

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 4792 OF 2024
WITH
INTERIM APPLICATION NO. 233 OF 2026
IN
CRIMINAL BAIL APPLICATION NO. 4792 OF 2024

Oniye Ikennya Benith @ Onye Ikenna Bennth ...Applicant
Versus
State of Maharashtra ...Respondent

Mr. Taraq Sayed a/w Ms. Ashwini Achari a/w Mr. Ashish Pereira
a/w Mr. Aryan Kotwal a/w Devashish Dhanjode, for the
Applicant.

Mr. Ashok S. Gawai, APP, for the Respondent - State.

PI Dharmendra Pawar, Tulinj Police Station, , Mira-Bhayender Vasai
Virar, is present.

CORAM: R. M. JOSHI, J.

DATED: 16th MARCH, 2026

PC:-

1. During the course of the hearing an issue was raised by the Counsel for the Applicant that there is non compliance of Section 50 of the Act on the ground that there is no communication of the right of the Applicant to get search before the Gazetted Officer or Magistrate. It is his second view of the argument that document on record does not bear signatures of the panch witnesses which makes said document doubtful.

2. Learned APP opposed the said submissions by contending that the word right need not to be mentioned and if it is conveyed to the Applicant that he can seek the search in a presence of Gazetted Officer or Magistrate, it is sufficient compliance. He place reliance on the judgment of the Hon'ble Supreme Court in case of **(2000) 1 SCC 707 Joseph Fernandez Vs. State of Goa.**

3. Learned Counsel for the Applicant submits that after this judgment, number of decisions are rendered by the Hon'ble Supreme Court covering the issue in question. He seeks time to place reliance on the same.

4. At his request, stand over to **17th March 2026.**

(R. M. JOSHI, J.)

VDMokal/-