

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 107 OF 2015**

Manavarbibi @ Kajal Karim Shaikh	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms. Anjali Patil for the Applicant

Mr. S. H. Yadav, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

MONDAY, 23RD FEBRUARY, 2015

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P.

2. By this application, the applicant seeks bail in connection with C.R. No. 137 of 2014 registered with the Matunga Police Station for the alleged offences punishable under Sections 489B and 489C of the Indian Penal Code. According to the prosecution, on 13th April, 2014, the complainant Satish Mahale, who was working in the Crime Branch as a police constable at Matunga Police Station was patrolling at about 14.10 hrs. near Royal Hotel, Wadala. It is alleged that one person requested to

the police van to stop. The said person disclosed his name as Afsarali Ahmed Hasan Shaikh and said that he was the owner of Hotel Royal. Afsarali is alleged to have disclosed to the police, that one person had come to the Hotel, had lunch and to pay his bill, had handed over a 1,000/- rupee note. It is alleged that he suspected that the said note of Rs. 1,000/- was a bogus currency note. Accordingly, the complainant along with his staff went to Hotel Royal. The person who had handed over the 1,000/- rupee note, was standing near the counter. The said person disclosed his name as Narsalim Badruddin Shaikh. The owner handed over the 1,000/- rupee note to the police. The raiding party found that the said note was a bogus note and hence, took personal search of the said person in the presence of the panchas. In the personal search, four notes of Rs. 100/- were found and in the black coloured bag, sixteen notes of Rs. 1,000/- and forty notes of Rs. 500/- were found. All the notes were taken charge of under a panchanama. Accordingly, the said person was taken into custody and was brought to the Matunga Police Station, where a complaint was lodged for the aforesaid offences. It is alleged that during the course of investigation, it was learnt that the bogus currency notes were supplied by him to several persons, including the present applicant. Accordingly, on receipt of the

said information, the police went to the Grant Road area and found the applicant in the said area. Applicant was searched in the presence of the panchas, and was found to be in possession of Rs. 38,000/-, which came to be seized. The said notes were found to be bogus currency notes.

3. The learned Counsel for the applicant contended that the only section, that would apply to the present applicant, would be one under Section 489C, which is a bailable offence. She submits that though the counterfeit notes were found on the person of the applicant, there was nothing on record to indicate that the applicant was aware that the notes were counterfeit notes or to show that the applicant was using the same as genuine notes, though she was aware that they were fake currency notes. She submitted that mere possession of counterfeit notes, by itself, would not attract the provisions of Section 489B of the Indian Penal Code. She further submitted that there is nothing on record to show where the applicant was searched, nor is the arrest panchanama on record.

4. The applicant has tendered on record an additional affidavit along with copies of Aadhar Card, Election Identity Card, Ration Card and

Voters List in support of proof of her permanent residence at Murshidabad in West Bengal. The same is taken on record.

5. Learned A.P.P opposed the bail application. He submitted that the present applicant was arrested pursuant to the information given by the co-accused Narsalim Badruddin Shaikh.

6. Perused the charge-sheet. There is no material, *prima facie*, to indicate that the applicant was using the said notes which were found on her and as such the question of applicability of Section 489B is debatable. Considering the fact, that Section 489C is bailable, the applicant is entitled to be released on bail on the following terms and conditions:

ORDER

(i) The applicant Manavarbibi @ Kajal Karim Shaikh be released on bail in connection with C.R. No. 137 of 2014 registered with the Matunga Police Station on executing PR Bond in the sum of Rs. 50,000/- with one or two solvent sureties in the like amount;

(ii) The applicant shall inform her mobile contact number and her latest place of residence, where she intends to reside during her stay in Mumbai, immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the Matunga Police Station;

(iii) The applicant shall not leave Mumbai City without the permission of the trial Court;

(iv) The applicant to cooperate with the conduct of the trial;

(v) The applicant shall attend the Matunga Police Station every fortnight, on Saturday between 10.00 a.m. to 12.00 noon;

(vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of applicant's bail.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. Parties to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.