

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

CRIMINAL BAIL APPLICATION NO. 2581 OF 2019

D.M. @ Diyam Umar Faruk Shaikh ... Applicant

Versus

The State of Maharashtra ... Respondent

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Ms. Meghna Gowalani i/by Mr. Karim Khan Pathan,
Advocate for the Applicant.
Mrs. P.P. Shinde, APP for Respondent-State.
Mr. Eknath V. Desai, Nagpada Police Station.

...

CORAM : SANDEEP. K. SHINDE, J.
DATE : 04th FEBRUARY, 2020.

P.C.

Heard.

1. It is an application under Section 439 of Code of Criminal Procedure, 1973 ("Cr.P.C." for short).
2. Applicant is seeking enlargement on bail in Crime No. I - 343 of 2018 registered with Nagpada Police Station for the alleged offences punishable

under Section 489 - B of the Indian Penal Code, 1860 ("IPC" for short).

3. It is alleged that the applicant gave a counterfeit currency note of Rs. 2000/- to purchase shoes whereupon the shop keeper noticed that the note given to him was a counterfeit currency note. He attempted to chase the applicant and with the help of two persons he was caught. The incident of purchase had taken place on 16.07.2018 at 07:30 pm. Thereafter the applicant was taken to the police station and on personal search, ten fake currency notes were found to be in his possession. Besides currency of Rs. 1300/- was also recovered which was allegedly given to him by the complainant - shop keeper after he had tendered the fake currency note of Rs. 2000/- for purchasing the shoes at value Rs. 700/-.

4. Learned counsel for the applicant submits that investigation is over and the final report has been filed and trial may not commence in the near

future.

5. Learned counsel for the applicant further submitted, the prosecution had neither seized the counterfeit currency note of Rs. 2000/- which was allegedly tendered by the applicant to the shopkeeper nor the alleged receipt prepared by the shopkeeper - complainant, for the goods allegedly purchased by the applicant that would attract the offence punishable under Section 489 B of the IPC. It has been thus submitted, evidence does not suggest any/or make out commission of offence punishable under Section 489 B of the IPC.

6. Learned counsel for the applicant also submitted that since the applicant is not an ordinary resident of Maharashtra State, he would furnish local surety and would undertake to attend the trial on everyday. The bail is sought on these grounds. Learned APP opposed the bail application.

7. I have perused the final report. Admittedly the prosecution has neither seized the fake currency note of Rs.2000/- which was tendered by the applicant to the shopkeeper, nor the receipt allegedly prepared by the shopkeeper for the goods allegedly purchased by the applicant from the shopkeeper. That on the personal search at 08 pm. in the police station, ten currency notes were recovered from the person of the applicant, therefore prima facie, the evidence suggest commission of offence under Section 489 C of IPC which is bailable offence.

8. In view of the facts and circumstances of the case, it may be stated that the applicant is in the custody since July 2018. There are no any criminal antecedents against the applicant. The investigation is over and the trial may not commence in the near future, however applicant's presence for the trial can be secured by imposing conditions.

9. The application is therefore, allowed.

ORDER

(i) The applicant is directed to be released on bail on executing P.R. Bond for the sum of Rs.30,000/- with one or more solvent local surety in the like amount;

(ii) The applicant shall report to the concerned Police Station, once in a month on 2nd Monday commencing from February 2020 between 11:00 am to 01:00 pm.;

(iii) The applicant shall furnish the particulars of his residential address as well as permanent address, local address and contact details to the investigating officer;

(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;

10. The application is allowed in the aforesaid terms and disposed off.

11. It is made clear that observations made hereinabove shall be construed as an expression of opinion only for the purpose of granting bail and the same shall not in any way influence the trial in other proceedings.

(SANDEEP. K. SHINDE, J.)_