

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO.59 OF 2017
IN
CRIMINAL APPEAL NO.778 OF 2016**

Vasant Jagannath Jagtap ... **Applicant**
V/s.

The State of Maharashtra ... **Respondent**

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Mr.D.G.Khamkar, Advocate for the Applicant.

Mr.P.H.Gaikwad-Patil, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 5th FEBRUARY 2018.

P.C. :

1 This is an application for suspension of sentence and releasing the applicant/accused on bail during pendency of the appeal filed by him.

2 The applicant/accused is convicted of offences punishable under Sections 489-B and 489-C of the Indian Penal Code. On the first count, he is sentenced to suffer rigorous imprisonment for five years and on the second count, he is sentenced to suffer rigorous imprisonment for three years apart from imposition of fine on both counts.

3 Heard the learned Advocate appearing for the applicant/accused. He submitted that the applicant/accused has undergone half of the sentence imposed on him and his appeal is not likely to be heard. The learned Advocate further argued that panch witness in this case have not supported the prosecution and the currency notes were not sealed. The house from which the currency notes were allegedly seized was also in occupation of wife and son of the present applicant and, therefore, exclusive accusation cannot be attributed to the applicant/accused.

4 The learned Additional Public Prosecutor opposed the application.

5 I have carefully considered the rival submissions and also perused the copies of depositions of prosecution witnesses as well as the impugned Judgment and Order of conviction and resultant sentence.

6 Evidence on record indicates that the applicant/accused purchased petty items from two shops by handing over currency notes of Rs.500/- to each shop owner. The first shop owner namely Shri.Riyaz Baghwan (P.W.No.1), suspects the currency note to be fake one and approached the next shop owner Lakhmaram. The matter was intimated to police and this has resulted instantaneous arrest of the accused. It is seen from

the evidence on record that during investigation, confessional statement of the applicant/accused has resulted in recovery of 439 counterfeit currency notes of Rs.500/- denomination as well as 48 counterfeit currency notes of Rs.1000/- denomination from flush water tank of W.C. of his house.

7 The panch witness has turned hostile, but the learned trial Court has relied on evidence of P.W.No.6 Mr.Sanas, Investigating Officer. Recovery was held to be duly proved and report of the expert shows that the seized currency notes were counterfeit notes.

8 True it is that the applicant was imposed punishment of five years rigorous imprisonment, but the appeal is ready for hearing. The option was given to the learned Advocate for the applicant/accused to conduct final hearing of the appeal itself in terms of the earlier Order dated 8th November 2017 passed by this Court (Coram : Smt.Anuja Prabhudessai J.), but he had chosen to argue the matter for bail.

9 Considering the fact that the offence is an economic offence, which ultimately ruins economy of the State, no case for bail is made out. Th application is, therefore, rejected.

10 However, hearing of the appeal is expedited. Liberty is granted to the learned Advocate appearing for the

applicant/accused to mention the appeal for final hearing as and when he is prepared to work out the matter, as the appeal is ready for final hearing.

(A.M.BADAR J.)