

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

**INTERIM APPLICATION NO. 1167 OF 2025
IN
CRIMINAL APPEAL NO. 178 OF 2020**

Asif Sayyed Abdul Kadar Sayyed @ Raju ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Anush Shetty i/b. Dr. Yug Chaudhary, for the Appellant
Dr. Dhanlakshmi Krishnaiyer, APP, for the State.

**CORAM : MANISH PITALE AND
SHREERAM V. SHIRSAT, JJ.**

DATE : 5th MAY, 2026

P.C. :

1. Heard the learned counsel for the applicant (appellant/ original accused No. 3).

2. By this application the applicant is seeking suspension of sentence and enlargement on bail by relying upon the judgment of the Supreme Court in the case of **Saudan Singh vs. State of Uttar Pradesh**¹. The learned counsel for the applicant relies on the certificate of imprisonment 28th February, 2025 issued by the Superintendent of Yerwada Open District Prison, Class- I, Pune certifying that as on 31st January, 2025, the applicant had undergone actual imprisonment of 10 years 2 months and 27 days and total imprisonment with

1 (2023) 17 SCC 446.

remission to the extent of 15 years and 13 days.

3. It is submitted that, as on today, the applicant has undergone actual imprisonment of about 11 years and 6 months. It is submitted that in view of the said position on facts, the applicant is entitled to claim relief in the light of the said judgment of the Supreme Court.

4. It is brought to our notice that earlier Bail Application filed on behalf of the applicant was withdrawn before a Division Bench of this Court (Coram: Nitin W. Sambre and R.N. Laddha, JJ.). Both judges are now not available in this Court. It is submitted that the applicant is not pressing for relief in this application on merits, but on the position of law clarified by the Supreme Court in the aforesaid judgment.

5. The learned APP on the other hand, vehemently opposed the prayer made in the present application, highlighting the fact that in the very judgment upon which the applicant is relying the Supreme Court has clarified that if there are any extenuating circumstances against the applicant, as a matter of rule, bail cannot be granted if the applicant has suffered incarceration for more than 10 years. In that light, although it could not be disputed that the applicant does not have criminal antecedents but, much emphasis is placed on the depositions of PW.1 and PW. 3 recorded during the course of trial in the present case. It is submitted that the allegations against

the applicant demonstrate that he is the main accused, who had used a sharp weapon in the form of a knife to assault the victim on his chest, leading to his death. It was submitted that the nature of allegations made against the applicant demonstrates the gruesome nature of the incident and the cruelty with which the applicant inflicted the fatal blow on the victim. It is submitted that this had to be treated as a extenuating circumstance and the application cannot be allowed.

6. The Supreme Court in the case of **Saudan Singh** (supra) considered cases where the appeals filed by convicted accused persons remained pending before the High Courts and in the meanwhile the convicted accused persons suffered incarceration for considerable periods of time. While considering the aforesaid cases, the Supreme Court categorized such convicted accused persons in various categories. Second category pertains to those persons who have served sentence of more than 10 years. In paragraph 8 of the said judgment, the Supreme Court categorically stated that in the cases in the aforesaid category the High Courts ought to grant bail at one go, unless there are extenuating circumstances against the accused persons.

7. The certificate of imprisonment placed on record clearly shows that the applicant falls within the aforesaid second category of cases. The reason behind the Supreme Court issuing such direction is found in a number of

judgments wherein it has been held that a convicted accused persons who has suffered incarceration for such long period of time, cannot be told by the High Court that because there is paucity of time and number of earlier appeals are pending hearing, the pending appeal of such an applicant cannot be taken up for hearing and at the same time such applicant would not be entitled for consideration for being released on bail.

8. As regards extenuating circumstance, we are of the opinion that the Court is required to take reasonable view in the matter. We find that if the applicant is shown to be having criminal antecedents or that he is demonstrated to be a habitual offender, the aspect of extenuating circumstances would be relevant. We are of the opinion that the nature of allegations made against the applicant in the case in which the application for bail is preferred, alone cannot be deemed to be extenuating circumstances. If that be so, no convicted accused person suffering incarceration for offence under section 302 of the Indian Penal Code, 1860, would be able to get the benefit of the aforesaid judgment of the Supreme Court in the case of **Saudan Singh** (supra).

9. It is also relevant to note that the co-accused persons were released on bail by an order dated 7th March, 2026, purely on the ground of having suffered long incarceration and on the basis of aforementioned judgment of

the Supreme Court in the case of **Saudan Singh** (supra).

10. We are of the opinion that the applicant in the present application also deserves similar treatment and hence the application deserves to be allowed.

11. Accordingly, the application is allowed in the following terms.

i) During the pendency of Criminal Appeal No. 178 of 2020, the applicant (original appellant in the appeal) is directed to be released on bail on his furnishing P. R. Bond in the sum of Rs. 50,000/-, with one or two sureties in the like amount;

ii) During the bail period, the applicant shall be of good behaviour and shall not commit any offence;

iii) Before his release from jail, the applicant shall give his prospective residential address and the mobile and / or landline number on which he or his close relative can be contacted;

iv) The applicant shall not enter the jurisdiction of Meghwadi Police Station during the pendency of the appeal.

v) The applicant shall attend Sakinaka Police Station between 10:00 a.m. and 12 noon on the second Monday of every calendar month, during the pendency of the appeal.

12. Needless to say, violation of any of the conditions will make the applicant liable for cancellation of bail.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)