

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1128 OF 2018

Mr. Ishrafil Samad Sikhddhar	...Applicant
V/s.	
The State of Maharashtra	Respondent

Mr. Aamir Shaikih, Advocate for the applicant.

Mrs. J.S. Lohakare, APP for State.

API, Madande S.-AHTC, Crime Branch, Thane present.

CORAM : SANDEEP K. SHINDE, J.

Friday, 29th November, 2019.

P.C. :

1. Applicant is principally prosecuted for commission of offence punishable under Section 14A of the Foreigners Act, 1946. He offered himself as a Surety to accused in Crime No.9/2017 registered with Kopri Police Station, Thane. Crime No.9/2107 is registered under Section 376(2) of the Indian Penal Code and under Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act. On verification of the documents of the applicant, who

offered himself as a Surety, documents then furnished were found forged. Enquiry revealed that the applicant is not a Citizen of India. All the documents sought to be produced by the applicant as a Surety were found forged including the Birth Certificate of his son.

2. This Court on 9th October, 2019, directed the prosecution to verify the authenticity of Pancard, Aadhar Card, Election Identity Card, Voters Card. Prosecution, on enquiry found these documents were forged.

3. Prima-facie, evidence shows that applicant has entered in India without valid documents. However, it appears, the prosecution impleaded the applicant as co-accused in Crime No.9/2017 and charged him of the offences punishable for forgery and offences punishable under the Foreigners Act, 1946.

4. In my considered view, the prosecution

ought to have registered a distinct offence against the applicant under the Foreigners Act, 1956 and for the commission of the offences punishable under the Indian Penal Code. If material is indicating that applicant has entered in India without a valid document, it is a distinct offence and hence authorities concerned ought to have taken the measures, contemplated under the Foreigners Order, 1948 and further ought to have taken steps for his expeditious deportation in accordance with the law.

5. In view of the nature of accusations and applicant being not a Citizen, he may not be available for trial. Bail Application is rejected.

6. The prosecution to take appropriate steps in terms of this order, and submit a report to this Court specifying the steps taken. Stand over to 19th December, 2019 at 3.00 p.m. for compliance.

(SANDEEP K. SHINDE, J.)