

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.2938 OF 2017

Veerbahadur Kulbahadur Gurung **... Applicant**
Age 47 years, Occu: Govt. Service
R/o Kotla Colony, Kranti Chowk
Police Lines, Aurangabad.

VERSUS

The State of Maharashtra **... Respondent**
Through Jinsi Police Station,
Aurangabad.

Mr. Ashok Mundargi, Sernior Advocate with Shri A. K.
Bhosale, Advocate for the Applicant.

Mr. A. B.Girase, PP for the State.

CORAM : K. L. WADANE, J.

RESERVED ON : 31.07.2017

PRONOUNCED ON : 03.08.2017

ORDER:

1. The complainant Rajesh Thakkar lodged complaint to the Police station on 06.03.2017 alleging that on 20.02.2017, accused Hitesh Pujara called him and enquired about change of demonetized currency notes of Rs. one core. As the complainant was having some persons to change demonetized currencies, he asked Mr. Pujara to bring entire notes to his shop. After that, accused Yogesh called them with notes at Azad Chowk, Aurangabad and thereafter, he asked him to sit in a car alongwith cash. When the said vehicle reached at Central Naka, at that time, accused Yogesh insisted the

complainant to alight from the said vehicle and go home, he also assured that he would bring the changed currency. The complainant refused to alight from the car. At that time, all the accused persons manhandled the complainant and fled away in their car. As the complainant was scared, he did not disclose the said fact to any one and subsequently, on 26.02.2017, he came to know that police authorities caught one car alongwith cash near Chaklamba District Beed. Thereafter, with the help of his brother, the complainant lodged complaint against the accused persons. On the basis of this information, offence came to be registered against the present applicant and other accused persons at Crime No. I-17/2017 with Jinsi Police Station Aurangabad for the offences punishable under sections 395, 323, 120-B of the Indian penal Code and under sections 5 and 7 of the Specified Bank Notes (Cessation of Liabilities) Act, 2017.

2. I have heard Mr. Ashok Mundargi, Senior counsel for the Applicant and Mr. A. B. Girase, learned Public Prosecutor for the State.

3. Mr. Mundargi, the learned senior counsel submitted that entire material collected by the

Investigating officer is insufficient to even frame charge against the present applicant. There is no evidence against the present applicant that he was in possession of the old currency notes and it was to be changed by new currency notes. Mr. Mundergi further submitted that the applicant is serving in the Police Department. The investigation is completed and charge-sheet is filed. The applicant is ready to abide any condition if released on bail.

4. As against this, Mr. Girase, the learned Public Prosecutor submitted that at the relevant time, the applicant was on duty at Ghati Hospital. There was no reason for him to chase the vehicle which is alleged to be having currency notes of Rs. One crore nor the applicant has taken entry anywhere in the Aurangabad city about his leaving Aurangabad for the purpose of chasing Car No. MH-21 B-7802. Mr. Girase further submitted that the CDR tower location of the Mobile of the present applicant speaks otherwise. Mr. Girase further submitted that the applicant has claimed that he had intimated Mr. Dilip Tejankar, API of Police Station Chaklamba about a person carrying currency notes and he was chasing and went upto Paithan. However, at the relevant time, location of the Mobile

phone from the CDR tower speaks otherwise. Mr. Girase, further submitted that there are three police Stations between Aurangabad and Paithan, then why the applicant has not intimated to any of these police stations, if really he was chasing the vehicle.

5. Considering the rival submissions of both the sides and on perusal of statements of witnesses, particularly, from the statement of witness Shaikh Salim alias Stepni, it appears that on 22.02.2017, at about 3.00 p.m, accused No.2 Jamir Khan Jalin Khan contacted him on telephone and said that he wants to meet him, on which this witness informed that they will meet near the Court. Within short time, Jamir Khan came in the Court and informed that he has robbed money from one person namely Thakkar. Then the witness immediately informed the present applicant on his phone about the incident. In the evening, the present applicant came to Naregaon i.e. residential area of this witness Shaikh Salim @ Stepni and in his presence the applicant had taken gunny bag containing cash and it was kept in the vehicle – Scorpio belonging to the applicant and then went away. Subsequently, this witness came to know that the amount which taken by the present applicant was Rs. One crore. On

27.02.2017, this witness contacted his friend Vikas Sitapure on his phone and requested him to accompany him to Gevrai for some court matter. Accordingly they went to Gevrai, where the accused Jamir Khan was released on bail by the Court. At that time, Jamir Khan disclosed that some amount is with the present applicant. While returning from Gevrai, this witness Shaikh Salim contacted the applicant on his mobile phone and informed that accused Jamir Khan is saying that more amount is with the applicant. When this witness and Vikas Sitapur reached near railway bridge, at that time, this witness instructed Vikas Sitapure to stop the vehicle. The witnesses alighted from the vehicle and went towards the vehicle of the present applicant, where the applicant had handed over a gunny bag containing huge cash. This witness has taken the bag and kept in the vehicle of Vikas Sitapure and thereafter handed over it to Dilip Tejankar, Assistant Police Inspector of Chaklamba Police Station.

6. On perusal of statement of another witness vikas Sitapure, it appears that it exactly corroborates the version of witness Shaikh Salim @ Stempni.

7. Therefore, looking to the statement of witnesses

and other incriminating circumstances, involvement of the present applicant in the crime appears to be prima facie seen. The applicant was serving in the Police Department and amount involved is huge. If the applicant is released on bail, there is possibility that he would tamper with the prosecution witnesses. Therefore I am of the opinion that the applicant is not entitled for bail.

8. The criminal application is rejected.

(K. L. WADANE, J.)

JPC