

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 877 OF 2025

Wenceslaus Subash Iyer

.. Applicant

Versus

Union of India & Anr.

.. Respondents

.....

- Mr. Amol M. Thombre & Mr. Kamlesh M. Satre for Applicant
- Ms. Megha S. Bajoria, APP for Respondent No. 2 - State

.....

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 28, 2025

P. C.:

1. Heard Mr. Thombre, learned Advocate for Applicant and Ms. Bajoria, learned APP for Respondent No. 2 - State.

2. Applicant is apprehended along with the alleged contraband which is admittedly of commercial quantity. Primary defence raised by the Applicant is that on his apprehension, search and seizure, the contents of two bags in which the alleged contraband was found have been mixed which is *prima facie* evident from the memorandum panchnama. Mr. Thombre would submit that this is impermissible in view of the decisions of this Court as also the Supreme Court. He would also submit that present action invoked is pursuant to coming into force of NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022 and in that view of the matter, the statutory certificate required

under Form 4 and Form 5 are not prepared which is evident from the charge sheet.

3. An arguable case is made out by Mr. Thombre for issuance of notice. Hence issue notice to the Respondents returnable on 28.03.2025. Humdast permitted.

4. Learned APP waives service for Respondent No. 2 State.

5. Principal contesting party is Union of India. They are directed to take cognizance of the aforesaid submissions and file their affidavit in reply positively within a period of two weeks from the date of service. It is expected on the part of Union of India to comply with this order because time and again it is seen that compliance is not done on time and adjournments are sought.

6. Stand over to **28th March, 2025.**

[MILIND N. JADHAV, J.]

Amberkar

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