

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 5239 OF 2024

John Peter Montero

.. Applicant

Versus

Union Of India and Anr.

.. Respondents

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- Mr. Shreerat Kamath i/b Ms. Puja Yadav, Advocate for Applicant.
- Mr. Rishikesh M. Pethe, APP for State.

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 03, 2025

P. C.:

1. Heard Mr. Kamath, learned Advocate for Applicant and Mr. Pethe, learned APP for Respondent – State.

2. Applicant is indicted and incarcerated in an offence punishable under the provisions of NDPS Act for the past 3 years. A controlled delivery action has been invoked wherein a parcel received in the Customs Office was in the name of Accused No.1 and same was received by him when it was dispatched to him. Said parcel contained commercial quantity of the alleged contraband namely Ganja.

3. Mr. Kamath, learned Advocate for Applicant would persuade the Court to consider long incarceration of the Applicant for more than 3 years pending trial being one of the principal ground for grant of bail. On merits he would persuade the Court to consider the

fact that said parcel was in fact booked by Accused No.4 who has been enlarged on bail by Court and it is only at the behest of Accused no.4 that Applicant had provided to him his name and other details and at his behest he received the parcel.

3.1. About his nexus, he would submit that Applicant and Accused No.4 both run a Music Production Studio together and in that view of the matter Applicant lent his name to Accused No.4 for receiving the parcel.

3.2. There are in all 6 accused person involved in the crime out of which 5 have been released on bail. He would submit that chargesheet has been filed and investigation is completed and prosecution would desire to examine 64 witnesses, which would be a distinct improbability for the trial to complete since it has not even commenced. He would submit that since this is a Special Act and uncertainty of trial Applicant be released on bail. He would submit that Applicant has deep roots in the Society and in that view of the matter he deserves to be released on bail on the ground of his long incarceration as also parity.

4. It is seen that Union of India is the principal contesting party in the matter. Hence, issue notice to the Respondent – UOI.

5. Union of India is directed to file their Affidavit-in-Reply to the present Application before the next adjourned date with an advance copy of the same served on the Advocate for Applicant.
6. When the matter is called out none is present on behalf of UOI. This is repeatedly observed by the Court. UOI is further directed to ensure that a responsible Advocate/Counsel appears in the matter on the next adjourned date positively.
7. Copy of this order shall be served on the Respondent – UOI by the learned Advocate for Applicant.
8. Stand over to 17th April, 2025. To be listed under the caption '**For Directions**'.