

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1044 OF 2016

JOHNSON THOMAS

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.PD.Kavale, Advocate for the Applicant.

Mrs.Rutuja Ambekar, APP for the Respondent - State.

CORAM : P N. DESHMUKH, J.

DATE : 3rd AUGUST 2016.

PC. :

1 Heard. Applicant having been involved in Crime No.24 of 2015 dated 3rd February 2015 registered by Kopari Police Station, Thane, for the offences punishable under Section 489B read with Section 34 of IPC has sought bail.

2 Learned counsel for applicant had submitted that even considering the case of prosecution as it is, no provisions of Section 489B of IPC can be attracted as in the entire charge-sheet there is nothing to establish that applicant was indulged in sale, purchase or had received from any person, or was trafficking or using as genuine, any forged or counterfeit currency notes, knowing or having reason to believe that the same are forged, and it was contended that applicant, according to the case of prosecution, at the most can be said to have found in possession of fake currency notes, and can only be charged for the offence punishable under Section 489C of IPC, which is bailable offence, and therefore, prays for grant of bail.

3 Learned APP opposes the application contending that applicant is not resident of State of Maharashtra and from conduct of applicant, it can be said that applicant was aware of his having been in possession of counterfeit notes, as such notes came to be recovered from socks, which were on his person. It is further contended that even from the statement of one Peshumal Dudhani with whom applicant was residing for sometime, it can be seen that applicant was involved in having in possession of such notes with intention to circulate the same, and has lastly contended that during the course of interrogation of applicant, involvement of co-accused Mohan is revealed, who has supplied such notes to applicant. However, Mohan is said to be absconding. Application is therefore prayed to be rejected.

4 Perused the copy of charge-sheet filed with the application, where from it reveals that on 3rd February 2015, based on information received by police, trap came to be laid near Anand Talkies, Twins Kopari, Thane, where applicant arrived, and was introduced to the members of the raiding team, and was informed about the information received by the police. On obtaining personal search of applicant, two bundles each containing 100 notes in denomination of Rs.500 each, were recovered from his socks on his person, which came to be seized.

5 From the further search of applicant as well as from the statement of Peshumal Dudhani, it is further found that 84 notes of Rs.500 each in denomination, one note of Rs.1000 in denomination and one note of Rs.50 in denomination came to be seized under panchnama.

6 On perusal of report of Currency Note Press, it is found that out of 284 notes sent for its examination, 264 notes are certified as genuine currency notes. Thus, from this report it is also material to note that out of notes sent for its examination, majority of the notes are found to be genuine.

 Similarly, on considering contents of FIR, same appears to be silent with reference to attracting provisions of Section 489B of IPC, but from the same it is revealed that applicant was found in possession of counterfeit notes.

7 Having considered above facts and since there is also no material on record to indicate that applicant had used or had attempted to use counterfeit notes found with him, there is no material to indicate that Section 489B of IPC is attracted.

8 Application is therefore liable to be allowed as per order below :

- i) Applicant shall be released on bail on his executing PR.Bond in the sum of Rs.25,000/- with one surety in like amount.
- ii) Applicant shall not leave the jurisdiction of Thane District and shall mark his presence with Kopari Police Station, Thane, on first day of each month, till the conclusion of trial.
- iii) Applicant shall remain present before the learned trial court on each date of hearing.

(P. N. DESHMUKH, J.)