

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1205 OF 2020**

Rahul Dinkar Vachkal .. Applicant

Vs.

The State of Maharashtra .. Respondent

...

Mr. Murtaza Nazmi with Mr. Dilip Shukla for the Applicant.

Mr. Suraj S. Hulke, A.P.P. for the State.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 22ND DECEMBER, 2020.

P.C:-

1. The Applicant, aged 19 years, seeks his release on bail in C.R. No.222 of 2019 registered with Samarth Police Station, Pune. The said C.R. invokes Sections 489B and 489C read with Section 34 of the IPC. The Applicant came to be charge-sheeted along with two other accused persons. It is informed that Accused No.3 has been released on default bail.

2. The Complainant is the Sub-Inspector attached to Anti Narcotic Cell, Pune, who filed the complaint on 20/07/2019 with the Samarth Police Station. The Complainant was tipped that some persons engaged in the business of counterfeit currency are to arrive at a particular spot for circulation of counterfeit notes. Armed with the raiding team, they waited for arrival of the said persons. A car by the given number stopped in one corner of the road near Ambedkar College, Pune. Confirming that the car was the same in respect of which the tip was received, the team approached the car and two persons were found sitting inside the car. They disclosed their names as Shubham Shirsagar, aged 24 years, and Rahul Vakchal, aged 19 years (the present Applicant). Shubham was on the driving seat. The panchnama was drawn and the car was subjected to search along with the personal search of the two persons in the car. An amount of Rs.40,000/- was seized from the right-hand pocket of shirt worn by Shubham, which included 80 currency notes of Rs.500/- with the serial numbers mentioned. As far as the Applicant is concerned, he was found in possession of three notes of Rs.2000/- with the given serial numbers and one note of Rs.100/-. Fake currency notes worth Rs.5,64,500/- were recovered from the dashboard of the said car. They were sealed and forwarded for opinion about they being counterfeit currencies.

3. Further enquiry from Accused No.1 Shubham led to Accused No.3 and he is alleged to be the person who had handed over the

notes to Accused No.1 Shubham and it was disclosed that even the car in which they were travelling, belongs to Accused No.3. When the team reached the house of Accused No.3, certain incriminating material came to be seized from him and it is alleged to be the material for manufacturing the counterfeit currency. This accused is, however, released on default bail. The Applicant claim parity with him.

4. On the basis of the accusation, the Applicant is indicted for offences under Sections 489B and 489C of the IPC. Section 489B of the IPC provides for penalty for using as genuine, forged or counterfeit currency notes or bank notes. It reads thus:

"Section 489B of Indian Penal Code. "Using as genuine, forged or counterfeit currency-notes or bank-notes"

Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.]

Section 489C of Indian Penal Code. "Possession of forged or counterfeit currency-notes or bank-notes"

Whoever has in his possession any forged or counterfeit currency-note or bank-note, knowing or having reason

to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.]”

5. The use of the words “knowing or having reason to believe the currency notes are forged or counterfeit” implicitly contemplate *mensrea*. In absence of *mensrea*, selling, buying or receiving from any other person, or using as genuine, forged or counterfeit currency-notes or bank-notes is enough to constitute an offence under Section 489B of the IPC. The section aims at stopping the circulation of the counterfeit notes by incriminating of the persons who knowing or having knowledge of the same to be forged, either deals with it i.e. either sells or buys or receives or traffics or uses such notes as genuine.

6. The Applicant is a young boy aged 19 years and three notes of Rs.2,000/- and one note of Rs.100/- have been seized from him. *Prima facie* the charge-sheet does not contain any material to reflect the *mensrea* on the part of the Applicant who possesses the said notes which are alleged to be counterfeit.

7. As far as Section 489C is concerned, which prescribes punishment for possession of forged and counterfeit currency notes, it is bailable and triable by the Court of Sessions and prescribed penalty and imprisonment of either description of a

term which may extend to seven years or with fine or with both. The Applicant, *prima facie*, is found to be in possession of the forged and counterfeit currency notes and is liable for his indictment under Section 489C of the IPC.

8. The Applicant is merely found in possession of the counterfeit currency notes. Charge-sheet did not contain any material to show that he was proposing to traffic or use the said notes as genuine or that he had knowledge or reason to believe that the said notes are forged or counterfeit. The Applicant does not have any criminal antecedents and considering his young age, pending the trial, he cannot be incarcerated for long particularly when on completion of investigation, the charge-sheet has already been filed. He is, therefore, entitled to be released on bail.

ORDER

- (a) The Applicant – Rahul Dinkar Vachkal shall be released on bail in C.R. No.222 of 2019 registered with Samarth Police Station, District Pune on executing P.R. bond to the extent of Rs.25,000/- and furnishing one or two sureties of the like amount.
- (b) The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case and shall not tamper

with prosecution evidence.

- (c) The Applicant shall co-operate and attend the trial regularly unless exempted by the Trial Court.

9. The Application is allowed in the aforesaid terms.

10. All parties are directed to act on the downloaded copy of the order supplied by the Advocate under his seal and signature.

SMT. BHARATI DANGRE, J.