

Ajay

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

CRIMINAL BAIL APPLICATION NO. 3407 OF 2024

Arabshah Shahjahan Sayyed

.. Applicant

Versus

Union of India and Anr.

.. Respondents

.....

- Ms. Falguni Brahmhbhatt a/w. Mr. Sunil Chavan and Ms. Arpita Dubey, Advocates for Applicant.
- Ms. Aruna Pai, Special PP for Respondent No.1 – Union of India.
- Mr. Hitendra J. Dedhia, APP for Respondent No.2 – State.

.....

CORAM : MILIND N. JADHAV, J.

DATE : APRIL 03, 2025.

P.C.:

1. I have heard Ms. Brahmhbhatt, learned Advocate for Applicant; Ms. Pai, learned Special PP for Respondent No.1 – Union of India and Mr. Dedhia, learned APP for Respondent No.2 – State.

2. I have considered the submissions advanced by Ms. Pai, learned Special PP on the basis of the Affidavit-in-Reply appended at page No.973 of the Application filed by Mr. Satish Kumar, Authorized Officer on behalf of NCB, Mumbai Zonal Unit, Mumbai. After perusing the record and considering the submissions made, the Court has pointed out to the learned Special PP appearing on behalf of the prosecution to precisely point out the role attributed to the Applicant before the Court. It is undoubtedly an admitted position that Applicant

was hired as a driver for driving the vehicle and was apprehended alongwith Accused Nos.2 to 4 together. The investigation done by the prosecution *prima facie* shows the indictment and involvement leading to Accused No.7 from whom a substantial quantity of the alleged contraband was seized.

3. Though Ms. Pai persuades the Court to consider the fact that Applicant had knowledge about the contents of the boxes in the vehicle which was intercepted he being a driver, still what is required by the prosecution is to show the *prima facie* intent of the Applicant in committing the offence. When the investigation has been carried out *prima facie* or rather in my opinion substantially it points out to the direct involvement and role of Accused No.2 and Accused No.7 in the present crime. From that perspective what is prayed for by the Applicant is that when Accused No.7 who is the main Accused has been released on bail, considering his much lesser role even as per the prosecution case, he would be entitled to bail on parity.

4. That apart, long incarceration for the past 2 years and 7 months is itself a ground which the Court would like to consider in the case of present Applicant.

5. Ms. Pai, learned Special PP would persuade the Court to allow her to take appropriate instructions on the precise role of the Applicant – Accused and apprise the Court on the next adjourned date.

- 6.** List the Bail Application on **07th April 2025**. To be treated as **‘Part-Heard’**. To be listed under the caption **‘First on Board’**.

[MILIND N. JADHAV, J.]

Ajay

Digitally signed
by AJAY
TRAMBAK
UGALMUGALE
Date: 2025.04.04
11:11:29 +05:30