

Navnath Waghmare (RA)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3803 OF 2024

Shahnawaj @ Shahnawaz @ Shahnawaz Abrar ...Applicant
Khan

Versus

The State Of Maharashtra ...Respondent

Ms. Puja yadav a/w Shreenat Kamath for the Applicant.

Ms. Veera Shinde APP, for the Respondent-State.

CORAM: R. M. JOSHI, J.

DATED: 27th MARCH, 2026

PC:-

1. This application is required to be re-heard, in view of the fact that judgment in the case of **Baljinder Singh** was relied by the Learned APP, but citation not produced at the time of hearing indicating that judgment in case of Dilip Vs State of MP (2007) 1 SCC 410, to be not a good law.

2. Learned counsel for the applicant in rebuttal to the submissions of Learned APP relies on judgment of the Hon'ble Supreme Court of strength of equal judges in the case of **Sanjeev & Anr Vs. State of Himachal Pradesh** in Criminal Appeal 870 of 2016 and reference to paragraph 9 which reads thus:

"9. We have checked the original record to satisfy ourselves Exhibits PW8/B, PW8/C, PW8/D and

PW8/E, which are arrest memos, do not reflect that any option or choice was given to the accused before their personal search was undertaken. It is true that the personal search did not result in recovery of any contraband material but the non-compliance of requirement of affording option, was one of the reasons which weighed with the Trial Court in disbelieving the case of the prosecution.

3. After hearing both sides, application is decided by passing separate order.

(R. M. JOSHI, J.)