

Laxmi Sontakke
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1936 OF 2025

Mohan Babulal Jain .. Applicant
Versus
Union of India & Anr. .. Respondents

WITH

CRIMINAL BAIL APPLICATION NO. 1992 OF 2025

Ketan Kore .. Applicant
Versus
Union of India .. Respondent

WITH

CRIMINAL BAIL APPLICATION NO. 1984 OF 2025

Anil Kumar H. Pal .. Applicant
Versus
Union of India .. Respondent

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- Mr. Vikram Chaudhary, Mr. Vikram Nankani, Senior Advocates, Mr. Prasannan Namboodiri, Advocate a/w. Ms. Prathibha Namboodiri, Mr. Rishabh Sinha, Ms. Pallavi Dabak, Ms. Nakshatra Mahadik & Ms. Nikita Gill, Advocates for Applicants.
- Mr. Jitendra B. Mishra, SPP a/w Sangeeta Yadav, Rupesh Dubey for Respondent-Union of India in all 3 Applications.
- Mr. Rajeshree Newton, APP for the State in Criminal Bail Application No.1936 of 2025.

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CORAM : MILIND N. JADHAV, J.

DATE : MAY 08, 2025

P.C.:

1. Heard Mr. Chaudhary and Mr. Nankani, learned Senior Advocates and Mr. Namboodiri, Advocate for Applicants, Mr. Mishra, learned SPP for Union of India and Ms. Newton, learned APP for State.

2. These are three Applications seeking Bail in connection with case file No. CUS/SIIB/INT/70/2025-SIIB(X) ACC for the offences punishable under Sections 21(c), 22(c), 23(c), 25, 26, 28, 29, 30 and 54 of NDPS Act, 1985 r/w Sections 8(c) and 79 ibid and Rule 53, 58 & 66 of the NDPS Rules 1985 r/w Section 50(3)(c) of the Customs Act 1962 read with Foreign Trade (Development and Regulation) Act 1962 and DGFT Notification No. 67(RE-2007)/2004-2009 dated 27.12.2007. Applications are listed for circulation.

3. Bail Applications on board at Serial Nos. 1, 25 and 26 are heard together. Criminal Bail Application No.1936 of 2025 (at serial No.1) is filed by one Mohan Jain who is the Director of Naprod Life Sciences Pvt. Ltd. (for short “the Company”), Criminal Bail Application No.1984 of 2025 (at serial No.25) is filed by one Anil Kumar H. Pal, who is the Assistant Manager-Exim of the Company and Criminal Bail Application No.1992 of 2025 (at serial No.26) is filed by one Ketan Kore who is an Employee of Macro Customs Consultants LLP the - CHA i.e. Custom House Clearing Agent.

4. Learned Senior Advocates Mr. Chaudhari and Mr. Nankani represent the Applicants in serial No.1 and 25 and learned Advocate Mr. Namboodiri represents the Applicant in serial No. 26. Mr. Mishra, learned Special Public Prosecutor represents and espouses the cause of Union of India in all three matters. He is on notice. Application is

served on him yesterday according to him and hence he would persuade the Court to give him some time to take instructions and apprise the Court about the role of the 3 Applicants in the present crime.

5. I have heard the learned Advocates on the facts in the matter and perused the record. *Prima facie*, I am of the opinion that intervention of this Court is required in the present case. According to Applicant in Bail Application at serial No.1, the Company desired to export 5000 Vials of Ketamine (drug) which was manufactured by them under license issued to them in the year 2015. However, the said consignment was confiscated and flagged by the Customs Department on behalf of Union of India on the ground that the said export was invalid due to the Company not having valid authorization/license/NOC for the purpose of such export from the Central Bureau of Narcotics. This is the singular charge and Applicants are arrested and incarcerated.

6. Both learned Senior Advocates would persuade the Court to consider the admitted fact that the said drug was manufactured by the Company under FDA license and the Company also possesses an Export license but in so far as the issue of NOC is concerned when the Company was made aware about the same, it immediately stopped its consignment for further export and processed the said consignment

back and in the interregnum, applied for the desired NOC. They would submit that NOC is now been issued by the Central Bureau of Narcotics CBN just two days ago to the Company for export of the said drugs. That apart they would submit that while undertaking the export consignment, the Company followed all possible statutory regulations, requirements, *inter alia*, pertaining to the Order received, Tax Invoices, GST Registration, payment of Shipping bills and there was no *malafide* whatsoever involved in the export process. They would submit that at the highest the Act of not having the desired NOC which was not known to the Company would qualify as a ministerial act for which indictment of the Company and denial of personal liberty of the Applicants is completely unjustified. They would submit that the Company and Applicants have deep roots in the Socety and are law abiding citizens. It is seen that the facts which are *prima facie* alluded to hereinabove are undisputed facts.

7. Mr. Mishra, learned Special Prosecutor appearing on behalf of the Union of India would persuade the Court to allow him to take appropriate instructions. Mr. Mishra also informs the Court that Applicant in Bail Application at Serial No.1 was arrested on 3rd February, 2025 and Applicants in Bail Applications at serial Nos. 25 and 26 were arrested on 31st January 2025. He would further submit that prior to filing of the present applications, Applicants have also filed several other applications / proceedings including a Contempt

Petition in the Supreme Court and this Court and therefore the Court will have to take cognizance of the same. Be that as it may, considering that this is a bail court and applications filed before this Court are with respect to enlargement on bail, this Court cannot be precluded for considering the present applications on this ground. Role of Applicants in the present crime needs to be *prima facie* seen.

8. If the above facts argued by the learned Advocates are seen *prima facie*, the only question that needs an answer is whether further custody of the Applicants is required by prosecution. *Prima facie* case is made out by all three Applicants. This Court has consistently taken a view with respect to indictment and arrest of agents as well as executive officers of the Company who act on behalf of the Company *bonafidely* in such matters and who are *prima facie* in a position to show that their actions are governed and valid on the basis of statutory provisions of law, and has held that their arrest is *prima facie* high-handed. In the present case it is seen that the drug is manufactured by the Company under a license. The only aberration was the NOC, which has now been issued by the Statutory Authority. Applicants' bonafides are *prima facie* seen since the Company on being flagged about the issue immediately processed back the order. In this view of the matter the Court will have to step in. Mr. Namboodiri's client is the CHA. How can he be held responsible and put behind bars for his role as the CHA is not understood. *Prima facie*, it is seen that the action of the

Prosecution is high-handed in the above facts unless Prosecution will be able to show that there was complicity and *mens rea* to commit the crime. However adhering to the request of Mr. Mishra, affidavit in reply, if any, is directed to be filed within a period one week from today, failing which, I make it clear that the case of Applicants before me deserves immediate indulgence by the Court as they are in prison since January – 2025 as noted above and personal liberty is involved. In view of paucity of time due to the ensuing summer vacation, liberty to Applicants to move the vacation court after one week.

9. Learned Advocates appearing for the Applicants have also attempted to address the Court on substantial transgressions on merits which in my opinion at this stage will not be required in view of the aforesaid facts noted by the Court. Prosecution can reply and respond on the transgressions also in their reply.

10. List the matter on **15th June, 2025.**

Laxmi Sontakke

[MILIND N. JADHAV, J.]

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signed by
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