Ajit Pathrikar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 877 OF 2025

Wenceslaus Subash Iyer ...Applicant

Versus

The Union Of India And Anr. ...Respondents

Mr. Amol M. Thombre *a/w Vishal S. Sarode and Akash Kothimbire, for the Applicant.*

Mr. Rushikesh Munde*, SPP a/w Shatabdi Netke, for Respondent No.1.*

Ms. Poonam P. Bhosale*, APP for the State-Respondent No.2.*

CORAM DR. NEELA GOKHALE, J.

DATED: 9th FEBRUARY 2026

PC:-

1. The Applicant seeks his release on bail in connection with File No. SD/INT/AIU/494/2023-AP 'A' dated 2nd July 2023 registered with the Air Intelligence Unit, Mumbai for the offences punishable under Sections 8(c), 21(c), 23(c), 22(c), 28 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act").

2. There is only one accused in the present matter. The Applicant was fount to be in possession of 1859 grams of

Cocaine from his bag. Hence, the Applicant was arrested on 2nd July 2023.

3. Without going into the merits of the case, Mr. Amol Thombre, learned counsel for the Applicant, submits that the charges were framed on 4th July 2025 and till date, for a period of almost eight months, the prosecution has not completed the compliance of Section 294 of the Cr.P.C. He has placed on record the roznama/case status of the criminal case pending before the Sessions Court. I have perused the said roznama. It appears that on each and every occasion, the counsel for the accused has remained present. However, despite repeated requests and directions by the Trial Court to the prosecution to comply with the provisions of Section 294 of the Cr.P.C., the prosecution has not taken any steps to comply with the said provisions.

4. In these circumstances, the Applicant is condemned to long incarceration without recording of evidence having commenced. On this ground alone, the delay caused by the

prosecution is not justified. The Apex court, in a series of its decisions has observed, that failure to conclude the trial within a reasonable time resulting in prolonged incarceration militates against the precious fundamental right guaranteed under Article 21 of the Constitution of India, and as such conditional liberty overriding the statutory embargo created under Section 37 of the NDPS Act may in such circumstances be considered.

5. In view of the above, I am inclined to enlarge the Applicant on bail and it is ordered as under:

ORDER

i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/ with one or two local sureties in the like amount;

ii) The Applicant shall attend the Trial Court concerned on each and every date as directed, till the conclusion of the trial, save and except if the Applicant is exempted from appearance by orders of the Trial Court.

iii) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the concerned Police Station, if any;

iv) The Applicant shall not leave India, without permission of the trial Court;

v) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

vi) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

vii) The Applicant to co-operate with the conduct of the trial;

viii) Any infraction of the aforesaid conditions shall entail cancellation of bail.

6. Application is allowed in the above terms and is accordingly disposed of.

7. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(Dr. Neela Gokhale, J)