

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1074 OF 2021

VISHNU SIDRAM GAIDHANKAR)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Ritesh Thobde, Advocate for the Applicant.

Mr.A.A.Palkar, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

RESERVED ON : 15th NOVEMBER 2021
PRONOUNCED ON : 18th NOVEMBER 2021

P.C. :

1 The present application has been moved by the
applicant under Section 439 of the Code of Criminal Procedure in
Crime No.953 of 2020 registered with Police Station Vijapur
Naka, Solapur, for offences punishable under Section 498(A)(B)
(C)(D)(E) read with 120B of the Indian Penal Code (IPC).

2 The case of the prosecution is that on 1st October 2020 when the informant and other police staff were sitting in a room of Crime Detection Squad, they received information that one person in Asara Chowk was distributing fake notes pretending it to be genuine. After summoning two panchas the informant and the staff members visited the spot and found one person roaming in suspicious condition. He was taken into custody. The said person then revealed his name as Sanjay Pawar. They also seized four notes of denomination of Rs.100. Upon interrogation, the said person revealed that the said notes were given to him by the applicant. It is further alleged that the applicant used to give co-accused commission. They further came to know that the alleged notes were counterfeit notes. After the seizure of fake currency, the informant lodged the report.

3 Mr.Ritesh Thobde, learned counsel for the applicant, submits that there is no evidence to show that the applicant was in any manner involved in circulating the fake currency notes.

The co-accused is already released on bail. There are no antecedents and at the most, even if it is taken for the sake of argument that there is evidence, then Section 489E would be applicable and the said offence is bailable. The learned counsel for the applicant placed reliance in **Shri Amit Pai Raikar @ Amit Pai vs. State of Goa**¹.

4 Mr.Palkar, learned APP, on the other hand, vehemently submitted that there are ingredients of offences with which the applicant has been charged. The learned APP invited my attention to the statement of one Chandrakant Ramesh Khamitkar from whom the applicant had purchased necessary material in order to print the fake currency notes. There being no merit in the application, the same is liable to be rejected, argued learned APP.

5 Admittedly, the perusal of FIR and panchnama would show that one Sanjay Pawar was found in possession of

1 2014 SCC Online Bom 521

counterfeit currency notes along with the necessary literature which was used in preparation of fake currency notes. It is also seen that he revealed the name of applicant. Then there is statement of Chandrakant Khamitkar who says that on 11th September 2020 the customer Gaidhankar had been to him and had purchased a printer worth Rs.10,115/-. However, he took copy of bill and receipt in the name of Radhika Vishnu Gaidhankar. Again on 20th September 2020 said Gaidhankar visited his shop and purchased two ink bottles of yellow and red colour. However, the prosecution has not been able to show convincingly that the person who visited the shop of Chandrakant Khamitkar was the applicant or anybody else. It is also not satisfactorily and prima facie established that the applicant used those printer and ink so purchased in preparation of fake and counterfeit currency notes. Merely because his name is revealed by Sanjay Pawar, that by itself is not sufficient, and whether same can be taken into consideration is also a question of law and therefore, in my considered opinion, the applicant has made out a case for bail.

6 In the case of **Shri Amit Pai Raikar (supra)** this Court after following the ratio laid down in **Bhagirathi Sinh Judeja vs. State²** was pleased to release the accused on bail on appropriate conditions. I may usefully refer the observations of the Hon'ble Apex Court in the case of **Bhagirathi Sinh Judeja (supra)** as under :

“5 But even where a prima facie case is established, the approach of the Court in the matter of bail is not that the accused should be detained by way of punishment but whether the presence of the accused would be readily available for trial or that he is likely to abuse the discretion granted in his favour by tampering with evidence.”

7 In the instant case also, the applicant is a permanent resident of Solapur. No criminal antecedents are brought on record. In these circumstances, I am inclined to allow the application. Hence, the following order :

2 AIR 1984 SC 372

ORDER

- (i) The application is allowed.
- (ii) Applicant – Vishnu Sidram Gaidhankar shall be released on bail in Crime No.953 of 2020 registered with Police Station Vijapur Naka, Solapur, on his executing PR.Bond in the sum of Rs.25,000/- with one or two sureties in like amount.
- (iii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts either to the Court or to any Police Officer.
- (iv) The applicant shall not tamper with prosecution evidence in any manner.
- (v) The applicant shall not indulge in similar type of offences in future.

(vi) Bail before trial Court.

(vii) The application stands disposed off in aforesaid terms.

(V. G. BISHT, J.)