

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.5171 OF 2024

Sunny Ocha Iyke

.. Applicant

Versus

The Union of India and Anr.

.. Respondents

.....

- Ms. Anjalil More a/w. Mr. Khushal Parmar, Advocates for Applicant.
- None for Respondent No.1.
- Ms. Savita M. Yadav, APP for Respondent No.2 – the State of Maharashtra.

.....

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 07, 2025

P.C.:

- 1.** Mentioned out of turn at the time of rising of the Court.
- 2.** Heard Ms. More, learned Advocate for Applicant and Ms. Yadav, learned APP for Respondent No.2 – the State of Maharashtra.
- 3.** This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short '**Cr.P.C.**') seeking Bail in connection with C.R. No.11 of 2020 registered with Narcotics Control Bureau, Mumbai Zonal Unit, Mumbai for offences punishable under Sections 8(c), 22(c), 23(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short '**NDPS Act**').
- 4.** Ms. More has drawn my attention to the facts of the matter. She would submit that there is large scale discrepancy in seizure as well as CA Report which has been obtained. She would submit that

mandatory procedural safeguard as envisaged under Section 52 of NDPS Act are not followed in the present case.

5. Applicant is a foreign national and is incarcerated for 4 years and 7 months. He was apprehended at Taloja Railway Station with a bag containing alleged contraband namely Amphetamine. She would submit that CA report infact is in respect of completely different contraband namely Methamphetamine.

6. That apart, Ms. More would submit that there is no Magistrate certificate neither the said contraband has been procedurally weighed before Magistrate and samples drawn before Magistrate. She would submit that entire procedure has been given a go-by by sending the samples recovered from Applicant directly to the Forensic Laboratory for chemical analysis. She would additionally submit that trial has been stayed. Be that as it may, considering the aforesaid submissions made by Ms. More substantial case for bail is made out.

7. Needless to state that I will hear the prosecution on the next adjourned date. Copy of this order shall be served on Respondent. Respondent shall present its defence in the Court in respect of the aforesaid submissions made by Ms. More.

8. Stand over to **18th March, 2025 at 02:30 p.m.**