

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.122 OF 2017

Premkumar Karnaram Choudhary ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.Satyavrat Joshi for the Applicant

Mrs.Rutuja Ambekar, APP, for Respondent – State

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: MARCH 14, 2017

P.C. :

1. This application is moved by the applicant/accused for bail as the applicant/accused is prosecuted for the offences punishable under sections 489(B), 489(C), 34 of the Indian Penal Code r/w sections 15(1)(a)(iiia), 16 and 18 of the Unlawful Activities (Prevention) Act, 1967 registered at C.R. No.8 of 2015 with Kalachowki Police Station, Mumbai. The applicant/accused was arrested on 23.6.2015 at the instance of the co-accused Jamidar Ayyajali Shaikh as 11 fake G.C. notes of the denomination of Rs.500/- were found with the applicant-accused. Prior to that, on 19.6.2015, the police had raided the premises near the bus stop at

Mangala talkies in Shivajinagar, on information that some persons are engaged in circulation of counterfeit Indian G.C. notes. In the raid, they arrested the co-accused and one Ashok Nagen Mandal, Gopal Mantu Sarkar and Jamidar Ayyajali Shaikh, all residents of Malda, West Bengal. In the raid, counterfeit G.C. notes of denomination of Rs.1000 and Rs.500 were found from them. A total currency of Rs.1,15,000/- was seized under recovery panchanama at the instance of Jamidar Shaikh. Pursuant to this arrest, the applicant/accused Premkumar Choudhary was arrested. Hence, this Bail Application.

2. The learned Counsel for the applicant/accused has submitted that the applicant/accused is innocent and has not committed any offence. He further submitted that the Unlawful Activities (Prevention) Act, 1967 is not applicable in this case as the sanction was granted on 30.10.2015 before the application of the UAPA Act. He further submitted that the applicant/accused was found in possession of 11 counterfeit G.C. notes of Rs.500 and therefore, the offence is committed under section 489(C) and not under 489(B). He submitted that section 489(C) is bailable and there is no evidence in respect of section 489(B).

3. Learned Prosecutor has opposed the application and relied on the complaint of Dnyaneshwar Pawar, a police personnel. She also relied on the panchanama dated 30.6.2015. She further relied on the statements of one Shri Rajuram Bachnaram Chaudhary dated 3.7.2015 and the statement of Mehrunisa @ Smt.Nisha Abu Husain Sheikh dated 6.7.2015. She submitted that the applicant/accused and the co-accused jamidar were friends and Jamidar used to hand over those fake notes for circulation to his friends. The learned Prosecutor submitted that the applicant/accused was found red handed with 11 G.C. notes and therefore, there is sufficient evidence against him under section 15(iii)(a) of the UAPA Act, which is non-bailable.

4. Perused the FIR, the statements of the witnesses as pointed out by the learned Prosecutor. Perused panchanama dated 23.6.2015. After considering the evidence before the Court, the offence of possession of counterfeit currency notes of Rs.500 is prima facie made out. However, it is under section 489C which is bailable. The section 489B is in respect of circulation. I have considered the statements of Rajuram Chaudhary dated 3.7.2015 and Mehrunnissa dated 6.7.2015 and also considered the relevant

sections under the UAPA Act and the Indian Penal Code. Prima facie, nothing is brought on record to show the offence of circulation is committed by the applicant/accused. There are no criminal antecedents and the applicant/accused is inside since 23.6.2015.

5. Considering all these factors, the bail application is allowed on the following terms:

- a) The applicant-accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.50,000/- (Rupees Fifty thousand only) with two solvent sureties, in the like amount, out of which one surety of Rs.25,000/- shall be from local place i.e., District Pune and another surety of Rs.25,000/- shall be from his native place;
- b) The applicant-accused shall not tamper with the evidence or pressurise the complainant or the witnesses;
- c) The applicant-accused shall not indulge into any criminal activity especially offence under section 489 of the Indian Penal Code and under the UAPA Act and shall attend on all the Court dates;

d) The applicant-accused shall not abscond or leave India without prior permission of the trial Court and furnish his permanent address to the Investigating Officer alongwith documentary proof of his address.

e) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

6. Bail Application is disposed of on the above terms.

(MRIDULA BHATKAR, J.)