

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.4954 OF 2024

Sarfaraj Abdul Majid Ahmed	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

WITH
BAIL APPLICATION NO.5190 OF 2024

Mahfooz Aalam S/o	
Istiyak Ahmed Choudhary	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

WITH
BAIL APPLICATION NO.5386 OF 2024

Mohd Mazhar Manzoor Ahmed Khan	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

WITH
BAIL APPLICATION NO.5471 OF 2024

Kuldeep Lalchand Gupta	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

WITH
BAIL APPLICATION NO.770 OF 2025

Asha Adiram Lingam	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

WITH
BAIL APPLICATION NO.2634 OF 2024

Mohammed Ali Habibullah Shaikh	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

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- Mr. Kamlesh M. Satre a/w. Mr. Amol M. Thombre and Mr. Vikas Chauhan, Advocates for Applicant in Bail Application Nos.4954 of 2024; 770 of 2025.
 - Mr. Sherali S. Khan, Advocate for Applicant in Bail Application Nos.5190 of 2024 and 5386 of 2024 and 2634 of 2024.
 - Mr. Amol M. Thombre a/w. Mr. Kamlesh M. Satre, Advocates for Applicant in Bail Application No.5471 of 2024.
 - Mr. Sukant A. Karmakar, APP for Respondent in Bail Application No.4954 of 2024.
 - Ms. Shilpa K. Gajare-Dhumal, APP for Respondent in Bail Application No.5190 of 2024 and 2024 and 5386 of 2024.
 - Mr. Rushikesh M. Pethe, APP for Respondent in Bail Application No.5471 of 2024.
 - Ms. Mahalakshmi M. Ganapathy, APP for Respondent in Bail Application No.770 of 2025.
 - Mr. Hitendra J. Dedhia, APP for Respondent in Bail Application No.2634 of 2024.

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 24, 2025

P.C.:

- 1.** Heard learned Advocates appearing for Applicants and learned APPs appearing for Respondent in respective Bail Applications.
- 2.** Common order is passed in Bail Application No.4954 of 2024, Bail Application No.5190 of 2024 and connected matter; Bail Application No.5471 of 2024; Bail Application No.770 of 2025 and Bail Application No.2634 of 2024.
- 3.** The common point raised by both learned Advocates is that printed label of the First Information Report (for short '**FIR**') is appended on the seized contraband packet at the time of seizure

panchnama.

4. The likely answer given by learned prosecutors Ms. Ganapathy, Mr. Pethe and Mr. Karmakar appearing in these matters is that when such an action is involved the Officer generally calls for and take the next serial number of the FIR which is going to be lodged from the Police Station and the label is accordingly printed and put accordingly.

5. Another issue argued by Mr. Pethe is that this Court (Coram : N. J. Jamadar, J.) in its decision in the case of ***Sunday Eziko Ezagwu Vs. The State of Maharashtra***¹ has taken the view that this aspect is procedural in nature and it would be not vitiate the seizure procedure of alleged contraband and it would not be in contravention of any provisions of the Narcotics and Psychotropic Substances Act, 1985 (for short '**NDPS Act**'). However it is seen in that judgment that while appending the label on the seized contraband the number of FIR was kept blank and it was subsequently added in handwriting and that is why Court came to that conclusion. In the present cases at hand, except one, it is argued that the printed label of CR number is affixed at the time of seizure itself before the FIR is even lodged. The above issue needs to be considered and decided as it arises in several cases before Court and is taken up as a ground in defence by the accused persons.

¹ Bail Application No.3318 of 2023 decided on 29.02.2024.

6. In so far taking the serial of next FIR is concerned, a Division Bench of this Court in the case of *Babita V/s. State*² has already taken a view in paragraph Nos.5 and 6 of the said judgment. Prosecution is directed to consider the same and accordingly argue the matter. I direct Respondent – State to file appropriate Affidavit in all the 5 matters explaining their position of affixing a pre-printed label with CR number on the seized contraband at the time of seizure which reflects the number of FIR at the time of seizure before lodging the FIR. The Affidavit be filed within a period of two weeks from today. I propose to take up these matters immediately for hearing thereafter.

7. Mr. Karmakar would inform the Court that in so far Bail Application No.4954 of 2024 is concerned, printed number of FIR does not appear and it is hand written. Whatever it may be the same be clarified in the Affidavit-in-Reply with appropriate submissions. Copy shall be served in advance on Advocates for Applicant on or before 07.03.2025.

8. It is directed that the aforementioned 5 Bail Applications be tagged together in view of the common question raised in them.

9. Stand over to **10th March, 2025**. To be placed under the caption '**First on Board**'.

H. H. SAWANT

[MILIND N. JADHAV, J.]

² 1993 SCC Online BOM 460.