

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1900 OF 2017

Jiyarun Rajjak Shaikh & Anr.... **Applicants**
V/s.
The State of Maharashtra ... **Respondent**

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Mr.Neville Deboo i/b Abhay Bhoir, Advocate for the Applicants.
Mr.S.V.Gavand, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 1st NOVEMBER 2017.

P.C. :

1. The applicants who are accused Nos.1 and 3 in Crime No.92 of 2016 for the offence punishable under Sections 489-A, 489-B, 489-C and 120-B Of the Indian Penal Code by this application are seeking their release on bail during the pendency of the trial.

2. Heard the learned advocate appearing for the applicants/accused. He drew my attention to the charge sheet by pointing out the First Information Report, the panchnama and

other documents. The learned advocate argued that both applicants alongwith the co-accused were apprehended on the spot and according to the prosecution case they were in possession of alleged counterfeit currency notes. Therefore, in submission of the learned advocate for the applicants, the case of the prosecution is not making out offences punishable under Sections 489-A, 489-B of the Indian Penal Code. Offence of possessing forged or counterfeit currency notes is a bailable offence and therefore the applicants are entitled for bail.

3. The learned APP opposed the application by contending that numbers of currency notes found in possession of the applicants prima facie shows that they were trafficking in forged or counterfeit currency notes and therefore, at this stage, it cannot be said that the offence punishable under Section 489-B is not made out.

4. I have considered the rival submissions and also perused the charge sheet. On the basis of secret information, police

summoned panch witnesses on 12.2.2016 and apprehended in all four accused persons including present applicants, who are accused No.1 and accused No.3 from the spot. The FIR as well as panchnama shows that the applicant no.1 Jiyarun Shaikh was possessing 29 fake and counterfeit currency notes of Rs.1000 denomination, whereas the applicant No.2 Mustafa Shaikh was possessing 22 counterfeit currency notes of Rs.500 denominations. Section 489-B of the IPC prescribed for Penal consequences of dealing in forged or counterfeit currency notes. Trafficking in forged or counterfeit currency notes is covered by this section. Numbers of forged or counterfeit currency notes found in possession of the accused persons give an indication, that those were meant for trafficking.

5. In the case in hand, in all four accused persons were apprehended from the same spot on the basis of secret information that too when all of them were in company of each other. Fake and counterfeit currency notes in huge quantity came to be recovered from all of them.

6. Statement of the landlord of all applicants namely, Ramkathan though recorded belatedly goes to show that all accused persons including both the applicants were residing together in the rented room and they used to exchange currency notes which were prima facie fake or counterfeit. The landlord has stated to police that as he was frightened because of suspicious activities of his tenants i.e. accused persons he did not disclose the matter to the police. Consequences of belated recording of the statement under Section 161 of the Cr.PC are required to be judged during the trial and that too after considering the material elicited from cross examination of the investigators. At this stage, merely because there is delay in recording such statement, version of such witnesses cannot be jettisoned.

7. The offence alleged against the present applicant is an offence destroying economic fiber of the Nation and it has serious repercussions on the economy of the whole Nation. Considering the seriousness of the offence, no case for grant for bail is made

out therefore, the following order.

ORDER

The application is rejected.

(A.M.BADAR J.)