

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3940 OF 2024

Akil Ahmed Ansari

.. Applicant

Versus

Union of India and Anr.

.. Respondents

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- Mr. Advait Tamhankar, Advocate for Applicant.
- Ms. Megha S. Bajoria, SPP for Respondent No.1.
- Ms. Rajeshree V. Newton, APP for Respondent No.2.

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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 12, 2025

P.C.:

1. Heard Mr. Tamhankar, learned Advocate for Applicant; Ms. Bajoria, learned SPP for Respondent No.1 and Ms. Newton, learned APP for Respondent.

2. Applicant before me is indicted and arraigned as Accused namely Accused No.2. *Prima facie*, perusal of record shows that indictment of Applicant is solely based on statement of co-accused namely Accused No.1 which has been recorded by Officers of prosecution under Section 67 of the Narcotics and Psychotropic Substances Act, 1985 (for short '**NDPS Act**').

3. Accused No.1 has stated in his statement that he has placed order for receipt of said parcel at the instance of present Applicant. According to Mr. Tamhankar for Applicant there is no other material

placed on record to corroborate or even *prima facie* show the nexus of Applicant to the statement made by Accused No.1. He would submit that Applicant is estate agent and he has no antecedents. The said parcel was received by way of consignment through UPS Courier Services having tracking number. There is an involvement of Accused No.3 in the present crime who is foreign national – Nigerian.

4. *Prima facie* record shows that Accused Nos.1 and 3 are inextricably linked with each other because Accused No.3 use to arrive at shop premises of Accused No.1 regularly. Considering the aforesaid submissions, prosecution is directed to inform the Court about the precise role of Applicant in the present crime. If the indictment of Applicant is solely based upon confessional / voluntary statement of Accused No.1 as argued by Mr. Tamhankar then the same may be apprised to the Court and if there is any other material, the same should be brought before the Court. If prosecution is unable to bring the aforesaid nexus of Applicant to the present crime as also the parcel which has been received, Applicant will have to be released on bail.

5. Ms. Bajoria, learned SPP enters appearance for Union of India who is the principal contesting party. Appropriate instructions shall be obtained by her from Investigating Agency. If any Affidavit-in-Reply is to be filed by Union of India they are permitted to do so within a period of two weeks from today. It is clarified that if no Affidavit-in-

Reply is filed, this Court will not await the same and determine the Application on basis of aforesaid *prima facie* observations on the next adjourned date.

6. Stand over to **26th March, 2025.** To be placed on 'Supplementary Board'.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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