

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 Brahmbhatt a/w. Ms. Sunil Chavan, Mr. Girish Palse and Vishant Rathod, Advocates for Applicant.
 - None for Respondent No.1 – Union of India.
 - Mr. Hitendra J. Dedhia, APP for Respondent No.2 – State.

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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 27, 2025.

P.C.:

1. Heard Ms. Brahmbhatt, learned Advocate for Applicant and Mr. Dedhia, learned APP for Respondent No.2 – State.

2. Applicant is arraigned as accused No.1 in the present crime under the Narcotics Drugs and Psychotropic Substances Act, 1985 (for short “**NDPS Act**”) and is incarcerated in jail since 20.08.2022 i.e. for the past 2 years and 8 months.

3. Learned Advocate for Applicant would persuade the Court to consider the fact that Applicant is a taxi driver who drives a taxi on hire. It is borne out from the prosecution case that Applicant was hired for transferring the alleged contraband namely Codein Phosphate Syrup bottles in his taxi by Accused No.7 and it was Accused No.7 who was instrumental in the trafficking of the alleged contraband. She

would submit that there are 7 accused persons in the present case, 5 out of whom have been already enlarged on bail. She would persuade the Court to consider the case of Applicant on parity with Accused No.5. She would submit that Accused No.5 was a tempo driver who under instructions of Accused No.7 ferried a substantial quantity of the same contraband and was apprehended, but he has been released on bail by this Court.

4. From the *prima facie* facts of the present case it is seen that it is Accused No.7 who is involved in the illegal business and selling the alleged contraband namely Phensirest Cough Syrup. Be that as it may, considering the limited role of the Applicant which is *prima facie* borne out from the record of the case, the case of Applicant deserves to be considered on parity.

5. In am informed that the principal contesting party in the present Application is Union of India. Their Affidavit is already filed on 21.02.2025.

6. It is clarified that on the next adjourned date, if Respondent No.1 – Union of India’s Advocate does not remain present, this Court shall not await his / her presence and proceed with passing appropriate orders in accordance with law.

7. Copy of this order shall be served on Respondent No.1 – Union of India by the Advocate for Applicant.

8. Stand over to **03rd April, 2025.** To be placed on the
‘Supplementary Board’.

[MILIND N. JADHAV, J.]

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