

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.4498 OF 2025

IN

CRIMINAL APPEAL NO.246 OF 2020

Mohd. Umar Yusuf Shaikh @ Salman ... Applicant

In the matter between:

Mohd. Umar Yusuf Shaikh @ Salman and another ... Appellants

Vs.

State of Maharashtra ... Respondent

WITH

INTERIM APPLICATION NO.698 OF 2023

IN

CRIMINAL APPEAL NO.973 OF 2023

Mohd. Shafiq Mohd. Rafiq Khan @ Shafiq Patil ... Applicant

In the matter between:

Mohd. Shafiq Mohd. Rafiq Khan @ Shafiq Patil ... Appellant

Vs.

State of Maharashtra ... Respondent

WITH

INTERIM APPLICATION NO.4606 OF 2025

IN

CRIMINAL APPEAL NO.973 OF 2023

Mr. Jagdish G. Shetty i/b. Mr. Ayub Shaikh for Applicant in IA/4498/2025.

Mr. Ganesh Bhujbal (appointed through Legal Aid) for Applicant in IA/4606/2025 and IA/698/2023.

Dr. Dhanlakshmi S. Krishnaiyer, APP for Respondents - State.

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

DATE : MARCH 07, 2026

P.C. :

. The applicants in these bail applications are original accused Nos.1 and 6. They have been convicted along with two co-accused

persons as per judgement and order dated 27.03.2019 passed by the Court of Additional Sessions Judge, Greater Mumbai in Sessions Case No.345 of 2014. The applicants were convicted and sentenced under Section 302 of the Indian Penal Code, 1860 (IPC).

2. The learned counsel for the applicants are pursuing the prayers made in these applications only on the ground of the period of incarceration undergone by the applicants and the law laid down by the Supreme Court while dealing with such applications for bail wherein the applicants have remained behind bars for considerable periods of time.

3. It is submitted that co-accused No.2 was granted bail by a Co-ordinate Bench of this Court by order dated 31.07.2025 passed in Interim Application No.2578 of 2024 (*Jamir Mohammadulla Shafiulla Sharif @ Jammo Vs. The State of Maharashtra*).

4. The learned counsel for the applicants rely upon the judgement of the Supreme Court in the case of *Saudan Singh Vs. State of Uttar Pradesh*, **(2023) 17 SCC 446**, to contend that the Supreme Court in the said judgement has categorized the accused / convicts into various categories. The second category of cases pertains to persons who had suffered incarceration for more than 10 years during trial and during pendency of their appeals. It is submitted that the Supreme Court in the said judgement indicated that bail could be granted to such accused persons unless there were any extenuating circumstances.

5. The learned APP submits that the present case concerns conviction for murder under Section 302 of the IPC. The applicants are found guilty of assaulting the victim in a violent manner and there is sufficient material to indicate that the Sessions Court was justified in convicting and sentencing the applicants. It is submitted that looking to the gravity of the offence, this Court may not grant bail to the applicants.

6. We find that in the present case, on specific queries put to the learned counsel for the applicants, it is stated that the applicants do not have any criminal antecedents. The said position could not be disputed by the learned APP. It is in these circumstances that we have examined applicability of the judgement of the Supreme Court in the case of **Saudan Singh Vs. State of Uttar Pradesh** (*supra*) to the facts of the present case.

7. The record shows that Mohd. Umar Yusuf Shaikh @ Salman (applicant in Interim Application No.4498 of 2025 in Criminal Appeal No.246 of 2020) and Mohd. Shafiq Mohd. Rafiq Khan @ Shafiq Patil (applicant in Interim Application No.698 of 2023 in Criminal Appeal No.973 of 2023) were arrested on 22.01.2014 and 29.01.2014 respectively. This shows that the actual period of imprisonment undergone by the said applicants is more than 12 years. Therefore, both the applicants indeed fall in the second category of accused / convicts as laid down by the judgement of the Supreme Court in the case of **Saudan Singh Vs. State of Uttar Pradesh** (*supra*). Paragraph 8 of the said judgement specifically records that in such cases, where the accused / convicts have undergone sentence of more than ten years at one go, bail can be granted unless there are any extenuating circumstances against the said persons.

8. Although the learned APP has vehemently opposed the prayer in these applications on the ground of gravity of the offence, we find that since the applicants do not have any other criminal antecedents, the fact that they have been convicted for murder under Section 302 of the IPC, in itself, cannot be said to be an extenuating circumstance.

9. The Supreme Court has taken a view that such convicts whose appeals are pending can be granted bail when they have undergone such long periods of incarceration and they cannot be told by the High Court

that since there is paucity of time and their appeals cannot be taken up for final hearing, they should continue to suffer incarceration.

10. In such circumstances, we are inclined to grant relief to the applicants. It is to be noted that when the Co-ordinate Bench of this Court granted bail to the co-accused No.2 by the aforesaid order dated 31.07.2025, apart from discussing merits of the application of the said applicant, it was noted that the applicant therein had also remained behind bars since the date of his arrest.

11. In view of the above, the applications are allowed in the following terms:-

- i) During the pendency of Criminal Appeal Nos.246 of 2020 and 973 of 2023, the applicants (original appellants in the appeals) are directed to be released on bail on their furnishing P. R. Bond in the sum of Rs.50,000/- each, with one or two sureties each in the like amount;
- ii) During the bail period, the applicants shall be of good behaviour and shall not commit any offence;
- iii) Before their release from jail, the applicants shall give their prospective residential addresses and the mobile and / or landline numbers on which they or their close relative can be contacted;
- iv) The applicants shall not enter the jurisdiction of Meghwadi Police Station during the pendency of the trial;
- v) The applicants shall attend Sakinaka Police Station between 10:00 a.m. and 12 noon on the first Monday of every calendar month, during the pendency of the appeals;

12. Needless to say, violation of any of the conditions will make the

applicants liable for cancellation of bail.

13. Accordingly, Interim Application No.4606 of 2025 (through jail) also stands disposed of.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)

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