

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

23 BAIL APPLICATION NO.371 OF 2021

**NITIN BHANUDAS MALWADE
VERSUS
THE STATE OF MAHARASHTRA**

...

Advocate for Applicant : Mr. Ghanekar Nilesh S.
APP for Respondents/State : Mr. S.P. Sonpawale

...

with

BAIL APPLICATION NO.270 OF 2021

**SANDIP SRIMANT ARAGADE
VERSUS
THE STATE OF MAHARASHTRA**

...

Advocate for Applicant : Mr. Rahul Mote h/f. Sonawane Sunita G.
APP for Respondents/State : Mr. S.P. Sonpawale

...

with

BAIL APPLICATION NO.573 OF 2021

**AKASH SAMPATI MANE
VERSUS
THE STATE OF MAHARASHTRA**

...

Advocate for Applicant : Mr. Anil S. Surwase
APP for Respondents/State : Mr. S.P. Sonpawale

...

**CORAM : M.G. SEWLIKAR, J.
DATE : 6th September, 2021**

ORDER:-

Heard.

2. All these applications are disposed of by common order, as they arise out of the same offence.

3. Prosecution case is that on 08.12.2020 the informant with his staff was on patrolling duty on account of Bharat Bandh. The informant got a message that two persons were using counterfeit currency notes of the denomination of Rs.100/- and 200- as genuine at T.V. Center at Sanjay Gandhi Market. Accordingly, the said spot was raided.

4. Applicant Sandip, one Nikhil were found in possession of counterfeit currency notes of the denomination of Rs.100/- and 200/-. 391 counterfeit denomination of Rs.200/-, one counterfeit currency note of Rs.2000/- were seized. On interrogation it was revealed that applicant-Akash Mane sold counterfeit currency notes of Rs.100/-, 200/- and 2000/- worth Rs.1,00,000/- for Rs.20,000/- genuine notes. Accordingly, all the applicants were arrested. Applicant-Nitin Malawade was found possessing counterfeit currency notes of Rs.3,000/-, applicant-Sandip Aragade was found possessing counterfeit currency notes of Rs.50,000/- and applicant-Akash Mane was found possessing printer, monitor and other articles used to print counterfeit notes. From the allegations in the FIR, seizure panchanama and the

statements of the witnesses it appears that the only allegation against the applicants is that they were possessing counterfeit currency notes.

5. Learned APP Shri Sonpawale argued that the intention behind keeping these counterfeit currency notes in large numbers has to be considered. He submitted that these counterfeit currency notes were in possession of the accused in large numbers clearly show that their intention was to use them and put them into circulation. In order to attract the offence under Section 489-A of the I.P.C., what the prosecution has to prove is that the accused was counterfeiting or knowingly performing any part of the process of counterfeiting any currency notes. Thus, for invoking the provisions of Section 489-A, prosecution has to bring on record that the applicant was in fact caught while performing any part of the process of counterfeiting.

6. To invoke the provisions of Section 489-B, prosecution has to bring on record the evidence to the effect that the applicant was selling, buying or receiving from any other person or otherwise trafficking in or using as genuine, any forged or counterfeit currency note, knowing or having reason to believe the same to be forged or counterfeiting notes. No evidence is adduced to show that the applicants were either selling, buying or receiving from any person the counterfeit currency notes with the knowledge that they were counterfeit currency notes. Therefore, the only offence that can be

leveled against the applicants is that they were possessing counterfeit currency notes. This offence is a bailable offence. Therefore, applicants are entitled to be released on bail. Hence the following order is passed:

ORDER

- I) Applications are allowed.
- II) Each of the applicant be released on PR bond of Rs.60,000/- with one solvent surety each in the like amount, in connection with Crime No.789 of 2020 under Section 489(A), 489(B), 489 (C) read with Section 34 of the I.P.C. registered with CIDCO Police Station, Aurangabad on condition that they shall report to the police station concerned once in a week till the conclusion of the trial.
- III) These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]