IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 750 OF 2021

Jasim @ Wasim Salim Shaikh … Appellant

V/s.

The State Of Maharashtra And Anr. … Respondents

Ms. Janaki Ravi a/w Mr. Akash Gupta i/b Hulyalkar And Associates for Appellant.
Ms. A. S. Pai Special PP a/w Ms. J. S. Lohakare APP, for Respondent-Sate.

CORAM : A.S. GADKARI AND MILIND N. JADHAV, JJ.

DATE : 18th OCTOBER, 2022.

P.C. :

1. By the present Appeal under Section 21(4) of the National Investigation Agency Act (for short "*NIA Act")* Appellant (Org.A-No.1) has impugned Order dated 7th July, 2021 passed below Exh-23 in NIA Special Case No.5 of 2019 @ NIA Special Case No.68 of 2021 thereby dismissing the said Application for releasing the Appellant on bail.

2. Heard Ms. Janaki Ravi, learned counsel for Appellant, Ms. Lohakare, learned APP for State and Ms. Pai, learned Special PP for Respondent No.2-NIA. Perused entire record produced before us.

3. Record reveals that, Mr. Tejas V. Parab, Police Constable then attached to Mumbra Police Station, District Thane had received confidential

information that, Appellant was having in his possession substantial quantity of fake Indian currency notes and the same were intended to be used as genuine. Accordingly, Police Officer alongwith other Police personnel attached to Mumbra Police Station, District Thane conducted raid on 18th May, 2019 at the premises of Appellant situated at, Chistiya Nagar, Amrut Nagar, Mumbra, District Thane. During the house search of the Appellant, 164 number of fake Indian currency notes of Rs.500/- denomination were recovered. A crime bearing First Information Report No. 325 of 2019 dated 18th May, 2019 was registered with Mumbra Police Station, District Thane under Section 120-B, 489A, 489B, 489C read with Section 34 of the Indian Penal Code (*for short "IPC"*) against Appellant; Mr. Ishak Khan resident of Bengaluru, State of Karnataka and Mr. Radhakrishna Adappa, resident of Manchenahalli, State of Karnataka. Appellant was arrested on 18th May, 2019. Other two Accused persons were also arrested in due course of time.

4. Record indicates that, during the course of investigation it has been revealed that, Appellant had travelled from Mumbra, District Thane to Bengaluru on 12th May, 2019 alongwith his friend and stayed at Hotel Sri Krishna Lodge at Cottonpet, Bengaluru. Appellant met Accused No.3 Radhakrishna outside the KSRTC Bus Stand of Gauribidanur, District Chikkabalapur, State of Karnataka. At that place Accused No.3 delivered 164 notes of fake Indian currency, all in the denomination of Rs.500/- totaling of

Rs.82,000/- to him. Appellant carried the same at his residence at Mumbra, District Thane. The said currency notes have been recovered from the premises of the Appellant on 18th May, 2019 by the police by effecting a detailed recovery panchanama.

5. Learned Advocate for Appellant submitted that, Appellant at the most, be charged under Section 489C of IPC for possession of forged or counterfeit currency notes but can not be charged under Section 489B for using it as genuine. She submitted that, it is not a prosecution case that, Appellant in fact tried to use the said currency notes in market. That, no other material such as printers or printing materials were recovered at the instance of the Appellant and therefore only Section 489C will have application to the present crime as far as Appellant is concerned. She submitted that, Appellant is in jail since last more than three years and therefore he may be released on bail.

6. The facts noted in para Nos.3 and 4 above are deduced from the statement of witnesses and other material available on record. It is to be noted here that, the evidence on record reveals that, mobile phone numbers of Appellant and other two Accused persons were intercepted by the prosecuting agency. That, Accused No.2 Ishak Khan was operating from Kolkata jail and all Accused persons were in contact with each other. That, the voice of Accused No.2 Ishak Khan has been identified during the Forensic Science

Analysis of his voice sample. It is thus clear that, there is more than sufficient material available on record to show clear complicity of Appellant in the present crime. It is pertinent to note that, the Appellant had procured said fake currency notes for its transmission or circulating it in the market for causing innumerable harm to our economy. Appellant is a key conspirator in the present crime. The contention of the learned Advocate for Appellant that, Appellant at the most be charged under Section 489C of the IPC therefore can not be accepted.

7. As noted earlier, there is sufficient material in the form of statements of witnesses and electric form to show clear complicity of Appellant in the present crime. In view thereof, serious allegations against Appellant and recovery of huge quantum of fake currency notes, in our view the Appellant does not deserve to be released on bail.

8. Perusal of impugned Order dated 7th July, 2021 indicates that, the Trial Court has not committed any error either in law or on facts while passing the impugned Order.

Appeal being *dehors* of merits is accordingly dismissed.

[MILIND N. JADHAV, J.] **[A.S. GADKARI, J.]**