



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APPA) NO. 08 OF 2026
IN
CRIMINAL APPEAL NO. 04 OF 2026

SALMAN S/O ISRAIL KHAN
VS
STATE OF MAHARASHTRA

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.

Court's or Judge's order

Shri A.S.Manohar, Advocate for appellant/applicant.
Ms. S.S. Dhote, APP for respondent/State.

CORAM : **NEERAJ P. DHOTE, J.**
DATE : **11/02/2026**

This is an application for suspension of sentence imposed by the learned Special Judge and Additional Sessions Judge, Gondia, in Special (MCOCA) Case No. 103/2020, dated 18/11/2025, convicting and sentencing the Applicant/Appellant as follows:-

“ Accused No. 1 to 5 and 7 to 9 are hereby convicted as per Sec. 235(2) of Cr.PC. for the offence punishable under Section 147, 148, 307 r/w 149, 397, 120(B) of the Indian Penal Code, 1860, Sec. 39 r/w 192 of Motor Vehicle Act and Sec. 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 in Crime No. 159/2016 registered with Police Station, Rawanwadi, Dist. Gondia.

2. However, offence committed by accused persons fell within ambit of MCOC Act, 1999 as well, therefore in view of discussion made aforesaid conviction under MCOC Act will prevail over charges under IPC and M.V. Act. Hence, for the offence punishable under Sec. 3(1) (ii) of MCOC Act, 1999

accused Nos. 1 to 5 & 7 to 9 are sentenced to suffer rigorous imprisonment for 10 years and to pay fine of Rs.5,00,000/- (Five Lakhs) each, in default of payment of fine to suffer further S/I for Six months.

3. For the offence punishable under Sec. 3(2) of MCOC Act, 1999 accused Nos. 1 to 5 & 7 to 9 are sentenced to suffer rigorous imprisonment for 10 years and to pay fine of Rs.5,00,000/- (Five Lakhs) each, in default of payment of fine to suffer further S/I for Six months.

4. For the offence punishable under Sec. 3(4) of MCOC Act, 1999 accused Nos. 1 to 5 & 7 to 9 are sentenced to suffer rigorous imprisonment for 10 years and to pay fine of Rs.5,00,000/- (Five Lakhs) each, in default of payment of fine to suffer further S/I for Six months.

5. All the sentences to run concurrently.

6. Accused No.1 to 5 and 7 to 9 are entitled for set-off for the detention already undergone by them as per the provisions of Sec.428 of Cr.P.C.

7.

(i)

(ii)

8. For want of notification, accused No.1 to 5 and 7 to 9 are acquitted of the offence punishable under Section 135 of Bombay Police Act.

9. For want of notification and sanction for prosecution under Arms Act, accused No. 1 to 5 & 7 to 9 are acquitted of the offence punishable under Section 3, 4 r/w 25 of Indian Arms Act.

10. Accused No. 1 to 5 & 7 to 9 are acquitted of the offence punishable under Sec. 9 r/w 51 of Wild Life Protection Act.

11.

2. The case of the prosecution as can be revealed from the impugned Judgment and Order is as under. Para 2 of the impugned Judgment and Order is reproduced below:-

“On 10/09/2016 informant Shivrul Jaglal Mhatre (PW-1) lodged a report alleging therein that, on 09/09/2016 at about 10.00 p.m. to 11.00 p.m. he was sitting in front of Ganesh Idol pandol. Some children were playing Kabaddi in front of Ganesh Mandal. At that time, one tractor without having number plate and trolley bearing No.MH-35/F-4829 came in a high speed. The children of village stopped the said tractor and asked the driver not to drive the vehicle in a high speed. There was a verbal quarrel between them. The driver of the said tractor called his friends. Thereafter, some persons came there on motorcycle bearing No. MH-35/L-7823 and white Scorpio vehicle No. MH-35/P-4803. They were 8-9 persons. It is alleged that accused No.1 Gani Khan was also present with those persons. They took out swords, iron rod and gun and came in front of them and threatened to kill them. One of them came in front of the informant and threatened to cut him. When Sanjay Pache (PW-5) tried to save him, said person assaulted him by sword and that PW-5 received injury on his knee. It is alleged that accused Gani Khan showed pistol and said to the informant that, "Hamare tractor ko kyo rukate ho, tum sabko mar dalunga" and further he allegedly ran towards them by showing pistol. However, at that time, police van came to the spot. It is stated that police arrested accused Gani Khan and four of his colleagues. It is further alleged that police seized one pistol with six cartridges, two swords and one iron rod.”

3. It is submitted by the learned counsel for the Applicant/Appellant that, the eye witnesses examined by the prosecution did not support the case except witness no. 1. The witness no. 1 in his substantive evidence identified only Accused no. 1 - Zulfikar Jabbar Gani and did not identified the Appellant. He submits that, the conviction is based solely on the confessional statements of the co-accused, which were not put to the Appellant in his statement under Section 313(i)(b) of the Code of Criminal Procedure (for short, 'Cr.P.C.'), which caused prejudice to him. He submits that, during the trial, the Appellant was on bail, and further submits that, the sentence be suspended.

4. The learned APP for the State that, opposes the Application and she submits that, though the substantive evidence on record will not be sufficient to maintain the conviction, the confessional statements are admissible as per the provisions of Maharashtra Control of Organized Crime Act, 1999 (for short, 'MCOCA') and the learned Trial Court has rightly convicted the Appellant. She submits that, the Application be rejected.

5. The evidence on record goes to show that, the witness no. 1 did not identify the Appellant as one of the assailants. The Appellant was on bail during the Trial. The sentence awarded is the term sentence. The Appeal is of the year 2025 and there is no likelihood that, the same will be heard finally in

near future. In this view of the matter, I am inclined to allow the application. Hence, the following order:-

ORDER

[I] Criminal Application is **allowed**.

[II] The substantive sentence imposed upon the Applicant namely Salman S/o. Israil Khan, by the learned Special Judge and Additional Sessions Judge, Gondia, vide Judgment and Order dated 18/11/2025, passed in Special (MCOCA) Case No. 103/2020, is hereby suspended till the final disposal of the Appeal.

[III] The Applicant/Appellant be released on bail on furnishing P.R. bond of Rs.25,000/- [Rupees Twenty Five Thousand Only] with one surety in the like amount.

[IV] The Applicant shall co-operate in early disposal of the Appeal.

[V] Bail before the Trial Court.

[VI] Criminal Application stands **disposed** of accordingly.

(NEERAJ P.DHOTE, J.)