

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 473 OF 2021

Sanjay Sakharam Choudhari

Applicant

Versus

The State of Maharashtra

Respondent

Mr. S.J. Salunke, Advocate for the applicant.

Mr. S.D. Ghayal, APP for respondent/State.

CORAM : M.G. SEWLIKAR, J.

DATE : 23rd August, 2021.

PER COURT :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail.

2. It is the prosecution case that the informant who is the Assistant Police Inspector got a tip off that the applicant and other accused had purchased counterfeit currency and were carrying it in a Swift car bearing No. MH 44 G 1993. Therefore, informant and other police staff raided the place where this car was parked. On seeing the police party, one of the persons ran away and the other persons and the applicant who were sitting in the car were

apprehended. On taking search of the car, counterfeit currency notes i.e. 23 currency notes of Rs. 200/- and 13 currency notes of Rs. 50/- were found in the car. These counterfeit currency notes were seized. Thereupon, offence came to be registered under Section 489(B) and 489(C) read with Section 34 of the Indian Penal Code.

3. Heard Shri Salunke, learned counsel for the applicant and Shri Ghayal, learned APP for the State.

4. Learned counsel Shri Salunke submitted that the offence falls under Section 489(C) of the Indian Penal Code which is a bailable offence.

5. Learned APP submitted that there was evidence to show that the applicant and the other accused had purchased the counterfeit currency notes and they were kept in the car and they were selling the same to the people. Therefore, Section 489(B) of the Indian Penal Code is clearly attracted which is punishable with imprisonment for life or with imprisonment for 10 years.

6. In order to bring the offence within the scope of Section

489(B) of the Indian Penal Code, there has to be evidence to show that the applicant was selling or buying or receiving from any other person or traffics in or uses as genuine, any forged or counterfeit currency note or bank note knowing or having reason to believe the same be to forged or counterfeit. In the case at hand, there is nothing on record to show that the applicant was trying to sell or he had bought or received from any other person the counterfeit currency notes. The only allegation is that he was sitting in the car and on seeing police other persons ran away. There is report to show that these are the counterfeit currency notes. However, without there being any evidence of selling or buying or receiving counterfeit currency notes from any person, it cannot be said that offence under Section 489(B) of the Indian Penal Code gets attracted.

7. For attracting offence under Section 489(C), it has only to be proved that the applicant was in possession of counterfeit currency notes. In the case at hand, the applicant was sitting in a car and counterfeit currency notes were in the car. The applicant did not run away on seeing police party but the other one who was sitting in the car ran away on seeing police party. Therefore, it can be said that the applicant was only possessing the counterfeit notes.

Section 489(C) is punishable with imprisonment for seven years and is a bailable offence. I am, therefore, inclined to release the applicant on bail. Hence the following order :-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs. 50,000/- (Rs. Fifty Thousand only) with one solvent surety in the like amount, in connection with Crime No. 485/2020 registered at Ambajogai City Police Station, Dist. Beed, for the offences punishable under Section 489(B), 489(C), 34 of the Indian Penal Code, on condition that he shall attend all the dates that would be fixed during trial.
- iii) Application stands disposed of.

(M. G. SEWLIKAR)
Judge