



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPA) NO.142/2026

IN

CRIMINAL APPEAL NO.616/2025

(Zulfikar alias Chotu S/o Jabbar Gani and others Vs. State of Maharashtra
Applicants : Durgesh S/o Laxman Vithole and others)

AND

CRIMINAL APPLICATION (APPA) NO.148/2026

IN

CRIMINAL APPEAL NO.620/2025

(Sahebaz @ Bande S/o Shabbir Pathan Vs. State of Maharashtra, through Police Station Officer, Police Station
Rawanwadi, Gondia, Tq. and Distt. Gondia.)

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

Court's or Judge's orders

Mr. A.A. Korpenwar with Mr. V.V. Raut, Advocates for the Applicants/Appellants.
Mr. Ujjawal R. Phasate, A.P.P. for the Respondent/State. (in APPA No.142/2026)

Mr. K.Y. Mandpe, Advocate for the Applicant/Appellant.
Mr. Ujjawal R. Phasate, A.P.P. for the Respondent/State. (in APPA No.142/2026)

CORAM: NEERAJ P. DHOTE, J.

DATED: 24.2.2026.

Common order

Heard the learned Advocates for the Applicants/Appellants and
the learned A.P.P. for the State.

2. These are the Applications for suspension of sentence dated
18.11.2025 imposed vide judgment and order passed by the learned
Special Judge, Gondia for Special MCOC No.103/2020 convicting and
sentencing the Applicants/Appellants as follows:-

*“Accused No. 1 to 5 and 7 to 9 are hereby convicted as
per Sec. 235(2) of Cr.P.C. 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.”

3. This Court in Criminal Application (APPA) No.11/2026 in Criminal Appeal No.06/2026 dealt with the Application for suspension of sentence of the co-convict Imran @ Shakki who was the original accused No.2. The relevant para 5 of the said order of this Court is reproduced below.

“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:-”

4. The Applicants herein stand on the same footing as that of the said Applicant/Appellant who was granted bail by this Court.

5. Hence, on the ground of parity, following order is passed:-

ORDER

i) Criminal Application is allowed.

ii) The substantive sentence imposed upon the Applicants 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 Applicants/Appellants be released on bail on furnishing P.R. bond of Rs.25,000/- [Rupees Twenty Five Thousand Only] each with one surety in the like amount.
- iv) The Applicants shall co-operate in early disposal of the Appeal.
- v) Bail before the Trial Court.
- vi) Criminal Applications stand disposed of in the above terms.

(NEERAJ P DHOTE, J.)