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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 21st May, 2026

Uploaded on: 21st May, 2026

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CRL.A. 135/2026

SALIM MALIK MUNNA

.....Appellant

Through: Mr. Jawahar Raja, Mr. Archit
Krishna, Ms. Tamanna Pankaj, Ms
Priya Vats, Ms. Aditi Saraswat, Mr.
Anirudh Ramnathan, Mr. Nitai
Hinduja, Mr. Indronil Choudhary, Mr.
Ashutosh Shukla, Advs.

versus

STATE THROUGH SHO PS SPECIAL CELLRespondent

Through: Mr. S.V. Raju, ASG along with Mr.
Madhukar Pandey- SPP, Mr. Dhruv
Pande, Mr. Samrat Goswami, Insp.
Anil Kumar - Special Cell
Insp. Sandeep Kumar with SI Divya
Ms. Sakshi Jayant, Adv. for R2

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MADHU JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present appeal has been filed by the Appellant- Salim Malik@Munna under Section 21(4) of the National Investigation Act, 2008 assailing the impugned order dated 29th January, 2026 (hereinafter, '*impugned order*') passed by the Id. Additional Sessions Judge-03, Shahdara District, Karkardooma Courts, Delhi in *IA No. 268/2026* in *Sessions Case*



No. 163/2020. The present case arises out of **FIR No. 59/2020** registered at PS. Crime Branch, Delhi.

3. *Vide* the impugned order, the application filed by the Appellant seeking regular bail has been rejected by the Id. Special Court.

4. The submission by Mr. Jawahar Raja, Id. Counsel appearing for the Appellant is that the case of the Appellant is fully covered by the decision of the Supreme Court in ***Gulfisha Fatima v. State (Govt. of NCT of Delhi), 2026 INSC 2***. It is submitted that the role attributed to the Appellant is similar to the role attributed to the Mohd. Saleem Khan and Shadab Ahmad, who have already been granted bail by the Supreme Court. The relevant paragraphs of the judgment in ***Gulfisha Fatima (Supra)*** have been placed before the Court.

5. Mr. S.V. Raju, Id. ASG submits that the Appellant has participated in several meetings and has also played an active role in the entire conspiracy and therefore, the Appellant ought not to be given bail. Id. ASG further submits that stringent requirements under Section 43D(5) of the Unlawful Activities (Prevention) Act, 1967 (hereinafter, 'UAPA') are also not fulfilled in this matter.

6. The Court has considered the nature of the matter. **FIR No. 59/2020** which is registered at PS. Crime Branch in the present case is in respect of the riots which took place in February, 2020 in North East Delhi. **FIR No. 59/2020** was initially registered under Sections 147,148,149 and 120B of the Indian Penal Code, 1860 (hereinafter, 'IPC'). However, upon completion of investigation, a chargesheet came to be filed in the present FIR alleging offences under Sections 120B read with Sections 109, 114, 124A, 147, 148, 149, 153A, 186, 201, 212, 295, 302, 307, 341, 353, 395, 420, 427, 435, 436, 452, 454, 468, 471 and 34 of the IPC as also under Sections 13, 16, 17 and 18



of the UAPA, Sections 25 and 27 of the Arms Act, 1959 and Sections 3 and 4 of the Prevention of Damage to Public Property Act, 1984.

7. In the present FIR, there are various persons who have been arrayed as accused persons. Insofar as the Appellant is concerned, the allegation against the Appellant is to the effect that he had participated in meetings on 16/17th February, 2020 as also 20/21st February, 2020. In these meetings, the Appellant was alleged to be present at the basement of one, Ayaz where he is said to have conspired with various other co-conspirators as to the manner in which the protest would be organised and the nature of action to be taken by all the protestors.

8. The Appellant is also alleged to have been present at the protest site prior to 24th February, 2020 along with the other co-accused persons and was involved in giving inflammatory messages and speeches. The Appellant is also alleged to have participated in the riots by carrying bricks, rods, stones etc. It is urged that the Appellant incited clashes with the police, by participating in a mob.

9. The Court has perused the judgment in *Gulfisha Fatima (Supra)* wherein, the role of Mohd. Saleem Khan has been discussed. In the said judgment, in the initial paragraphs itself, the Supreme Court had categorised one set of accused persons in these matters as the core ideological drivers of the conspiracy and on the other hand, certain accused persons who were described as local level facilitators and also field operators.

10. This discussion appears in paragraphs 104 to 110 of the decision in *Gulfisha Fatima (Supra)*. The said paragraphs are extracted hereinbelow:

“104. A cumulative and comparative reading of the



FIR and the successive charge-sheets discloses a discernible differentiation in the nature, scope, and hierarchy of roles attributed to the accused persons. The prosecution narrative itself delineates Umar Khalid and Sharjeel Imam as occupying a position distinct from the remaining accused, both in terms of conceptual involvement and command over the alleged conspiracy.

105. At the outset, Umar Khalid and Sharjeel Imam are prima facie attributed a central role and alleged to be ideological drivers of the alleged conspiracy. The material relied upon against them is predominantly in the nature of speeches, meetings, digital communications, and alleged strategic deliberations, commencing immediately after the passage of the CAB/CAA. The charge-sheets attribute to them the role of formulating the protest strategy, including the alleged transition from sit-in demonstrations to chakka jams, selection of locations, and articulation of the broader political objective sought to be advanced. Their alleged acts are thus situated at the planning and preparatory stage, extending over a prolonged period.

106. In contradistinction, the remaining accused namely Gulfisha Fatima, Meeran Haider, Shifa-ur-Rehman, Mohd. Saleem Khan, Shadab Ahmad, Athar Khan, and others are consistently described as local-level facilitators. Their alleged involvement is site-specific and operational, confined to particular localities such as Seelampur, Jafrabad, Chand Bagh, Jamia, and Shaheen Bagh. The allegations against them relate primarily to on-ground mobilisation, logistical coordination, funding at the local level, stockpiling of materials, and execution of directions allegedly received from above, rather than formulation of the overarching



strategy.

107. The charge-sheets further reveal a vertical chain of command, wherein conspiratorial - level decisions and strategic directions are alleged to have emanated from the top, while implementation was carried out through intermediaries such as DPSG members, JCC coordinators, and protest site organisers. This internal structuring of the prosecution case itself negates any suggestion of homogeneous or indivisible culpability among all accused. The distinction between those alleged to have exercised centralised command and control and those alleged to have acted as field-level operatives is repeatedly emphasised through the attribution of roles, reliance on different categories of evidence, and the geographical confinement of acts.

108. Even in the narrative concerning escalation into violence, the role attributed to the remaining accused is largely proximate and reactive, arising from developments at specific protest sites. Umar Khalid and Sharjeel Imam, on the other hand, are alleged to have operated remotely away from the sites of violence, with no direct attribution of participation in acts of arson, assault, or destruction of property. The prosecution case thus proceeds on the footing that the former category of accused were involved in facilitating execution, whereas the latter were involved in conceptualisation and supervision.

109. This differentiation assumes critical legal significance. Once the prosecution itself projects varying degrees of proximity, control, and participation, the law mandates an individualised assessment of culpability, particularly in the context of stringent penal provisions. The alleged role of an



accused at the level of ideological articulation or protest coordination cannot, without a demonstrable and proximate nexus to acts of violence, be equated with the role of those alleged to have engaged in facilitation of riots or violent acts.

110. Accordingly, the material placed on record, when examined in its entirety, establishes that Umar Khalid and Sharjeel Imam stand on a qualitatively different footing from the remaining accused, both in the prosecution narrative and in the evidentiary basis relied upon. This structural distinction cannot be ignored and must inform any judicial determination relating to culpability, parity, or the applicability of penal provisions requiring a heightened threshold of intent and participation. Having thus delineated the structural and evidentiary differentiation emerging from the prosecution case itself, it becomes necessary for the Court to examine the bail pleas in an accused-specific manner. The exercise that follows is not one of adjudicating culpability, which lies exclusively within the domain of trial, but of assessing whether the statutory threshold governing pre-trial liberty is attracted qua each appellant. It is in this limited but essential context that the Court now proceeds to consider the submissions advanced on behalf of each accused individually, bearing in mind the role attributed, the nature of material relied upon, and the stage of the proceedings.”

11. The Appellant seeks parity along with the Mohd. Saleem Khan and Shadab Ahmad whose role is discussed in the following paragraphs in *Gulfisha Fatima (Supra)*:

Mohd. Saleem Khan



“314. While the prosecution places reliance on his alleged attendance at meetings preceding the escalation of protests into chakka jams, the material does not disclose that Saleem exercised control over either the initiation of such meetings or formulation of their outcomes. The attribution is largely derivative, reflecting execution of tasks discussed by others and limited to coordination within the Chand Bagh–Jafrabad cluster. The evidentiary foundation relied upon, even if taken at its highest, does not presently establish that Saleem possessed independent command capacity or strategic discretion warranting ongoing incarceration solely on the basis of his associative presence at key locations.

315. The assertion that Saleem participated in the destruction of CCTV cameras and in facilitating the movement of protestors to designated sites raises matters for trial, however, pre-trial detention cannot be perpetuated merely because violent acts are alleged in proximity to his presence, unless a direct and continuing ability to influence or repeat such conduct is shown. There is no material before this Court indicating that he presently retains access to organisational resources, communication networks, or mobilising power that could enable interference with the administration of justice. The legitimate concerns of the State can be sufficiently guarded by supervision and tailored restrictions. “

Shadab Ahmad

“382. Upon a prima facie assessment of the material relied upon by the prosecution, the role attributed to Shadab Ahmad appears to be that of a site-level executor associated with Chand Bagh and related protest clusters, whose presence at



certain meetings is alleged to have facilitated operational coordination following directions emanating from others. The evidence presently placed on record does not disclose that he occupied an authoritative position in conceptualising the alleged conspiracy or that he exercised independent control over its strategic formulation. His alleged association with chakka jam planning, while relevant to trial, does not by itself sustain the continued deprivation of liberty at the pre-trial stage in the absence of material showing autonomous command or unilateral decision-making authority.

383. The prosecution narrative stresses Shadab's attendance at late-night meetings and his participation in conveying instructions to organisers of protest sites. However, even taken at its highest, this depiction situates him as a conduit for information and coordination rather than as an architect of escalation. The allegations neither establish that he devised the strategy to engineer violence nor that he exercised discretion over the location, timing, or modality of the alleged unlawful acts. The attributed conduct is derivative and execution-centred, and the evidentiary record does not presently disclose that he shaped or altered the trajectory of the protests in a manner warranting further custodial curtailment.

384. The State expresses apprehension that Shadab's enlargement on bail may enable reactivation of dormant networks or interference with witnesses. **However, there is no cogent material to suggest that he presently retains the organisational capacity or influence necessary to mobilise individuals or resources independent of the structures that, by the prosecution's own**



account, operated under a hierarchical command led by others. The risks articulated can be effectively addressed by imposing conditions restraining his interaction with co-accused and witnesses, restricting participation in assemblies concerning the subject matter, and ensuring regular attendance before the trial court.

385. The Court remains mindful that the alleged acts culminated in serious violence yet, the gravity of the incident cannot be the sole criterion to perpetuate detention when the individual's attributed role is operational rather than directive. The prosecution has not demonstrated that Shadab's custodial presence is required for ongoing investigation or that further evidence is contingent upon his continued incarceration. In the absence of such necessity, indefinite pre-trial detention would assume a punitive character inconsistent with constitutional guarantees of personal liberty under Article 21, particularly where the alleged conduct is neither shown to be ongoing nor presently repeatable in a manner jeopardising the proceedings.

386. The Court further notes that the documentary and electronic evidence forming the backbone of the prosecution case has already been secured and subjected to forensic processes, and no submission has been advanced suggesting that Shadab's custodial presence is indispensable for recovery of additional material. The absence of any pending investigative step requiring his confrontation or custodial interrogation weighs significantly against continued deprivation of liberty, for pre-trial detention cannot be justified merely to await the vicissitudes of trial when the evidentiary record is substantially crystallised.



387. Moreover, while the prosecution advances the thesis of layered participation culminating in coordinated disruptions across multiple sites, it is incumbent upon the Court to maintain proportionality between the attributed layer of involvement and the nature of liberty restriction imposed. Insofar as Shadab is alleged to have functioned at an executory tier without demonstrated autonomy over escalation or violence, extending pre-trial detention would risk conflating operational participation with strategic authorship, contrary to the requirement that liberty be curtailed only upon individualised and contemporaneous necessity.

388. The Court is also persuaded that calibrated conditions can adequately address the State's concerns regarding potential interference with the administration of justice. In the absence of material demonstrating that measures would be insufficient, continued incarceration cannot be sustained.

389. In these circumstances and bearing in mind that the constitutional presumption favours liberty unless its curtailment is demonstrably necessary for legitimate and current purposes of investigation or trial, the Court finds no compelling grounds to justify the further confinement of Shadab Ahmad. The differentiated hierarchy of roles articulated by the prosecution underscores that his alleged conduct, while forming part of the evidentiary matrix for trial, does not presently establish a continuing threat warranting custodial restraint. Subject to strict compliance with conditions imposed by the Court, enlargement on bail remains the proportionate course.



390. Having regard to the differentiated nature of involvement disclosed by the prosecution itself where Umar Khalid and Sharjeel Imam are alleged to have conceptualised and directed the overarching plan, whereas Shadab Ahmad is alleged to have acted as a local-level facilitator of decisions taken elsewhere. This Court finds that the threshold of necessity for continued detention is not fulfilled in his case. Conditional release can sufficiently secure the interests of justice. Accordingly, subject to stringent conditions as imposed below, the appellant is held entitled to be enlarged on bail. These observations are confined to the adjudication of bail and shall not be construed as expressing a view on the merits. “

12. After having considered the role of the Appellant, this Court is of the view that the same is similar to the role which is attributed to Mohd. Saleem Khan and Shadab Ahmad who had also participated in the meetings, protest and *chakka* jams. There is no major distinction between the role of the Appellant and the role of Mohd. Saleem Khan and Shadab Ahmad.

13. The Appellant has been in custody for more than five years and ten months as per the latest nominal roll. The stage of the trial is that arguments on charge are being presently heard. Accordingly, the trial is going to take some time.

14. Under these circumstances, bearing in mind the role of the Appellant, this Court is of the view that the Appellant deserves to be released on bail subject to the same conditions as imposed in case of Mohd. Saleem Khan and Shadab Ahmad by the Supreme Court in *Gulfisha Fatima (Supra)*. Accordingly, the following conditions are imposed in the present case:

- i. The Appellant shall execute a personal bond for the sum of ₹2,00,000/-



(Rupees Two Lakhs only) with two local sureties of the like sum to the satisfaction of the Trial Court.

ii. The Appellant shall remain within the National Capital Territory of Delhi and shall not leave its territorial limits without prior permission of the Trial Court. Any request for travel shall disclose reasons and such prayer/request shall be considered by the Trial Court strictly on its merits

iii. The Appellant shall surrender his passport, if any, before the Trial Court. Where no passport exists, an affidavit to that effect shall be filed. We direct the Respondent to intimate all the Immigration Authorities in the country not to permit their exit from the country in any manner whatsoever, without express permission from the Trial Court.

iv. The Appellant shall furnish his current residential addresses, contact numbers, and e-mail addresses to the Investigating Officer as well as to the Trial Court. The Appellant shall not change his place of residence or contact particulars without giving at least seven days' prior written intimation to the Investigating Officer and the Trial Court.

v. The Appellant shall personally appear twice a week, that is on Monday and Thursday between 10:00 a.m. and 12:00 noon, before the Station House Officer, Police Station Crime Branch, Delhi Police, Office of the Commissioner of Police, Police Headquarters, Jai Singh Marg, New Delhi – 110001 and mark his attendance. The Station House Officer shall maintain a separate register of attendance in respect of Appellant and shall furnish a monthly compliance report to the Trial Court, which shall be placed on the main record of the case.

vi. The Appellant shall not directly or indirectly contact, influence, intimidate or attempt to contact any witness or any person connected



with the proceedings, nor shall it associate with or participate in the activities of any group or organization linked to the subject matter of the present FIR/ final report.

vii. The Appellant shall not make or publish or disseminate any information, statement, article or post whether in print, electronic or social media concerning the present case or its participants till conclusion of the trial.

viii. The Appellant shall not participate in any programme or address or attend any gathering, rally or meeting, whether physically or virtually till conclusion of the trial.

ix. The Appellant shall not circulate any post either in electronic form or physical form or circulate any hand bills, posters, banners, etc in any form whatsoever.

x. The Appellant shall fully cooperate with the trial and shall appear on every date of hearing unless exempted for reasons to be recorded by the Trial Court to its satisfaction and it shall not exhibit any conduct that has the effect of delaying the proceedings.

xi. The Appellant shall maintain peace and good behaviour throughout and in the event of any offence committed during the pendency of the trial, the prosecution would be at liberty to seek for revocation of the bail granted by filing such application before the Trial Court and in the event of such application being filed the Trial Court shall consider it on its own merits.

xii. In case of breach of any of the afore-stated conditions imposed or in the event of Appellant having misused the liberty granted, it shall be open to the Trial Court to cancel the bail after affording opportunity



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of hearing to the Appellant.

15. Copy of this order be communicated to the concerned Jail Superintendent for necessary information and compliance.
16. The order to be uploaded on the website of this Court *forthwith*.
17. The appeal is disposed of in the above terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

MADHU JAIN
JUDGE

MAY 21, 2026/*ys/ck*