

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2765 OF 2019

Kulwant Singh S/o Moti Singh	...Applicant
V/s.	
The State of Maharashtra	Respondent

Mr. Ram Mani Upadhyay Advocate for the applicant.
Ms. P.P. Shinde, APP for Respondent-State.
Mr. Suhas J. Chaudhari (I.O.), P.I., Sahar Police
Station.

CORAM : SANDEEP K. SHINDE, J.

Thursday, 30th January, 2020.

P.C. :

Heard.

1. Applicant seeks enlargement on bail in Crime No. 218/2019 registered with Sahar Police Station for the alleged offences punishable under Section 465, 468, 471, 420 read with 34 of the Indian Penal Code, 1860 ("IPC" for short).

2. This Application was heard extensively on 16.01.2020 whereby the investigating officer was

directed to verify the credentials of the sureties proposed to be offered by the applicant in case if the bail was granted to him. This exercise was done because the applicant is an Afghan National. Prosecution has alleged that he had illegally entered in the territory of India in 1993 due to an unrest in Afghanistan, wherein he had later married an Indian citizen and two children were born out of the said wedlock.

3. The prosecution has alleged the applicant alongwith his wife and minor children were found to be travelling to Canada on forged passports and such other related documents. They were subsequently detained by the Immigration Officer at Mumbai Airport in June, 2019 for investigation. It was reveled thereafter that the applicant had approached one Sameer who had then offered him service for his immigration to Canada for consideration. It is further alleged that Sameer (absconding accused) and other two accused had forged passport and other related documents and

facilitated immigration for the applicant to Canada. One Kanwaljit Singh (accused - a senior citizen) was also accompanying the applicant and his family members on the Aircraft, who was allegedly going to take the applicant and his family to Canada. It is submitted that Kanwaljit Singh has been released by the learned trial Court. Four accused are absconding out of which are two accused are residents of Canada.

4. It has been submitted the applicant's wife (accused no.2) has been released on bail, while the present applicant has been in the custody since June, 2019.

5. Learned counsel for the applicant submits that the applicant himself is the victim and since the investigation is over he may be released on the bail. The next submission is that he is willing to offer the surety of his close relatives whereby the prosecution can secure his presence for the trial. On this submission, this Court had directed the

investigating officer to bring the credentials of the sureties which applicant wants to offer.

6. Learned APP on instructions from the investigating officer has submitted that the agents Ajaykumar and Sameer who are ordinary residents of Delhi are absconding and their whereabouts are not yet traced in spite of the fact that the investigating officer had visited Delhi on two occasions.

7. Priam facie, it appears that the passport and other related documents were forged by the agents for consideration. Evidence does not suggest the applicant himself had indulged into forging any such documents as alleged by the prosecution, however the fact cannot be overlooked that the applicant was aware and had knowledge that the documents on the basis of which he along with his family were going to travel to Canada, were forged.

8. Be that as it may, the two absconding

accused (Ajaykumar and Sameer), who had allegedly for consideration, forged the documents are still absconding and it is not possible to assert as to when they would be arrested and tried. In these circumstances, since the investigation is over, it would be unfair to detain the applicant in the custody further only because the agents (Ajay and Sameer) are not yet traceable.

9. As far as the directions regarding verifying the credentials of the sureties proposed by the applicant is concerned, the learned APP on instructions submits that the investigating officer has verified the credential of the sureties who are the uncle and aunt of applicant's wife. The surety verification papers have been placed on record and marked as **'X-1' for identification**. The investigating officer through the Constable collected the relevant documents of the proposed sureties. I have perused through them.

10. In view of the facts and circumstances of

the case, the applicant is directed to be released on bail on the following terms and conditions.

ORDER

(i) The applicant is directed to be released on bail on executing P.R. Bond for the sum of Rs.25,000/- with one or two solvent surety in the like sum;

(ii) The applicant shall not leave from the jurisdiction of this Court;

(iii) The applicant shall furnish the particulars of his present residential address alongwith that of his relatives to the investigating officer within a week from today;

(iv) Investigating Officer shall verify the authenticity of the particulars of his address and other details report it in the charge-sheet;

(v) The applicant shall furnish the contact details of the sureties to the investigating officer along with their passport details

within seven days from the date of his release on bail;

(vi) The applicant shall report to the investigating officer twice a month i.e. on 3rd, 24th day of each month commencing from February, 2020 between 11:00 am. to 01:00 pm.

(vii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

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

12. It is made clear that the observations made hereinabove shall be construed as 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.)