

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

APPEAL NO. 409 OF 2016

State represented by
National Investigation Agency, Mumbai ... Appellant

V/s.

Abdulla Sikandar @ Abdullah Shaikdar
@ Motu Sopan Mandal & anr. ... Respondents

Mr. Anand P. Sukhadeve for the appellant.
Mrs. S.D. Shinde, APP for the State.

**CORAM : NARESH H. PATIL AND
PRAKASH D. NAIK, JJ.**

20th June, 2016.

P.C.

The Appellant-National Investigation Agency, Mumbai (hereinafter referred to as NIA, Mumbai) prays for transfer of CC No. 371/2015 pending before Chief Judicial Magistrate, Thane alongwith the Criminal Bail Application No. 84/2016 pending in the Court of District Judge and Additional Session Judge, Court no. 5, Thane to the Special Court

constituted under NIA Act.

2. Learned Counsel appearing for the petitioner submits that initially the case was registered under Sections 489-B, 489-C, 420, 462, 468, 471 and 34 of IPC vide Crime No. 217/2015 at Thane City Police Station. After investigation, Anti-Narcotic Cell, Crime Branch, Thane filed chargesheet on 28th December, 2015 against three accused persons in the Court of Chief Judicial Magistrate vide R.C. No.371/15. The appellant submits that Central Government having regard to the gravity of the said offence, decided that the case shall be investigated by the NIA. In exercise of powers conferred by Section 6(5) read with Section 8 of NIA Act, 2008 the Central Government suo moto directed the NIA to take up investigation of the aforementioned case vide order dated 8th January, 2016. Accordingly, the case was registered on 18th January, 2016 at NIA Police Station, Mumbai. Learned Counsel appearing for appellant submits that investigation by NIA is in progress. It is submitted that as NIA had taken over investigation, the criminal case pending before the Sessions Court, Thane is required to be transferred to Special Court constituted under NIA Act.

3. We have issued notice to the respondents. Respondents 1 and 3

are in Thane Central jail. The notice was served on respondents 1 and 3 through the jailer. Learned Counsel submits that respondent no.2 has been declared as absconder, therefore, he could not be traced out. An affidavit is placed on record signed by Head Constable, NIA. The same is taken on record and marked as 'X' for identification.

4. The appellant had filed an application before the Special Judge for NIA, Greater Bombay calling for the record of the subject crime with all muddemal from District and Additional Sessions Judge, Court No.5, Thane. This application was preferred by the appellant on 3rd March, 2016. Vide an order dated 5th March, 2016 Special Judge rejected the M.A. No. 2/15. The appellant thereafter preferred the present appeal.

5. Considering the record placed before us and the submissions advanced, we are of the view that request made by the appellant is required to be granted.

ORDER

(i) We direct that chargesheet in CC No. 371/15 pending in the Court of Chief Judicial Magistrate, Thane and Criminal Bail Application no. 84/2016 pending before the District Judge and Additional Session Judge, Court no. 5, Thane shall be transferred to Special Court constituted under NIA Act, Court

No. 52, City Civil Court, Mumbai.

(ii) The appeal is accordingly allowed.

(PRAKASH D. NAIK, J.)

(NARESH H. PATIL, J.)

L.S. Panjwani, P.S.