

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.5474 OF 2024

Devki Nandan Pandey

.. Applicant

Versus

Union Of India and Anr.

.. Respondents

.....

- Mr. Amol M. Thombre, Advocates for Applicant.
- None for Respondent No.1.
- Mr. Hitendra J. Dedhia, APP for Respondent No.2.

.....

CORAM : MILIND N. JADHAV, J.

DATE : APRIL 02, 2025

P.C.:

1. Heard Mr. Thombre, learned Advocate for Applicant and Mr. Dedhia, learned APP for Respondent No.2.

2. Hence, issue notice to Respondent No.1. Humdast permitted. In addition to Court's notice, Applicant is directed to serve a copy of this order and copy of the Application on Respondent. Mr. Dedhia, learned APP waives service on behalf of Respondent No.2 – State of Maharashtra.

3. Mr. Thombre would submit that Applicant is indicted in offence under provisions of of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short '**NDPS Act**') for having been in possession of 2810 grams of alleged contraband namely Cocaine.

4. Mr. Thombre would draw my attention to page No.41 which

is notice issued under Section 50 of the NDPS Act by the prosecution. Perusal of the said notice *prima facie* shows that the person who has issued the said notice has stated in the said notice that personal search of Applicant is to be conducted by him who is the undersigned person therein and only if he requires the search will be conducted in the presence of nearest Gazetted Officer or Magistrate. The said notice on face of record is contradictory to the provisions of Section 50 of the NDPS Act.

5. Respondents are directed to file their Affidavit-in-Reply within a period of two weeks from today positively. Copy of this order shall be served on Union of India. Union of India is directed to depute a responsible Officer to espouse its cause and ensure that Affidavit-in-Reply is filed. It is clarified that if Affidavit-in-Reply is not filed on the next adjourned date, the present Application shall be heard and decided on its own merits which shall be noted by Union of India.

6. Stand over to **16th April, 2025.**

H. H. SAWANT

[MILIND N. JADHAV, J.]

HARSHADA
HANUMANT
SAWANT

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by HARSHADA
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