

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1678 OF 2022

Mohd. Fakiyan Ayyub Khan ... Applicant

V/s.

State of Maharashtra ... Respondent

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Dr. Abhinav Chandrachud a/w. Zoheb Shaikh and Zuber Chakoli,
Advocate for Applicant.
Ms. Anamika Malhotra, APP for Respondent-State.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 25th SEPTEMBER 2023

P C:-

1. By this Application, Applicant is seeking bail in C.R.No. 33 of 2021 registered with DCB, Unit-IV Police Station for the offence punishable under Sections 489(A), 489(B), 489(C) of Indian Penal Code, 1860 (for short "IPC").
2. It is prosecution's case that based on secret information about a suspect who would arrive at 20:00 hours near MMRDA colony, Mahul Road, Chembur, with counterfeit Indian currencies, the informant relays the information to his seniors at the unit and on

further instructions raiding squad was formed. Accordingly, panchas were summoned and were introduced to the squad. The raiding squad reached at the incident spot. At around 20:10 hrs., the suspect arrived with one white plastic bag and the said suspect was accosted by the raiding squad. The suspect was inquired about his identity which he responded in affirmative. On his personal search, there was recovery of one mobile phone and from the white plastic bag, there was recovery of allegedly counterfeit notes of various denominations around Rs.55,450/-. During the investigation and through memorandum of panchanama at the instance of Applicant allegedly recovery of Rs.343100/- counterfeit currency notes from the residence of the Applicant.

3. Learned Counsel for the Applicant submitted that Applicant has been falsely implicated in this case. As per memorandum panchanama dated 17.02.2021, the time mentioned in the said panchanama was concluded is at 21:30 hrs. which is contrary to the tower locations of both viz. Investigating Officer and the informant. It is alleged that Applicant was arrested on 16.02.2021 at 20.10 hrs and thereafter he was taken with panch witnesses at his residence on 17.02.2021 where they found the key of his residence in the corner of window. The above version of the Applicant falsified by

the witness statement Mr. Allan Khan, the prospective father-in-law of Applicant, who states that Applicant was brought to his residence by two police officers wearing plain clothes on 16.02.2021 at 2.30 a.m. they took the key of his residence and went away.

4. It is alleged that memorandum panchanama was prepared on 17.02.2021 at Applicant's residence. However, letter was received by Currency Note Press, Nashik Road, i.e. on 18.02.2021 at 9.40 a.m. i.e. within 12 hours, the quantity of counterfeit note received by the Currency Note Press also does not tally with the notes mentioned in the memorandum of panchanama. It is alleged that only printer is seized from the house of Applicant, no laptop or phone has been seized which could have been used by the Applicant for the purpose of preparing counterfeit notes. The receipt of printer was in the name of Mohd. Akhtar Shaikh but he has not been added as accused and he has been added as witness. It is alleged that Applicant had purchased paraphernalia (stationary and laminator machine) for counterfeiting from two witnesses Habib Rauma and Dilip Nirmal. But there is no panchanama to show that Applicant was carried at their shop. The investigation is completed and charge-sheet has been filed. Applicant is behind the bar more than 2½ years. Hence requested to allow the Application.

5. Learned APP submitted that, Applicant was apprehended on the basis of secret information and counterfeit currency notes of more than Rs.50,000/- were found in his personal search. The printer which was used for making counterfeit notes was recovered from the residence of Applicant. The two witnesses have stated that, Applicant had purchased the material used for preparing counterfeit notes. It shows the involvement of the Applicant in the crime. Hence, requested to reject the Application.

6. I have heard both the learned Counsel. Perused FIR and charge-sheet. It is alleged that, Applicant was possessing counterfeit notes when he was arrested. It is alleged that at the instance of Applicant counterfeit currency notes are recovered from the house of Applicant when police visited house of Applicant. The key of the said room was kept on the ledge of window. It appears from the record that the room from where police has recovered counterfeit notes at the instance of Applicant, is in the name of Mr. Allan Khan and police has recorded his statement. It appears from his statement that on 16.02.2021, two police in plain clothes had come with Applicant at his house and taken away the key of said room. It is alleged that Applicant had purchased material for preparing counterfeit currency notes from shop owners. It has come in the

statement of witnesses Habib Rauma and Dilip Nirmal that Applicant had purchased JK Bond one paper rim, gel pen, paper cutter and eraser and laminator machine. It appears from record no panchanama was prepared, when Applicant along with police visited to shops of these witnesses. Applicant is behind the bar more than 2½ years. In view of the above observations, I am inclined to allow the Application. In view of the above, I pass following Order :

ORDER

- (i) Applicant be enlarged on bail in C.R.No. 33 of 2021 registered with DCB, Unit-IV Police Station on executing PR.Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (ii) Applicant shall attend the concerned Police Station once in a month i.e. on first Monday of the month between 11.00 a.m. to 3.00 p.m. till framing of charge.
- (iii) Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.

(iv) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

(v) The Trial Court shall decide the said case on its own merits, in accordance with law uninfluenced by the observations made in this order.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. All concerned to act on the authenticated copy of this order.

SONALI
SATISH
KILAJE

Digitally signed
by SONALI
SATISH KILAJE
Date:
2023.10.07
17:26:57 +0530

(SHIVKUMAR DIGE, J.)