

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 874 OF 2017
IN
CRIMINAL APPEAL NO. 531 OF 2017

1. Ramzan Barique Shaikh
2. Rejarul Shaikh @ Alikhan Nasaruddin ShaikhApplicants/
Appellants

versus

The State of MaharashtraRespondent

Mr. Chandrabhooshan R. S. Mishra along with Mr. S. V. Naique i/b. Mr. Pradeep Dubey, advocate for the appellants.
Mr. R. M. Nakhwa, APP for the State.

**CORAM : RANJIT MORE &
PRAKASH D. NAIK, JJ.**

DATE : 14th AUGUST, 2017.

P. C. :

The applicants were charged for offences punishable under Sections 489-A, 489-B and 489-C read with Section 34 of the Indian Penal Code, 1860 (for short "the IPC"). The learned Additional Sessions Judge, Pune, acquitted the applicants of offence punishable under Section 489-A read with Section 34 of the IPC. The applicants were convicted for the offences punishable under Section 489-B and 489-C read with Section 34 of the IPC and sentenced to suffer imprisonment for life. Being aggrieved by this order, the applicants approached this Court by way of aforesaid appeal, which we have admitted by passing a separate order. The present application is filed for bail, pending the above said appeal.

2. Section 489-B deals with using as genuine, forged or counterfeit currency-notes or bank-notes. Section 489-C deals with possession of forged or counterfeit currency-notes or bank-notes. The offence under Section 489-C is bailable. So far as the offence under Section 489-B is concerned, the same is non-bailable and punishable to the extent of imprisonment for life. In order to prove that the applicants have used currency-notes/bank-notes as genuine, the prosecution examined PW-4-Sunder Shetty, a pan-shop owner. In his deposition, he has stated that on 4th June, 2015 at about 11.00 am, two persons came to his shop to buy cigarette packets. They give him currency-note of Rs.1,000/-. Since PW-4 had no change, those two persons left the shop. The PW-4 has also deposed that 15 minutes thereafter the DB Police came. It appears that the applicants were arrested by the police and they were found in possession of 70-80 currency-notes of Rs.1000/-. Accordingly, panchanama was recorded. This witness also stated that one of these two persons wore green shirt and the other one wore white shirt. Admittedly, test identification parade was not held. The witness has identified the applicants only in the Court. It is not the case of the prosecution that the applicants were arrested at the pan-shop.

3. Be that as it may, the evidence of PW-4, prima facie does not show that the applicants used the forged or counterfeit notes as genuine. The evidence of this witness shows that the applicants

intended to purchase cigarette packet. However, since he had no change, they could not use the said currency-note.

4. The applicants are in custody since 4th June, 2015. The appeal is not likely to reach for final hearing in the near future. In the circumstances, we are of the considered view that a case for bail is made out. The criminal application is, accordingly, disposed off by passing the following order :

(1) During the pendency and till the final disposal of the appeal, the applicants be released on bail on execution of PR bond in the sum of Rs.25,000/- by each of the applicant with one or two local sureties in the like amount to the satisfaction of the Trial Court on the following conditions:

(I) The applicants shall remain present before the Court at the time of final hearing of the above appeal.

(II) The applicants shall report to Dongri Police Station on the first Saturday of every month since they are residing within the jurisdiction of the said Police Station.

(PRAKASH D. NAIK, J.)

[RANJIT MORE, J.]