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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.4768 OF 2024

Akash Shambhu Gaisumndre ...Applicant

V/s.

Union of India ...Respondent

Mr. Sayabanna K. Kamble, for the Applicant.
Mr. D. P. Singh, for the Respondent-NCB.
Mr. H. J. Dedhia, APP for the Respondent-State.

CORAM: SHYAM C. CHANDAK, J.
DATED : 20th AUGUST, 2026

P.C. :-

1. Heard learned Counsel for the parties. Perused the record.

2. The Applicant seeks his release on bail in connection with Cr.No.25 of 2023, registered with Narcotics Control Bureau, Mumbai Zonal Unit, Mumbai, for the offence punishable under Sections 8(c), 21(c), 22(c), 28 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "NDPS Act").

3. The prosecution case is that on 28.09.2023, Mr.Satish Kumar, Intelligence Officer, NCB, Mumbai received secret information that total 75 boxes of bottles containing Codeine Based Cough Syrup ("CBCS") were lying in a godown of Surat Ahmedabad Transport Pvt. Ltd., at Bhiwandi and Accused No.1 alongwith the Applicant who was to drive the vehicle in which the contraband boxes were to be loaded. Acting on the said information, the team of Intelligence Officer along with two panchas kept surveillance there. At about 10.30 hours, Accused No.1 and the Applicant entered the godown premises and loaded the contraband boxes. At that juncture, the NCB team effected the

raid and seized the contraband boxes recording a panchanama. Thereafter, the NCB Officer recorded the Statement under Section 67 of the NDPS Act of both the accused. Investigation revealed the commission of the offence. Accordingly, this crime came to be registered and both the accused came to be arrested. Further investigation revealed the involvement of A3 and A4. On completion of the investigation, the NCB filed a complaint enclosing the material evidence. The trial Court declined to release the Applicant on bail. Hence, this Application.

4. Mr. Kamble, learned Counsel for the Applicant submitted that the Applicant is doing as a transporter and, he was engaged by A1 to transport the alleged boxes containing CBCS bottles. Therefore, the Applicant is innocent. He submitted that the Applicant is in jail since last three years. The trial has not advanced. Therefore, he urged to release the Applicant on bail.

5. In reply, Mr. Singh, learned Counsel for the Respondent-NCB submitted that A1 and the Applicant both were apprehended while they were transporting huge quantity of the contraband bottles. Before that, they transported the said stock from Gujarat. The joint conscious possession coupled with the CDRs of the mobile phone of both the accused clearly indicate that they have committed this offence hatching a conspiracy. Therefore and, having regard to the rigours of Section 37 of the NDPS Act, bail be refused.

6. I have considered these submissions. Record indicates that A1 had no licence to procure and deal with the said contraband bottles in a lawful manner. The CDRs indicate that between 01.04.2023 to 28.09.2023, the Applicant and A1 had exchanged approximately 179 to 192 calls. The Applicant has not explained

the said circumstance. This indicates that the two were in continuous contact with each other. Both the accused have been apprehended when they moved the tempo to transport the contraband bottles to the desired destination. Thus, there is a strong *prima facie* case against the Applicant of having committed the alleged offence along with A1. Since the offence pertain to commercial quantity of the contraband, the rigors of Section 37 of the NDPS Act are applicable with full force. Considering the material against the Applicant, the possibility of his repeating the offence cannot be ruled out.

7. In the wake of above, the Applicant is not entitled for bail. As a result, the Application is liable to be rejected and is rejected, accordingly.

8. It is clarified that the observations made in the present order are for the purpose of deciding the present Bail Application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

9. Looking at the incarceration of the Applicant, the trial Court is requested to expedite the trial.

(SHYAM C. CHANDAK, J.)