

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 3344 OF 2018

Mohd. Ismail Yaseen Siddique .Applicant

Vs.

The State of Maharashtra .Respondent

Ms Madhuri P. Shinde, Advocate, for the Applicant
Mr. S. V. Gavand, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 31.07.2019

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. I-358 of 2018 registered with the Mumbra Police Station, Thane, for the alleged offences punishable under Sections 489(A)(B)(C)(D)(E) r/w 34 of the Indian Penal Code, under Section 3, 25 of the Arms Act and under Section 37(1)135 of the Maharashtra Police Act.

3. Perused the papers. According to the prosecution, on 05.07.2018, co-accused – Ashish Sharma had a quarrel with his

Ex-landlord with respect to return of house rent deposit and cleaning of the house. It is further alleged that the landlord – Sanjaykumar Gupta and the relatives of the landlord went to question co-accused – Ashish, pursuant to which, there was a fight between co-accused – Ashish and the relatives of the landlord. It is alleged that co-accused – Ashish fired at his landlord – Sanjaykumar Gupta with a country made pistol, however, Sanjaykumar Gupta escaped. Pursuant thereto, Sanjaykumar lodged an FIR as against co-accused – Ashish, alleging offences punishable under Sections 307, 323, 504 and under Sections 3, 25 of the Arms Act. Accordingly, co-accused – Ashish was arrested. It appears that during the course of investigation, the police went to Ashish's house, pursuant to which the police seized a scanner, counterfeit currency notes of Rs. 1,09,650/- etc. Pursuant thereto, a complaint / FIR was lodged by Gulfaroz Mujawar, as against co-accused – Ashish. Co-accused – Ashish disclosed to the police that the pistol used in the crime was purchased for his protection, as he was into counterfeit notes, which had come from Oriya, Kanpur, Uttar Pradesh and also disclosed the Applicant's name. The Applicant came to be arrested pursuant thereto. The Applicant was found in possession of 100 counterfeit notes and three Rs. 50/- counterfeit notes. Learned counsel for the Applicant submits that the Applicant had no knowledge or reason to believe that

the currency notes which were with him were counterfeit notes and that the Applicant was found to be in possession of only 4 notes valuing Rs. 250/-. Learned counsel has tendered an Affidavit and an additional Affidavit of the Applicant. The said Additional Affidavit is also taken on record. The Applicant in the said Affidavit has stated that he is residing with his family at Mumbra, District – Thane and his permanent address is 85, Birbal Sahni Marg, Lucknow, Uttar Pradesh – 226007. The Applicant has already tendered a copy of the Aadhar Card, Ration Card as well as a letter from the Grampanchayat in support of his additional Affidavit, that he is a permanent resident of Uttar Pradesh. The Applicant has undertaken that he will not change his permanent as well as temporary residence and if there is any change, he will keep the concerned police station as well as to the Court, informed of the same. He has also undertaken to co-operate with the conduct of the trial. The Applicant is in custody since 08.07.2018. Investigation is complete and charge-sheet is filed. Whether or not the Applicant had knowledge that the currency notes were counterfeit notes, is a matter which will be decided by the trial Court. The Applicant was arrested on the basis of the co-accused's statement.

4. Considering the aforesaid and the role of the Applicant as

well as the Affidavit and additional Affidavit of the Applicant, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

ORDER

- (i) The Applicant be enlarged on bail, on executing P. R. Bond in the sum of **Rs. 10,000/-** with one or more sureties in the like amount;
- (ii) The Applicant shall report to the investigating officer of the concerned police station on the **first Saturday of every month** between **10.00 a. m. and 11.00 a. m.** till the conclusion of the trial;
- (iii) The Applicant shall not leave Mumbai / Thane without the prior permission of the trial Court;
- (iv) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (v) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (vi) The Applicant to co-operate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;

(vii) The Applicant shall file an undertaking with regard to Clauses (ii) to (vi) in the trial Court, within two weeks of his release;

(viii) If there are two consecutive defaults either in attending the police station or in appearing before the trial Court, or breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicant's bail.

5. The Application is allowed in the aforesaid terms and is accordingly disposed of.

6. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)