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

Date of Decision: 30th September, 2026

Uploaded on: 1st October, 2026

CNR No. DLHC010306602026

+ **CRL.A. 647/2026**

SHARJEEL IMAM

.....Appellant

Through: Mr. Talib Mustafa, Mr. Ahmad Ibrahim, Mr. Sameer, Mr. Shariq Ahmad, Ms. Ayesha Zaidi, Ms. Hera Fatima, Advs.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. SV Raju ASG with Mr. Akhand Pratap Singh Mr. Anirudh Mishra Mr. Dhruv Pande Mr Praveen Kumar Tripathi DCP Mr. Vivek Kumar Tyagi ACP Insp Anil Insp Lokesh Insp Sandeep Samrat Goswami Aaryan Bansal Shivam Singh Mr. Ayodhya Prasad.

AND

CNR No. DLHC010344582026

+ **CRL.A. 720/2026**

UMAR KHALID

.....Appellant

Through: Mr. Trideep Pais, Senior Advocate; Mr. Sahil Ghai, Adv; Ms. Sanya Kumar, Adv; Mr. Chiranjeev Singh Marwaha, Adv; Ms. Loveleen Kukreja, Adv; Ms. Sakshi Jain, Adv; Ms. Saloni Ambastha, Adv; Ms. S. Abinaya, Adv.

versus

STATE (GOVT OF NCT OF DELHI)

.....Respondent

Through: Mr. SV Raju ASG with Mr. Akhand Pratap Singh Mr. Anirudh Mishra Mr. Dhruv Pande Mr Praveen Kumar Tripathi DCP Mr. Vivek Kumar Tyagi ACP Insp Anil Insp Lokesh Insp Sandeep Samrat



Goswami Aaryan Bansal Shivam Singh
Mr. Ayodhya Prasad.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE DINESH BHATT

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. These are two appeals filed by the Appellants- Sharjeel Imam and Umar Khalid under Section 21(4) of the National Investigation Agency Act, 2008 challenging the impugned order dated 4th July, 2026 passed by the Id. Additional Sessions Judge-03, Shahdara, Karkardooma Courts, Delhi in ***I.A. No. 299/2026*** and ***I.A. No. 300/2026*** in ***Sessions Case No. 163/2020***. The appeals arise out of ***FIR No. 59/2020*** registered at PS. Crime Branch registered in respect of incidents that are referred to as the North-East Delhi riots.
3. *Vide* the impugned order, the applications filed by the Appellants seeking regular bail have been rejected.
4. Both the Appellants are accused in the North-East Delhi riots which took place in the heart of East Delhi on 23rd, 24th and 25th February, 2020, where a total of 53 persons succumbed to their injuries and lost their lives. Several persons were injured and severe loss was caused to property as well.
5. ***FIR No. 59/2020*** was registered at PS. Crime Branch, Delhi initially under Sections 147, 148, 149 and 120B of the Indian Penal Code, 1860 (hereinafter, '*IPC*'). However, during the course of investigation, offences under Section 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 Unlawful Activities (Prevention) Act, 1967 (hereinafter, '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 were added to the subject FIR.

6. The primary allegations in the said FIR are relating to a criminal conspiracy which is alleged to have been hatched by various persons for commission of large-scale riots in the light of the enactment the Citizenship Amendment Act (hereinafter, 'CAA') and the National Register of Citizens (hereinafter, 'NRC').

7. For the present purposes, the Court is only dealing with the regular bail applications filed by the Appellants *i.e.*, Umar Khalid and Sharjeel Imam. The said two Appellants had earlier sought bail which was considered by the Co-ordinate Bench of this Court in the judgment dated 2nd September, 2025 in **CRL.A. 184/2022** titled '**Sharjeel Imam v. The State of NCT of Delhi**' and **CRL.A. 631/2024** titled '**Umar Khalid v. State (Govt of NCT of Delhi)**'.

8. The judgment dated 2nd September, 2025, thereafter, culminated in the judgment of the Supreme Court in **Gulfisha Fatima V. State (Govt. of NCT of Delhi), 2026 INSC 2**. In the said decision of the Supreme Court, there were 7 Appellants, namely –

- Sharjeel Imam [**SLP (Crl.) No. 14030 of 2025**],
- Umar Khalid [**SLP (Crl.) No. 14165 of 2025**],
- Shifa Ur Rehman [**SLP (Crl.) No. 14859 of 2025**],
- Mohd. Saleem Khan [**SLP (Crl.) No. 15335 of 2025**],
- Meeran Haider [**SLP (Crl.) No. 14132 of 2025**],
- Shadab Ahmed [**SLP (Crl.) No. 17055 of 2025**], and



- Gulfisha Fatima [SLP (Crl.) No. 13988 of 2025].

The Supreme Court *vide* a detailed judgment dated 5th January, 2026 granted bail to five of the co-accused persons but rejected bail to the present two Appellants.

9. The findings of the Supreme Court insofar as the Appellants are concerned are captured in paragraphs 98, 99, 100, 104 to 107 in **Gulfisha Fatima (Supra)** and the same are extracted below:

“98. In the case of the alleged masterminds i.e., Sharjeel Imam and Umar Khalid, the prosecution material comprises direct, corroborative, and contemporaneous evidence, including recoveries, digital communication trails, and statements indicative of managerial responsibility. In contrast, the involvement of others is sought to be established mainly through associative or peripheral conduct. The Court cannot ignore that where evidentiary strength varies materially between accused persons, the need for continued detention likewise varies. Detention that remains necessary to secure ongoing prosecutorial objectives for the principal offenders may not retain the same necessity for those of limited attribution.

99. The alleged masterminds are stated to have exercised command authority and to possess the ability to mobilise or influence individuals within and outside their immediate circle. Such allegations, when supported by preliminary material, compel heightened caution regarding the possibility of interference with witnesses or reactivation of dormant networks. As against this, co-accused with no independent capacity to mobilise resources or exert organisational leverage do not present the same systemic risk. The logic of detention cannot be applied homogenously where the risk profiles of the accused are markedly dissimilar.

100. The gravity of the alleged act is unquestionably serious however, public interest and national security



concerns may be engaged to a materially different degree depending on the role of each accused. **The continued detention of those alleged to be the architects of the conspiracy may be required to safeguard broader security interests and deter future acts, whereas the rationale for continued incarceration of minor participants is comparatively attenuated once the investigative purpose is exhausted.** The Court is therefore justified in calibrating its approach, ensuring that the pursuit of security does not eclipse the principle of proportionality.

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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.”

10. A perusal of the above extracts from the judgment in ***Gulfisha Fatima (Supra)*** would show that insofar as the present two Appellants are concerned, the Supreme Court holds that they occupy a core conspirators position which is distinct from the remaining accused persons in the present FIR.

11. The Appellants are held to be the ideological drivers of the alleged conspiracy in the nature of the speeches given, meetings held, communications, deliberations, master minding the protests, *chakka jam*, etc. The co-accused persons, who were granted bail by the Supreme Court in ***Gulfisha Fatima (Supra)***, were held to be the local level facilitators. On the



basis of this distinction carved out by the Supreme Court in the said judgment, in the case of the two Appellants, finally the Supreme Court observed as under:

*“430. This Court is satisfied that the prosecution material, taken at face value as required at this stage, discloses a prima facie attribution of a central and formative role by the appellants in appeals arising out of SLP (Crl.) No. 14165 of 2025 and SLP (Crl.) No. 14030 of 2025 i.e., Umar Khalid and Sharjeel Imam in the alleged conspiracy. **The material suggests involvement at the level of planning, mobilisation, and strategic direction, extending beyond episodic or localised acts.** The statutory threshold under Section 43D (5) of the Unlawful Activities (Prevention) Act, 1967, therefore stands attracted qua these appellants.*

431. While the period of incarceration undergone by these appellants is substantial and has been duly considered, the Court is not persuaded that, on the present record, continued detention has crossed the threshold of constitutional impermissibility so as to override the statutory embargo. The complexity of the prosecution, the nature of evidence relied upon, and the stage of the proceedings do not justify their enlargement on bail at this juncture as noticed in detail in the discussion made hereinabove. Hence, the appeals arising out of SLP (Crl.) No. 14165 of 2025 and SLP (Crl.) No. 14030 of 2025 stands rejected.

432. We reiterate that courts are under a constitutional obligation to ensure that criminal proceedings, particularly those involving prolonged pre-trial incarceration, should progress with utmost expedition and the accused are not left to languish in jail. At the same time, the Court is mindful that pre-trial detention, even when justified by statute, cannot be permitted to continue without regard to the progress of the trial. The restraint on liberty contemplated by law must proceed alongside a meaningful advancement of



*the prosecution. In the present case, having regard to the reliance placed upon protected witnesses, this Court considers it appropriate to provide a defined point for consideration of their prayer for grant of bail. **We are of the opinion that on the completion of the examination of the protected witnesses relied upon by the prosecution, or upon the expiry of a period of one year from the date of this order, whichever is earlier, these two appellants would be at liberty to renew their prayer for grant of bail before the jurisdictional Court.** In the event of such prayer being made it shall be considered on its own merits, having regard to the stage then reached in the proceedings before the Trial Court, and without being influenced by the impugned orders or the present order. This course gives effect to the statutory discipline embodied in Section 43D(5) of UAPA while ensuring that the constitutional guarantee under Article 21 operates as a continuing check against continued incarceration without there being any substantial progress of the trial.”*

12. As can be seen from the above extracted paragraphs, while rejecting the bail of the present two Appellants, they were given the liberty to renew their prayer for grant of bail before the concerned Jurisdictional Court upon the occurrence of either of the following circumstances:

- a) Completion of examination of the protected witnesses relied upon by the prosecution; or
- b) Expiry of one year from the date of this order *i.e.*, till 5th January, 2027,

whichever is earlier.

13. Despite this specific observation by the Supreme Court, the present two Appellants had moved applications for grant of bail in June 2026 before the trial court where were dismissed. The present appeals are premised on the



following three changes in the circumstances:

- i) That the judgment in ***Gulfisha Fatima (Supra)*** has been reconsidered by the Supreme Court in ***Syed Iftikhar Andrabi v. National Investigation Agency, 2026 INSC 503*** and doubt has been expressed in respect of the ratio in ***Gulfisha Fatima (Supra)***;
- ii) In the case of other two co-accused persons, namely Tasleem Ahmed and Abdul Khalid Saifi @ Khalid Saifi, in ***SLP (CRL) No. 2867/2026*** titled '***Tasleem Ahmed v. State of Govt. of NCT of Delhi***, despite the decision in ***Gulfisha Fatima (Supra)***, the said two co-accused persons have been granted interim bail *vide* order dated 22nd May, 2026 on the mere ground of delay in trial;
- iii) Subsequent to the judgment of the Supreme Court in ***Gulfisha Fatima (Supra)***, further six months have lapsed when the application was filed *i.e.*, 5th June, 2026.

14. Mr. Trideep Pais, Id. Senior Counsel appearing for the Appellant – Umar Khalid has submitted that the Appellant is entitled to bail on the above three grounds inasmuch as the trial is not likely to conclude anytime soon. In fact, Id. Senior Counsel submits that the Supreme Court has granted bail in ***Syed Iftikhar Andrabi (Supra)*** and ***Tasleem Ahmed (Supra)***, merely on the ground of delay of trial itself and hence, on the same grounds, the Appellants are entitled to bail.

15. It is submitted on behalf of the Appellants that there are a total 18 accused persons in this FIR and the Supreme Court has granted bail to a majority of the said accused persons.

16. It is also pointed out by Mr. Mustafa, Id. Counsel for the Appellant-Sharjeel Imam that in ***Gulfisha Fatima (Supra)***, paragraph 432 confers



powers on this Court to grant bail due to delayed trial. As per Id. Counsel, the said observations make it clear that continued incarceration without any substantial progress in trial would still be available as a ground for the Appellants to seek bail, despite the remaining portion of paragraph 432. It is his submission that the trial having not progressed at all, the Appellants ought to be granted bail.

17. Mr. S.V. Raju, Id. ASG appearing for the State has highlighted that the basic ground on which bail is being sought by the Appellants is on the ground of parity with Tasleem Ahmed and Abdul Khalid Saifi @ Khalid Saifi. Id. ASG highlights paragraphs 98 and 99 of the judgment in ***Gulfisha Fatima (Supra)*** to argue that the role of the Appellants cannot be equated with that of the co-accused persons who have been granted bail. It is his further submission that in terms of paragraph 432 in ***Gulfisha Fatima (Supra)***, insofar as the Appellants are concerned, they are at liberty to seek bail only in terms of the conditions imposed therein and not otherwise.

18. Further, the submission on behalf of the State by Id. ASG is that the role of Appellants *i.e.*, Sharjeel Imam and Umar Khalid being of core conspirators, the test under Section 43D(5) of the UAPA is also not satisfied.

19. At this stage, the Court has put a query to the Id. Counsels for the parties in respect of progress in the trial after the judgment of the Supreme Court in ***Gulfisha Fatima (Supra)***. The Court is informed that the arguments on charge by the State as also all the accused persons have concluded on 13th July, 2026. However, only in respect of one co-accused *i.e.*, Devangana Kalita, ***W.P.(Crl.) 925/2025*** titled '***Devangana Kalita v. State of Delhi NCT***' was preferred by the said co-accused seeking inspection of unrelayed documents and supply of documents under Section 207 of the Code of



Criminal Procedure, 1973.

20. In the said writ petition, the Id. Single Judge of this Court on 5th June, 2026 has granted permission to inspect the unrelayed documents. This order dated 5th June, 2026 has been challenged by the State in ***Petition for Special Leave to Appeal (Crl.) No. 12447/2026*** titled '***State NCT of Delhi v. Devangana Kalita***'. Recently, i.e., on 1st September, 2026, arguments were concluded. The judgment has been reserved by the Supreme Court.

21. It is the submission on behalf of the parties that the Trial Court is awaiting the outcome of the proceedings in the case of Devangana Kalita.

22. The Court has heard the Id. Counsel for the parties.

23. Firstly, there is no argument being made in this case that the Prosecution has delayed the trial in any manner. The delay, if any, is due to cases filed by a co-accused and various circumstances beyond the control of parties herein. In fact, the Supreme Court has, recently, in ***Suo Moto W.P. (Criminal) No. 1/2026*** titled '***In Re: Creation/Establishment of Special Courts***' directed creation of additional Courts for trying such offences and pursuant thereto, the Delhi High Court has notified additional Special Courts vide ***Office Order No. 32/D-3/Gaz.IA/DHC/2026*** dated 1st August, 2026.

24. A perusal of paragraph 432 in the decision in ***Gulfisha Fatima (Supra)*** would show that insofar as the Appellants were concerned, after discussing their role in detail, the Supreme Court has given them liberty to renew the prayer for grant of bail upon the happening of the two circumstances i.e., examination of protected witnesses or expiry of one year whichever is earlier. These two conditions when looked at in the overall perspective in paragraph 432 would show that the discussion regarding Article 21 of the Constitution



of India and Section 43D(5) of the UAPA being general in nature, the specific liberty afforded to the said Appellants is clear and conditional and this Court would not be in a position to modify the said two conditions.

25. The Court has in fact put a query to the Id. Counsels for the Appellants as to whether they would be willing to wait till the first week of January, 2027 to press the present appeals. The response of Id. Counsels for the Appellants clearly is that they would like orders to be passed by this Court and would not wish to wait till January, 2027. Under these circumstances, the Court proceeds to decide these two appeals.

26. The three circumstances on which the bail is being sought now is on the basis of the decisions in *Syed Iftikhar Andrabi (Supra)* and *Tasleem Ahmed (Supra)*.

27. Firstly, insofar as *Syed Iftikhar Andrabi (Supra)* is concerned, the same does not relate to the North-East Delhi riots. There is a specific judgment in respect of these Appellants which has been passed by the Supreme Court *i.e.*, *Gulfisha Fatima (Supra)* and specific conditions have been imposed in respect of the said two Appellants. The legal propositions in *Syed Iftikhar Andrabi (Supra)* and *Tasleem Ahmed (Supra)* would be liable to be considered and would be binding on this Court in cases under the UAPA. However, *qua* these two very Appellants, the Court is bound by judicial discipline not to modify the conditions imposed by the Supreme Court in paragraph 432 in *Gulfisha Fatima (Supra)*.

28. The role of Tasleem Ahmed and Abdul Khalid Saifi @ Khalid Saifi are different from that of the Umar Khalid and Sharjeel Imam and therefore, parity can also not be sought by the Appellants. The Supreme Court has, in *Gulfisha Fatima (supra)*, drawn this clear distinction *qua* the Appellants



being masterminds and core conspirators unlike the others. In the opinion of this Court, the case of parity as claimed by the Appellants is therefore not tenable.

29. Insofar as the North-East Delhi riots are concerned, this Court in another case arising out of the same FIR in ***Athar Khan v. State of NCT of Delhi, 2026: DHC: 5408-DB*** had examined the role of Athar Khan and had rejected the bail in the following terms:

“62. In the opinion of this Court, the Appellant, having not challenged the earlier bail rejection orders, and his role being prima facie established in causing deaths through violent acts as also in the destruction of private and public property does not satisfy the test under Section 43D(5) of the UAPA for being released on bail. In fact, if the Appellant is released on bail, he is likely to pose a flight risk, having regard to the statements made by the protected witnesses. The Appellant is also likely to adversely influence the witnesses whose evidence is yet to be recorded. Thus, even if the normal conditions of bail are applied, in this case, the Appellant, owing to his role and the protection that needs to be given to witnesses, is not entitled to bail.

63. Accordingly, this Court is not inclined to grant bail to the Appellant. The impugned order is, therefore, upheld, and the present appeal stands dismissed. Pending applications, if any, are also disposed of.

64. Needless to add, the observations made herein are solely for the purpose of deciding the bail application of the Appellant and shall not be construed as an expression on the merits of the case. The same shall not influence the proceedings before the Trial Court in any manner.”

In ***Athar Khan (Supra)***, after analysing the role of the accused this Court had come to the conclusion that there are protected witnesses whose evidence is



yet to be recorded and hence granting bail would be counter-productive.

30. The challenge to the said judgment in *Athar Khan (Supra)* is also pending before the Supreme Court in *SLP (Crl.) No. 14920/2026* titled '*Athar Khan v. State of NTC of Delhi*' wherein *vide* order dated 19th August, 2026, notice has been issued by the Supreme Court.

31. In view of the above discussion and the overall facts, specifically the conditions imposed in paragraph 432 *qua* the same very two Appellants in *Gulfisha Fatima (Supra)*, this Court cannot find fault with the order dated 4th July, 2026 passed by the Trial Court in the present case.

32. Accordingly, the prayer for regular bail is rejected and the present appeals are dismissed. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

DINESH BHATT
JUDGE

SEPTEMBER 30, 2026
Rahul/Ck