

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

CRIMINAL APPLICATION NO.407 OF 2017

Ankit Rakesh Kapoor & Anr.

.. Applicants

Vs.

Union of India & Ors.

.. Respondents

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Mr.Anil Lalla a/w.Ms.Beerta H. Bajwa & Manali Mengole i/b.
M/s.Lalla & Lalla, Advocate for the Applicants.
Ms.Subhada Khot, Advocate for Respondent No.1.
Mr.M.G. Patil, APP for the Respondent - State.

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CORAM : PRAKASH D. NAIK, J.

DATED : JANUARY 15, 2018.

P.C. :

This is an application under Section 407 of the Code of Criminal Procedure seeking transfer of NDPS Special Case No.31 of 2015 from the Court of NDPS Special Judge, Thane to NDPS Special Judge, City Civil & Sessions Court, Mumbai.

2 The applicants are facing prosecution for the offence charged under NDPS Act. It is submitted by the learned counsel for the applicant that the applicants and other accused are in custody. This Court vide order dated 24th January, 2017, had expedited the trial and directed the trial Court to conclude the

recording of evidence as early as possible and within ten months from the date of framing of charge. Learned advocate submitted that inspite of the trial has been expedited, only two witnesses are being examined before the trial Court. It is submitted that only one Court is constituted within the jurisdiction of Thane and the said Court is overburdened with other matters as a result of which the Court is not in a position to take up the matter for hearing. It is further submitted that in Mumbai there are about four Special Courts dealing with the cases under NDPS Act and it is for the convenience of all the parties case can be transferred to Mumbai. Learned advocate for respondent no.1 submitted that the trial is pending in the Court at Thane and so far two witnesses are examined. It is submitted that Special Public Prosecutor is appearing in the matter and most of the witnesses are from Thane. It is submitted that there is no reason for transferring the case from Thane to the Court at Mumbai. On instructions, the learned counsel for respondent further submitted that prosecution intend to examine 20 to 25 witnesses and the said witnesses will be available for recording of evidence before the trial Court as and when directed by the Court.

3 It is noted that the prosecution is initiated within the

jurisdiction of Thane and the case is pending in the Special Court which has been assigned to hear the said case. Although, it appears that so far two witnesses are examined by the prosecution, the trial Court can be directed to expeditiously record the evidence of other witnesses and conclude the trial within stipulated time. It is pertinent to note that most of the witnesses are from Thane and the public prosecutor has been appointed to conduct the prosecution.

4 In the circumstances, I pass the following order:

:: ORDER ::

- (i) The prayer for transfer of the proceedings from Thane to Court at Mumbai stands rejected;

- (ii) NDPS Special Court, Thane, is directed to expeditiously conduct the proceedings in NDPS Special Case No.31 of 2015, as expeditiously as possible and should conclude the same within a period of ten months from today, and, as far as possible on day to day basis;

- (iii) The prosecution and the defence shall cooperate with expeditiously concluding the trial;
- (iv) Criminal Application stands disposed of.

(PRAKASH D. NAIK, J.)