

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO.1211 OF 2017
IN
CRIMINAL APPEAL NO.932 OF 2017**

Jamiya Yasin Miya ... **Applicant**
V/s.
The State of Maharashtra ... **Respondent**

.....
Mr.Fakhruddin Khan, Advocate for the Applicant.

Mr.S.V.Gavand, APP for the Respondent/State.

....

CORAM : A.M.BADAR J.

DATED : 10th JANUARY 2018.

P.C. :

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

2 The applicant/accused has been convicted of offence punishable under Section 489-B and 489-C of the Indian Penal Code. He has been sentenced to suffer rigorous imprisonment of seven years and five years respectively on each count apart from directing him to pay fine and to undergo prescribed sentence in default.

3 Heard the learned Advocate appearing for the applicant/accused at sufficient length of time. He has taken me through the evidence of P.W.No.1 Vinayak Gaikwad and the evidence of P.W.No.8. Yashwant Sawant Police Head Constable. The learned Advocate for the applicant argued that the entire case of the prosecution is doubtful and unbelievable. By taking me to the evidence of P.W.No.2 Pathan Umarkhan as well as the bill at Exhibit 17, the learned Advocate for the applicant attempted to demonstrate that this evidence is not admissible in view of the provisions of Section 27 of the Indian Evidence Act as the so called discovery was inadmissible. Police officers were already knowing the name of the shop mentioned on bill(Exh.17). It is improbable that P.W.No.2 Pathan Umarkhan would have kept the currency notes received on the earlier day in the shop itself. The learned Advocate further argued that evidence of P.W.No.6 Sunil Mane Police Inspector is lacunic and is suffering from omissions in respect of material particulars. The timings are coming on record by way of omissions. The learned Advocate further argued that the applicant/accused has already undergone more than half of the sentence and, therefore, he is entitled for bail.

4 The learned Additional Public Prosecutor opposed the application.

5 I have carefully considered the rival submissions and also perused the entire evidence adduced by the prosecution as

well as the impugned Judgment and Order.

6 After due trial, the learned trial Court has recorded the finding that the applicant/accused was found in possession of 103 forged/counterfeit currency notes of Rs.1000/- denomination apart from other currency notes. Though the panch witness employed by the prosecuting agency in this case appears to have been habitual panch deployed by the police, other evidence adduced by the prosecution points out and support the findings recorded by the learned trial Court. Nature and seriousness of the offence is a material consideration for granting bail. In the case in hand, the applicant was not only found in possession of forged/counterfeit currency notes of highest denomination in huge quantity, but it is also found that he has trafficked in and used as genuine the fake/counterfeit currency notes. Such type of offence ruins the economy of the State.

7 In this view of the matter, no case for bail is made out. The application is, therefore, rejected.

8 Hearing of the appeal is expedited. The appellant is permitted to place on record the private paper book. Liberty to mention the matter is granted when private paper book is filed.

(A.M.BADAR J.)