

Ajit Pathrikar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3015 OF 2024**

Stephen Onubi Moses ...Applicant
Versus
Union Of India and Anr. ...Respondents

Mr. Dilip Mishra *a/w Ayaz Khan a/w Zehra Charania and
Mallika Sharma, for the Applicant.*
Ms. Neha Patil, *SPP for Respondent No.1.*
Ms. Anamika Malhotra, *APP for the State-Respondent No.2.*

CORAM Dr. Neela Gokhale, J.
DATED: 21st November 2025

PC:-

1. The Applicant seeks his release on bail in connection with NDPS Special Case No. 473 of 2023 in C.R. No. 36 of 2022 registered with Narcotics Control Bureau (NCB), Mumbai dated 26th September 2022 for the offences punishable under Sections 8(c), 21(c), 23(c), 28 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “NDPS Act”).

2. The facts of the case, in brief, are that on specific information, the team of the NCB officers effected seizure of 3.2 kgs. Cocaine at CSMIA, Mumbai under panchanama dated 26th September 2022. Based on the said seizure, a notice under Section 67 was issued to accused No. 1 namely Nava Rafael Marina and after recording her statement, she was arrested on 27th September 2022 at Mumbai. It is the case of the prosecution that during her interrogation, she revealed that she is a Bolivian national. She stated that she was offered money for carrying the said contraband to Mumbai and thereafter to Goa by a person named Amigo De Soni @ Isach. She also stated that the said person and one lady called Ela handed over to her a black colour trolley with 12 different sized rectangular shaped packets wrapped with black cloth and concealed in a cavity made in the inner base surface of trolley. She also stated that she handed a ticket from the Gru Airport at Brazil to Goa. She further stated two persons had booked a hotel room for her at Goa in Lotus Beach Resort,

where the delivery of the above consignment was to take place.

3. It appears that the said lady landed at Mumbai airport at 8.30 a.m. on 26th September 2022 and was apprehended by the NCB officers. The 3.2 kgs of Cocaine was recovered from her possession. Her memo of arrest dated 27th September 2022 is shown to be at Mumbai. According to the prosecution, she revealed that the present Applicant was to accept the consignment of the said contraband at Lotus Beach Resort, Goa. It is also the case of the prosecution that certain air-tickets were also recovered from her possession indicating that she was to travel to Goa immediately after landing in Mumbai. On the statement of the said lady and further investigation, the NCB officers arrested the present Applicant from Goa on 30th September 2022.

4. The Applicant made an application seeking bail before the Special Judge (NDPS) at Greater Mumbai. However, by order dated 10th May 2023, the said application was rejected.

Hence, the Applicant is before this Court for the relief as prayed.

5. Mr. Dilip Mishra, learned Counsel for the Applicant, submits, at the very outset, that the arrest memo of said Nava Rafael Marina is dated 27th September 2022 at Mumbai, which clearly indicates that she was in Mumbai on 27th September 2022. Thereafter, he has drawn my attention to page No. 220 of the Bail Application, which is a document of the Lotus Beach Resort, Goa, indicating that said Nava Rafael Marina checked in the hotel on 26th September 2022 at 18.53 hours and checked out on 29th September 2022 at 6.49 hours. Mr. Mishra submits that said document is patently suspicious, since as per the documents of the prosecution itself Nava Rafael Marina was in custody of the NCB, Mumbai at that time. He thus submits that this is a case of false implication and the Applicant be enlarged on bail.

6. Ms. Neha Patil, learned SPP, has drawn my attention to the statements of taxi driver and Nava Rafael Marina, which

reveal the involvement of the present Applicant in the said offence. The taxi driver has stated that he had accepted the fare of the present Applicant and dropped him outside said Lotus Beach Resort. Nava Rafael Marina also stated that it was the Applicant to whom she was to deliver the assignment of the contraband. Based on these two statements, Ms. Patil submits that the Applicant is very much connected with the said offence. She also submits that it is the Applicant who had booked the rooms in the Lotus Beach Resort. She further submits that charges are framed and the prosecution intends to examine only 10 witnesses. In these circumstances, she thus prays that the Bail Application be rejected.

7. I have heard learned Counsel appearing for the respective parties and perused the record with their assistance.

8. Without going into the further objections of Mr. Mishra, a bare reading of the memo of arrest clearly demonstrates the presence of accused No. 1-Nava Rafael Marina in Mumbai. At

the same time, it is not possible for her to check into Lotus Beach Resort on 26th September 2022 at 18.53 hours. Mere statement of the taxi driver, that he ferried the Applicant and dropped him outside the Lotus Beach Resort, is not sufficient to implead the Applicant in the present offence. On an inquiry made by the Court to Ms. Patil, she conceded that no other statement including that of the hotel manager or other persons is recorded by the Investigating Officers. No recovery is made from the Applicant. There are no antecedents against him.

9. Considering that there is no sufficient material on record to render a finding that there is reasonable belief that the Applicant has committed the said offence, I am inclined to enlarge the Applicant on bail and it is ordered as under:

ORDER

i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.1,00,000/- with one or two local sureties in the like amount;

- ii) The Applicant shall attend the office of NCB, Mumbai, on first Monday of every month between 10:00 a.m. and 12:00 p.m. He shall also attend the Trial Court concerned on each and every date as directed, till the conclusion of the trial, save and except if the Applicant is exempted from appearance by orders of the Trial Court;
- iii) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the concerned Police Station, if any;
- iv) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- v) The Applicant shall not leave India, without permission of the trial Court;
- vi) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released

and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

vii) The Applicant to co-operate with the conduct of the trial;

viii) Any infraction of the aforesaid conditions shall entail cancellation of bail;

10. Application is allowed in the above terms and is accordingly disposed of.

11. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(Dr. Neela Gokhale, J)