

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3609 OF 2024

Mehboob Aziz Pathan .. Applicant
Versus
The State of Maharashtra .. Respondent

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- Ms. Ashwini Achari a/w. Mr. Anish Pereira, Advocates i/by Ms. Lochan Chandka for Applicant.
 - Ms. Mahalakshmi Ganapathy, APP for Respondent – State of Maharashtra.
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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 20, 2025

P.C.:

1. Heard Ms. Achari, learned Advocate for Applicant and Ms. Ganapathy, learned APP for Respondent – State of Maharashtra.

2. After order dated 13.02.2025, Ms. Ganapathy would make certain statement with respect to the concerned Investigating Officer being a lady officer and search of Applicant before me carried by police raiding party who was under her instructions.

3. To counter the submissions made by Ms. Ganapathy, Ms. Achari would submit that if that be the case there are Rules in place for carrying out search and seizure of Accused persons in case of chance recovery as contemplated by the Narcotics and Psychotropic Substances Act, 1985 (for short '**NDPS Act**'). She would submit that any search

carried out by Police Havaladar / Police constable / Police Naik in that regard would be deemed to be unauthorised and it would vitiate statutory procedure contemplated under NDPS Act.

4. In view of the above rival submissions it would be appropriate if prosecution files appropriate Affidavit taking all such defences within a period of one week. Copy of the same shall be given to Ms. Achari. Affidavit-in-Rejoinder, if any, to be filed within a week thereafter.

5. Stand over to **06th March, 2025**. To be placed under the caption '**First on Board**'. To be treated as '**Part-Heard**'.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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