

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1685 OF 2025

Jesabhai Motabhai Mali

.. Applicant

Versus

The State of Maharashtra

.. Respondent

.....

- Ms. Ashwini Achari a/w Mr. Taraq Sayed, Advocates for Applicant
- Mr. Rushikesh M. Pethe, APP for Respondent - State
- PSI Kale, Unit NO. 7, DCB CID Mumbai

.....

CORAM : MILIND N. JADHAV, J.

DATE : APRIL 28, 2025

P. C.:

1. Heard Ms. Achari, learned Advocate for Applicant and Mr. Pethe, learned APP for Respondent - State.

2. Applicant - accused No. 11 stands indicted for the offences punishable under NDPS Act. He is arrested on 06.04.2024 and as on today he has been in incarceration for the period of 1 year and 22 days.

3. Ms. Achari would submit that accused Nos. 1 to 10 have been apprehended with the alleged contraband i.e. MD and accused No. 5 has in his disclosure statement, named two persons who are Angadias i.e. present Applicant and another Angadia who has not been arraigned as accused, to the extent that they have received monies for the purpose of trafficking the alleged contraband which has been

recovered from the other co-accused persons. Solely on the basis of this statement, Applicant has been arrested in the present crime. The statements of family members of Applicant have been recorded by prosecution which *prima facie* show that Applicant is in the Angadia business. Be that as it may, apart from the aforesaid sole statement recorded in enquiry under Section 67 of the NDPS Act, there is no other incriminating material to show the complicity, corroboration and nexus of Applicant in the present crime is what is argued by Ms. Achari.

4. Learned APP is directed to consider the veracity of the submissions made by Ms. Achari considering that no conscious recovery of the contraband has been recovered from possession of Applicant and prosecution case is solely based on the disclosure statement of accused No. 5, the Applicant has made out a case for grant of bail as Applicant's case is covered by the decision of the Supreme Court in the case of *Tofan Singh v. State of Tamil Nadu*¹. Learned APP shall take appropriate instructions and apprise the Court accordingly on the next adjourned date on which date present Applicant shall be heard and decided by this Court.

5. Stand over to **18th June, 2025**.

[MILIND N. JADHAV, J.]

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RAVINDRA MOHAN AMBERKAR
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Date: 2025.04.28 15:21:00 +0530

1 (2021) 4 SCC 1