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

APPEAL NO. 1165 OF 2024

Mushifque Ahmad S/o Abdul Rashid	...	Appellant
V/s.		
National Investigation Agency and Anr.	...	Respondents.

Mr. Rizwan Merchant a/w Mr. Sultan Khan, Mr. Bilal Mulla, Mr. Zaheer Mulla i/b Mohammad S. Mulla, for the Appellant.
Mr. Ashish I. Satpute, A.P.P. for the Respondent- State.
Mr. Anil Singh, Additional Solicitor General of India a/w Mr. Chintan Shah, Mr. Aditya Thakkar, Mr. Sandeep Sadawarte, Mr. Sagar Bhandare, Mr. Rajdatt Nagre, for Respondent- NIA.
Mr. Manish Prabhune, DY SP, NIA, Mumbai present.
Mr. Akhilesh Singh, PI, NIA, Mumbai present.

**CORAM : A. S. GADKARI AND
RANJITSINHA RAJA BHONSALE, JJ.
DATE : 4th DECEMBER 2025.**

PC.:-

- 1) By this Appeal under Section 21 of the National Investigation Agency Act, 2008, the Appellant (Original Accused No.9) has impugned Order dated 10th November 2023 passed below Bail Application Exhibit No. 21, in Special Case No. 1493 of 2022.
- 2) Mr. Merchant, learned counsel for the Appellant raised a point of non-communication of ground of arrest as contemplated under Section 50 of Code of Criminal Procedure, 1973. The said ground is pressed into service while hearing the present Appeal and seeking bail on that ground.

3) Mr. Singh, Additional Solicitor General of India submitted that, the said ground is being raised for the first time before this Court. The said point was not agitated before the trial Court and therefore the trial Court did not have an opportunity to consider it at the first instance.

3.1) We find substance in the submissions of learned Additional Solicitor General of India.

4) Mr. Merchant submitted that, the statements of key witnesses Nos. 2, 3, 4, 5, 6, 8 & 11 though provided to the Appellant along with the charge-sheet, most of them are practically blank and nothing can be discerned from it. He submitted that to prepare the defence of the Appellant and/or to file appropriate Application before the trial Court, at least the gist of the statements be provided to the Appellant. Mr. Singh learned Counsel appearing for the Respondent No.1 fairly conceded to the said fact and submitted that the truncated copy of the statements of the key witnesses with relevant material therein will be provided to the Appellant within a period of 15 days from today.

5) In view of the preliminary objection raised by Mr. Singh, Mr. Merchant, learned counsel for the Respondent No.1, seeks leave to withdraw Appeal with liberty to file a fresh Application for bail before the trial Court, by raising all the contentions in it.

5.1) Leave and liberty granted.

6) Disposed off as withdrawn with aforesaid liberty.

7) It be noted here that we have not considered the merits involved in the present Appeal impugning Order dated 10th November 2023 and the Appeal is disposed off with the aforesaid liberty on the basis of the preliminary objection raised by the learned Additional Solicitor General of India, as noted above.

(RANJITSINHA RAJA BHONSALE, J.)

(A.S. GADKARI, J.)