

Ladda

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION No. 904 of 2015
IN
CRIMINAL APPEAL No. 746 of 2015
ALONG WITH
CRIMINAL APPEAL No. 746 of 2015

Nadim Mohammed Salim Shaikh ..Applicant/Appellant.

Versus

The State of Maharashtra ..Respondent.

Mr Sharif Shaikh a/with Mateen Abdul Rahim Shaikh, Advocate for
the Applicant/Appellant.

Mrs Anamika Malhotra, APP for the State.

CORAM : A.R.JOSHI,J

DATE : 10th August, 2015

P.C. :-

- 1) Leave to amend the application and the appeal to the extent of the name of the applicant/appellant. Amendment to be carried out forthwith.
- 2) Heard rival submissions on this application for bail during the pendency of the appeal. Appeal is already admitted.
- 3) Present applicant/appellant is convicted for the offence u/s 489C of IPC and sentenced to suffer RI for five years and to pay a fine of Rs.3000/-. Accused no. 1 and 2 were acquitted of the offence punishable under section 489A of IPC. Apparently, there was no

charge framed against the both accused u/s 489B of IPC.

4) During the trial, the appellant applicant was on bail. According to the case of the prosecution, 20 notes purported to be of Indian currency of Rs.1000/- were found with the present applicant/original accused no.1. The raid was conducted near the office of Sub-Registrar at Vishrantwadi, Pune in the afternoon of 4.8.2008 on prior information received one day earlier. Apparently, no pre-trial panchnama was conducted by calling panchas but the panchas were brought on the spot after apprehending the applicant as his movements were found suspicious and after he was identified and pointing out by the informant, then present.

5) In the evidence, PW no. 1 stated that the police officer PW no. 2 asked him to compare the currency notes found with the applicant with one currency note of Rs.1000/- produced by the said officer from his pocket. As against this, PW no. 2 stated that he himself compared the notes and found notes counterfeit/fake which were found from the money purse of the applicant. PW no. 1 is apparently the only independent witness examined in the matter. He did not mention regarding sealing of packet in which the notes were taken. There was nothing before the trial Court that the counterfeit notes were prepared by using computer by accused no.2 and hence accused no.2 was acquitted. Apparently, the State has not preferred any appeal challenging the acquittal of accused no.2 or challenging the acquittal of the present applicant for the offence u/s 389A of IPC.

6) Considering the above circumstances and the effect of the evidence and considering that the applicant was on bail during the trial, present application can be allowed with certain directions. Hence, the following order:-

ORDER.

(a) Application is allowed. The applicant Nadim Md. Salim Shaikh shall be released on bail as earlier granted by the trial Court, with fresh bonds to be executed before the trial Court;

(b) After availing the bail, as above, the applicant shall attend ATS Police Station Kalachowki, Mumbai on first Sunday of each month, till further orders;

(c) The applicant also shall produce his permanent residential address and contact number to the said ATS Police Station Kalachowky. As and when the applicant changes his address and contact number, he shall inform the same to the concerned police station promptly; and

Application for bail is disposed of accordingly.

(A.R.JOSHI, J.)