

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.198 OF 2025

Michael Onyeka Jude	.. Applicant
Versus	
Uniion Of India	.. Respondent

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- Ms. Mallika Sharma a/w Ms.Zehra Charania, Advocates for Applicant.
 - Mr. Rushikesh Munde (SPP) a/w Mr. Shatabdi Netke and Mr. Tejas Bhattacharya, for Respondent.
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CORAM : MILIND N. JADHAV, J.

DATE : MAY 02, 2025

P. C.:

1. Ms. Sharma, learned Advocate for Applicant and Mr. Munde, learned Special PP for Respondent.

2. On 29.04.2025 after hearing learned Advocates at the bar following order was passed:-

“1. Heard Ms. Charania, learned Advocate for Applicant and Mr. Munde, learned Special PP for Respondent No.1 – DRI.

2. Present Application is filed by Applicant who is a foreign national. Application seeks reduction of the bail amount granted by the Trial Court in its order dated 29.11.2024 appended at Exhibit “B” – page No.51 to the Application. Applicant was directed to be released on bail by executing a personal bond of Rs.2,00,000/- with two local sureties in the like amount.

3. Ms. Charania would submit that Applicant is not in a position to arrange the said amount considering his prolonged incarceration despite order of bail and he is unable to arrange the said amount of personal bond of Rs.2,00,000/-. She would draw my attention to the order dated 29.01.2025 passed by this Court in the case of co-accused in the same crime. She would submit that while enlarging the co-accused on bail vide the above order, this Court directed his release on bail on furnishing PR. Bond of Rs.25,000/- with

one or two sureties in the like amount. She would submit that in that view of the matter, Applicant immediately approached the learned Trial Court for seeking reduction of amount as he was still incarcerated but the Trial Court has rejected his Application by order dated 20.02.2025. Copy of the said order is appended at Exhibit "E" – page No.75 of the Application. She would persuade the Court to consider the reasons stated in the said rejection order.

4. Learned Trial Court has considered the nationality of the Applicant to be the sole reason for rejecting the bail order considering that there is every possibility of him absconding if amount of bail is reduced. This would indirectly mean laying down of an onerous condition of deposit if bail is to be granted. In any event the said reasoning is *prima facie* faulty on the face of record. In a given case if an accused person if he pays the onerous amount, he will still be at the risk of absconding. In that view of the matter, present Application is filed by the Applicant before the Court.

5. Though Mr. Munde has vehemently opposed grant of relief in the present Application considering the ethos and essence of a bail order and the reasons stated in the Application, I am inclined to consider the case of the Applicant for seeking reduction of the bail surety amount.

6. Mr. Munde would persuade the Court to allow him to take appropriate instructions and file appropriate Affidavit-in-Reply to enable the prosecution to place its case on record. At his request, time is granted to file Affidavit-in-Reply and place his objections on record.

7. It is clarified that if on the next adjourned date, Affidavit-in-Reply is not filed by prosecution, this Court shall not await any response from the prosecution and shall grant the present Application in accordance with law.

8. List the present Application on **2nd May 2025**. To be placed under the caption '**First on Board**' on the Supplementary Board."

3. Mr. Munde, learned Special PP places on record affidavit in reply, *inter alia*, noting his objection to the grant of present Application. He would persuade the Court to consider the fact that there is every possibility that Applicant would abscond if he is extended the privilege of cash bail. I have heard Mr. Munde and the perused the affidavit in reply and noted the objections stated therein. *Prima facie* I am of the opinion that if the present Application is not

allowed the bail order passed by this Court on 29.11.2024 would be rendered infructuous and Applicant would remain languishing in prison. The bail amount of Rs.2,00,000/- is *prima facie* humongous.

4. In view of the reasons stated in the aforesaid order as also hereinabove after noting the objections of Mr. Munde, the Application stands allowed in terms of prayer clause (a). It is clarified that the amount of Personal Bond of Rs.2,00,000/- stands reduced to Rs.25,000/- as stated in the bail order dated 29.11.2024. In addition thereto Applicant is also permitted to furnish provisional cash bail of the said amount and file the sureties within 8 weeks from the date of his release on bail from prison.

5. Considering that Applicant is a foreigner, the concerned prosecuting Agency shall immediately communicate this order of grant of bail to the concerned Registration Officer appointed under Rule 3 of the Registration of Foreigners Rules, 1992 within the meaning of the Foreigners Act, 1946. This condition is added in view of the decision of the Supreme Court in the case of *Frank Vitus Vs. Narcotics Control Bureau & Ors*¹.

6. Application is allowed in above terms and disposed.

¹ Criminal Appeal No.2814-2815 of 2024 decided on 06.01.2025.