

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.912 OF 2024

Mohammed Fayaaz Shikilkar	]	
S/o Abdul Rehman Shikilkar	]	
Indian inhabitant, Adult, Male	]	
Age: 35 years, Occ. Business-Butcher	]	
Permanent resident of 47/1,	]	
Gulzar Galli, Navpada, Bandra (E),	]	
Mumbai 400 051.	]	
(Present lodged at Arthur Road	]	
Central Prison)	]	... Appellant

V/s.

1. The State of Maharashtra	]	
2. NIA, Mumbai	]	
in R.C. No.01/2023/NIA/MUM	]	... Respondents

Ms. Nazneen Khatri a/w. Adv. Khatri Mohamed Adil, Adv. Sagar Samel for the Appellant.

Smt. Prajakta P. Shinde, APP for the Respondent-State.

Mr. Chintan Shah, Special P.P. for the Respondent-NIA.

Ms. Shipra Singh, PI, NIA, Mumbai, present.

Mr. Akhilesh Singh, PI, NIA, Mumbai, present.

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.**

RESERVED ON : 24th March, 2026.

PRONOUNCED ON : 6th May, 2026.

Judgment (Per : Kamal Khata, J) :-

1) By the present Appeal under Section 21(4) of the National

Investigation Agency Act ('NIA Act'), the Appellant (original Accused No.3) seeks enlargement on bail in R.C. No.01/2023/NIA/Mum registered at the instance of N.I.A. Police Station, Mumbai arising out of Special Case No.329 of 2023, on such terms and conditions as this Court may deem fit and proper. The learned Judge of the Special Court has rejected his Application for bail filed below the Exhibit No.21 by its Order dated 3rd February 2024.

2) The prosecution case in brief is that, on 17th November 2021, the Naupada Police Station, Thane City, Maharashtra, acting on a secret input, accosted one Riyaz Abdul Rahiman Shikilkar (A-1) from Thane and recovered 149 High Quality Indian Currency Notes of Rs.2,000/- denomination, having face value of Rs.2,98,000/- from his physical possession. At his instance, the accused Nasir Usmangani Choudhari (A-2) came to be arrested on 26th November, 2021 from whom one such note of Rs.2,000/- denomination was recovered.

2.1) The Naupada Police Station filed a charge-sheet on 6th April 2022 vide Special Court Case No.333 of 2022 and charge-sheeted Riyaz Shikilkar (A-1), Nasir Choudhari (A-2) and showed an unidentified individual as wanted. Pursuant to the directions of the Central Government, the National Investigation Agency (NIA) took over the investigation of the case on 7th February 2023 and re-numbered it as Case No.RC 01/2023/NIA/MUM and commenced further investigation.

2.2) On 10th May 2023, the NIA conducted a search at the residence

of Riyaz Shikilkar (A-1) and Appellant (A-3), who is his brother and allegedly seized certain illegal arms hidden in a dubious manner. On 12th May 2023, after being called for investigation the Appellant came to be arrested by the NIA. His application for bail was rejected by the Special Judge, City Civil and Sessions Court, Greater Bombay on 3rd February 2024. Subsequently, on 10th June 2024, the prosecution filed an Application for leading additional evidence against the accused. In these circumstances, the present Appeal came to be filed.

3) Ms. Nazneen Khatri, learned Advocate for the Appellant, submits that the Appellant is innocent and has been falsely implicated. It is further submitted that the Appellant and A-1 (Riyaz) are brothers residing together, and the financial transactions between them are wholly natural and attributable to household expenses. No guilt, knowledge of counterfeiting a currency note or intention or the ability or the material to attempt counterfeiting is alleged for application of provisions of Section 489 (A) of the IPC. There are no ingredients for a case under section 120 (B) of the IPC placed on record against the Appellant.

3.1) She submits that, neither the charge-sheet nor supplementary charge-sheet reveal that, the international number +60146950130 belong to the wanted accused Javed Patel @ Javed Chikna. It is only an assumption. His family members are working in the Gulf. The reliance on an online source to trace the IP address is stated to be unreliable and

unsupported by any verified or admissible material. the statement of Firoz Chamda relied upon by the prosecution reveals nothing against the accused Nos.1 and 2 or the Appellant. The alleged recovery of arms was in the absence of any family members. The reliance on photographs of arms or sword allegedly found in the mobile phone of A-1 is misplaced, as no such articles were recovered during the search. The reliance placed on the American website www.whatismyipaddress.com to allege communication made from Pakistan is wholly unreliable. That no offence under Section 18 of the UAP Act is made out and, in the absence thereof, the invocation of Section 120B of the IPC or Section 34 is unsustainable. It is also pointed out that Sections 489A, 489B, and 489C of the IPC have not been applied to the Appellant.

3.2) She submitted that, the accused will not attempt any unlawful activity if enlarged, that he shall attend all hearings before the Court and is also ready to abide by any condition imposed by this Court for being released on bail. In view of the above, the learned Advocate Appellant submits that, the Appeal be allowed.

4) We have heard the Advocate for the Appellant as well as the Special PP for the Respondent. We have also perused the record carefully.

5) An examination of the record indicates that the Appellant is not innocent. There is adequate evidence which discloses criminal intent to commit an offence. If as contended by Ms. Khatri, the Appellant and A-1

(Riyaz) are brothers residing together, we find no reason to transfer such a huge amount of ₹ 50,000/- and attribute it household expenses. The explanation that the transfer of funds between the two brothers was for household expenses is illusory and does not inspire confidence. If, as claimed, they were residing together, there would be no occasion for such transfers. If so, the Bank statements negate such theory as it does not indicate any such other financial transactions regularly made between the Appellant and the alleged co-accused. The explanation for transfer therefore does not stand to reason.

6) The absence of recovery of high-value or suspicious currency from the present accused does not, by itself, exonerate him. The 'SMS' relied upon by the prosecution requesting uncle to 'pick up' may well explain the absence of such recovery. Though the bank statement does not reflect any direct receipt of funds from a wanted accused, it does indicate receipt from his brother, who is linked to such accused. It certainly gives rise to suspicion and lends support to the prosecution's case that there is nexus between the Appellant and the alleged offences.

7) If the two brothers were residing together as contended it is impossible to believe that the Appellant had no knowledge of, or involvement in, any unlawful activity. This narrative could have been acceptable, if they were living separately as contended by the prosecution.

8) The prosecution has provided cogent material on record to

substantiate its case that a separate premises was raided from where the alleged arms were recovered. Conversely, there is no material to indicate that the same premises was subjected to repeated raids. The contention of the accused to the contrary is therefore misleading and cannot be accepted.

9) The reliance placed by the prosecution on international numbers, the material from the internet for change of IP address, and the photographs allegedly showing recovery of arms from a house, constitutes *prima facie* material to charge the accused. Taken cumulatively, these circumstances and material placed on record, support the prosecution's case and lead us to believe that the accusations against the accused are *prima facie* true. There is no reasonable explanation as to why a relative would contact the Appellant through an unknown or untraceable number, when identification was otherwise possible. The use of such a number raises a legitimate suspicion that the Appellant was called by some accused or wanted accused namely Javed Chikna who is an individual terrorist as per Schedule IV of the UAP Act. Likewise, there is no satisfactory explanation for the Appellant having searched for methods to change an IP address. It is apparent that the Appellant was seeking to connect to the accused or wanted accused without leaving any trail or being connected to them. These factors, when read together, lend support to prosecution's case.

10) The recovery of arms from the house, as well as photographs on the Appellant's mobile phone, also constitutes material linking him to

the offence or accused or wanted accused. There is no plausible explanation as to why the Appellant, who claims to be a businessman, would be in possession of such photographs in his mobile phone. This circumstance too further strengthens and leads us to believe the case of the prosecution at this stage.

11) In our view, the prosecution has placed sufficient material to *prima facie* establish offences under Section 18 of the UAP Act and under Section 34 read with 120 (B) of the IPC. A perusal of the charge-sheet indicates that, the evidence placed on record has ample probative value. The prosecution has sufficiently established material demonstrating the intention of the accused to commit any offence.

12) Having considered the material on record as well as the settled law, we are of the opinion that the trial Court has not committed any error either in law or on facts while passing the impugned Order dated 3rd February, 2024 below Exhibit-21 in Special Case No.329 of 2023.

13) There are no merits in the Appeal and it is accordingly dismissed.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.).