

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.537 OF 2015**

Sachin Sunil Jaypatre
Versus
The State of Maharashtra

....Applicant.
...Respondent.

Mr. Rahul K. Dhaygude, advocate for the Applicant.
Mr. D.P.Adsule, APP for the respondent-State.

**CORAM : MRS. MRIDULA BHATKAR, J.
DATED : March 16, 2015.**

P.C.:

Heard.

2 The accused is prosecuted for the offence pertaining to counterfeit currency notes i.e. under Sections 489B, C, D, E, 420 read with Section 34 of the Indian Penal Code, 1860 in C.R. No.458 of 2014, which was registered at Baramati City Police Station on 30.9.2014. The accused was arrested at Baramati ST stand on the information received by the police that the applicant is carrying fake currency notes. The police raided along with the panchas and the accused was found with a fake currency notes, monogram numbers and logo of Mahatma Gandhi. As per the information received by the police, accused had received these

counterfeit notes from Calcutta, West Bengal. Police drew panchanama and seized the articles.

3 The learned counsel for the applicant-accused has submitted that the applicant-accused is in prison since 30.9.2014 till today. Police have not requested report from Nashik printing press of currency notes. He submitted that the applicant-accused has not committed any offence much less, the offence of use of counterfeit currency notes. He submitted that the accused is not manufacturer/maker of counterfeit currency notes and names of the panchas are not mentioned in the F.I.R. He submitted that the applicant-accused is found in possession of counterfeit currency notes that itself cannot be a ground to reject the bail. In support of his submission, he relied upon the **Rameshwar Ayodhya Saw v. State of Maharashtra 2009 All MR (Cri) 1507.**

4 The learned prosecutor opposed the bail application and pointed out that the accused was arrested and immediately panchanama was drawn by the police and the police seized counterfeit currency notes from the applicant-accused. He also pointed out that at the time of panchanama, the other material i.e. the counterfeit monograms, fake numbers, logo of Mahatma Gandhi were found with the accused and they also were seized.

5 Perused the F.I.R. and seizure panchanama dated 30.9.2014. Prima-facie investigating paper discloses that the applicant-accused was found in possession of 8 fake GC Notes of Rs.1,000/- each, 14 counterfeit currency notes of Rs.500/- each. He was also found in possession of fake monograms and also logo of Mahatma Gandhi. This shows that the applicant-accused has not only received and in possession of forged/counterfeit currency notes but was also in possession of the printing material, which is required to make the counterfeit currency notes. Police have rightly invoked Section 489B, C, D and E. Sub-clauses B and D are non bailable. In the case of **Rameshwar (Supra)**, the accused was prosecuted under Section 489B and C of the Indian Penal Code, 1860. On perusal of the said order, it does not disclose that how many counterfeit GC notes were found with the said accused. However, it is held that though the counterfeit GC notes were found with him, there is no material on record to indicate that the applicant-accused had used counterfeit notes found with him and, therefore, Section 489B cannot be attracted and so accused was released. Though the said view was taken by this Court in the said case, Section 489(B) reads as follows:

“489B. Using as genuine, forged or counterfeit currency-
notes or bank- notes:

Whoever sells to, or buys or receives from, any other

person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.” *(emphasis supplied)*

6 Requirement of Section 489B is if a person sells or buys or receives or otherwise traffics in or uses as genuine, any counterfeit currency notes knowingly. Thus, if the prosecution proves prima-facie that the person had received counterfeit currency notes with a knowledge that it is fake then, the offence under Section 489B is complete. Use of the counterfeit notes is not the only requirement of Section. Under such circumstance, I am of the view that this is not a case to grant bail. As pointed out by the learned counsel for the applicant-accused that Nashik Printing Press has not sent report till today about the seized GC notes, it is necessary for the Investigating Officer to collect the same and has to be produced at the time of the trial. If such report is not procured by the Investigating Officer or it is not sent by the Nashik Printing Press till 30th June, 2015, then, applicant-accused is at liberty to file fresh bail application.

7 Bail application, accordingly, stands rejected.

(MRS.MRIDULA BHATKAR, J.)

