b) of UAPA, 1967 and under Sections 120-B, 120-A, 153-A, 201, 109, 116 of IPC.

4. The charges are framed on 12.3.2026 under the same Sections. However, till today no witness is examined. In

the charge-sheet 255 witnesses are cited. We are informed by the learned APP that the prosecuting agency intends to examine at least 90 witnesses. Thus, it is quite clear that the trial is not likely to get over within a reasonable time in future.

5. In this background, we have heard the learned counsel for the parties for consideration of grant of bail to the Appellant. The prosecution story is mentioned in the report filed by the investigating agency as well as in the FIR. The FIR was lodged by API Rohit Raviraj Rasam attached to ATS, Kalachowky, Mumbai. It is mentioned in the FIR that he received a secret information that the Popular Front of India (PFI) was an organization and their members were planning to revolt against the Government of India. For that purpose they had entered into conspiracy. They had arranged various programmes at Dharavi, Kurla, Chembur, Trombay, Nerul, Panvel, Mumbra, Thane and Vashi Naka between February, 2022 to June, 2022. Their object was to control the majority population and to spread hatred within their own religion against the other religion. On these allegations, the FIR is lodged. The Appellant was mentioned as one of the accused,

being member of the said organization.

6. The investigation was carried out, and as mentioned earlier, it was taken over by the ATS, Mumbai.

7. As far as the Appellant is concerned, the report mentions certain allegations against him. During investigation, his mobile phone and other devices were seized. There were various photographs and video clippings. Those videos and photographs showed that he was giving training to other members and there were certain objectionable photographs and video clippings. This is the gist of allegations against him.

8. Learned counsel for the Appellant invited our attention to various statements recorded during the investigation. She submitted that in none of these statements, there is any indication that the Appellant has committed any of the offences alleged against him. She submitted that the PFI was banned on 27.9.2022. Therefore, the Appellant being a member of that organization, before that date, is not an offence. Even otherwise, his activities as a member of PFI do not attract ingredients of any of the offences alleged against

him. She submitted that at the highest the allegations against him show that he was making efforts to increase the number of members for PFI. He was giving physical training and he was making efforts to take an office for the PFI. The video clippings and the photographs are completely innocuous. In any case, at the highest, it can be said that he had received these photographs and video clippings on his mobile phone and there is nothing to show that he had misused them and had forwarded them to instigate others.

9. Learned counsel for the Appellant relied upon various orders passed by the Hon'ble Supreme Court and the Division Benches of this Court in the past in respect of some of the members of PFI in other cases. She submitted that similar approach be taken for consideration of bail to the present Appellant. She submitted that the learned Judge has erroneously referred to Section 15 of the UAPA to deny bail to the Appellant by invoking bar under Section 43D of the UAPA. She submitted that the learned Judge's observations were erroneous on facts and, therefore, the entire reasoning was based on incorrect material. On this ground also the

impugned order is required to be set aside.

10. Learned APP, on the other hand, submitted that the investigating agency has collected the CDR of the Appellant's communication with the co-accused between the period of 1.10.2021 to 22.9.2022. In one of the objectionable videos, demonstration of making the petrol bombs was found. Said video is dangerous and it shows the nature of the activities which the Appellant had undertaken. She submitted that the evidence collected during the investigation clearly shows that the Appellant was an active member of PFI and had taken part in their activities which were undertaken by the said organization.

11. We have considered these submissions. The relevant and material statements are annexed to this Appeal. There is no dispute that this is the main material against the Appellant based on which he is being prosecuted. Since the trial is yet to begin, we are not making any detailed observations regarding this material. However, some reference needs to be made to these statements. The names of those

witnesses are masked for security purpose. Therefore, we are referring to those statements by the page numbers of this Appeal.

12. Those statements are as follows :

i. **The statement of witness at page No.383.** Said witness was working in a Bank from February, 2022 as a Relationship Manager. He had attempted to get a job in Dubai but he had failed to get a job. He has stated that he knew the Appellant and other co-accused. He has mainly stated about one Asif Adhikari. There is hardly any statement showing the Appellant's involvement. Therefore, this statement is innocuous as far as the Appellant is concerned.

ii. **The statement of witness at page No.407.** This witness became a member of PFI in 2017. He had completed the beginner's course of the organization in October, 2017. He knew the present Appellant. He has not specifically referred to any particular activity conducted by the Appellant, but he showed awareness that the Appellant

was arrested on 22.9.2022.

iii. **The statement of witness at page No.432.** He had stated that during COVID period in the year 2022 he and his associates were getting oxygen cylinders and were providing it to the needy people at concessional rate. The Appellant had contacted him and had made enquiries about the cylinders. Through this incident their acquaintance grew. The Appellant informed him about the PFI and told him to become a member. The Appellant used to call him and others for meeting of PFI at Cheeta Camp. According to this witness, the Appellant was in-charge of PFI for Mumbai. On one occasion, the Appellant had given him banners, posters and handbills mentioning “Healthy People, Healthy Nation”. In 2022, the Appellant had told him that they should participate in the protest against E.D.. Accordingly, this witness had taken part in the protest but at that time the Appellant himself had not attended the protest. Significantly this witness has further stated that this witness had expressed his displeasure about girls from their community

contracting inter-faith marriages. However at that time the Appellant had told him that it was not their subject and the Appellant had not responded.

The statement of this witness in fact supports the Appellant's case that he was not indulging in dangerous activities.

iv. **The statement of witness at page No.470.** This witness has spoken about the fact that the Appellant was a member of PFI and that he had started an office of PFI on rental basis in this witness's place.

v. **The statement of witness at page No.474.** This witness has stated about the Appellant being a member of PFI.

vi. **The statement of witness at page No.475.** This witness has stated about the physical training conducted by the Appellant. He had helped the Appellant in getting more members for PFI. Similar are the statements of witnesses at page Nos.479, 482, 484, 513, 475, 584. In fact the witness at Page No.513 has stated that the Appellant was distributing foodgrains and books to the needy people.

All these statements are innocuous and at the highest they show that the Appellant was a member of PFI. He had started an office of PFI and was getting members for PFI. Apart from that, according to these statements, he was conducting physical training programme and was also taking part in social activities and was helping the needy people.

13. Therefore, all these statements do not make out any ingredients of any offence charged against him. Learned counsel invited our attention to various video clippings and photographs which were found on his devices. Out of them, the most significant was a video in respect of petrol bombs. However, learned counsel for the Appellant pointed out that the said video was found in his phone but there is nothing to show that he has forwarded it to anybody else or had instigated anyone else to use that technique.

14. The other video screenshot shows the physical training, karate and other demonstrations. One video shows that one religious leader was making some speech but the

Appellant had not forwarded that speech to anyone else. Thus, we find that there is hardly any material fulfilling the ingredients of the serious allegations made against the Appellant.

15. In this background, learned counsel for the Appellant has rightly relied on the orders passed by the Hon'ble Supreme Court in respect of the accused who were similarly placed and who were members of PFI in different cases. Those orders are as follows :

i. **Unais Umar Khaiyyam Patel Vs. The Anti Terrorism Squad & Another**[1]. The Hon'ble Supreme Court has observed thus :

> "There are three factors in favour of the appellant which make out a case for grant of bail : (1) The limited role ascribed to him; (2) He has undergone incarceration for a period of 2 years and 2 months and 190 witnesses are to be examined; and (3) as stated earlier, stringent conditions for bail under Section 43(D)(5) of the 1967 Act are not applicable in this case. Therefore, the appellant is entitled to be enlarged on bail, pending the trial."

1 Passed on 22.11.2024 in Criminal Appeal No.4722/2024.

ii. **Razi Ahmed Khan Vs. The State of Maharashtra[2].** The Hon'ble Supreme Court has observed thus :

> "We have perused the report of the Regional Forensic Science Laboratory, Nasik, Maharashtra and the text of the conversation attributed to the appellant. Prima facie, we do not find anything incriminating in the conversation. There are 190 prosecution witnesses to be examined and the appellant has undergone incarceration for a period of about 2 years. In this case, the stringent conditions imposed by Section 43(D)(5) of the Unlawful Activities (Prevention) Act, 1967 (for short, "the 1967 Act") will not apply as the offence alleged against the appellant under the 1967 Act is only under Section 13(1)(b). Therefore, the appellant deserves to be enlarged on bail on the same stringent conditions on which a co-accused - Unais Umar Khaiyyam Patel was released in Criminal Appeal No.4722 of 2024."

16. Thus, from the above discussion we are convinced that the Appellant deserves to be released on bail. As mentioned by the learned APP, there are 255 witnesses cited in the report out of which at least 90 witnesses are proposed to be examined. The trial is not likely to get over soon. The bar under Section 43D of the UAPA is not attracted as the charge

2 Passed on 2.12.2024 in Criminal Appeal No.4940/2024

is not framed under Chapter IV or Chapter VI of the UAPA.

17. In this view of the matter, the Appellant deserves to be released on bail, on certain conditions. Hence, the following order:

:: O R D E R ::

i. The Appeal is allowed.

ii. The impugned order dated 21.4.2026 passed by the Special Judge for the cases under NIA & UAPA, City Civil and Sessions Court, Greater Mumbai below Exhibit-62 in Special Case No.206/2023, is set aside.

iii. The Appellant is directed to be released on bail in connection with Special Case No.206/2023 before the Special Judge for the cases under NIA & UAPA, City Civil and Sessions Court, Greater Mumbai arising out of C.R. No.19/2022 registered with ATS Kalachowky, Mumbai on his executing a PR bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two sureties in the like amount; subject to following conditions :

I. The Appellant shall deposit his passport, if any, with the investigating agency before the Appellant is released on bail.

II. The Appellant shall report to the ATS, Kalachowky, Mumbai on every alternate Saturday between 4.00 p.m. to 5.00 p.m..

III. The Appellant shall not tamper with the evidence and shall not influence any witness.

IV. The Appellant shall remain present on all the dates before the trial Court and shall cooperate in expeditious disposal of the trial.

iv. The Appeal is disposed of accordingly. In view of disposal of the Appeal, nothing survives in pending Interim Application No.2195/2026 and it is also disposed of.

(RANJITSINHA RAJA BHONSALE, J.) **(SARANG V. KOTWAL, J.)**

Deshmane (PS)

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