



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 3364 OF 2023

USMAN JAMILUR REHMAN KAZI ..APPLICANT

VS.

THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Arun Rajput a/w Adv. Firoz Shaikh a/w Adv. Viral Mukte for the Applicant.

Ms. Veera Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 13, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under Sections 489-B, 489-C read with 34 of the Indian Penal Code registered on 12/05/2023 vide C.R. No.144 of 2023 with Naupada Police Station, Mumbai.

3. It is the case of the prosecution that the applicant deposited cash of Rs.13,200/- in his bank account through ATM machine. Out of the said amount, 44 notes each of denomination of Rs.200/- were forged or counterfeit, but

the amount in respect of the remaining notes which were genuine was credited in his account. For convenience, the relevant portion of the order dated 05/09/2023 passed by the trial Court while enlarging the co-accused- Haroon Lallan Ansari is reproduced as under:

"2] Perused application, say filed by prosecution and documents on record. Heard learned Advocate Shri.N.V.Sawant for the accused and learned A.P.P. Shri.V. A. Kulkarni.

3] The F.I.R. dated 12/05/2023 is filed by Yogesh Suresh Mulwani, working as Deputy Manager in A.U.Small finance Bank, Ram Maruti Road, Thane Branch. It is alleged that on 10/05/2023, the co-accused Kazi Usman deposited cash of Rs.13,200/- in his account through ATM machine. Out of the said amount, 44 notes each of denomination of Rs. 200/- were forged or counterfeit, but the remaining notes which were genuine were credited in his account.

4] The co-accused Kazi Usman was arrested and interrogated. He revealed that he received counterfeit currency notes from present accused Haroon Ansari. He was arrested and was interrogated. Nothing could be recovered from his possession. He revealed name of accused No.3 Mohammed Azam from whom he received notes.

5] According to learned Advocate for the accused, he was arrested on 17/5 / 2023 and has been interrogated sufficiently. No incriminating material is recovered from his house. There is no legally acceptable evidence against him, therefore, prayed for bail.

6] Prosecution has opposed the application. According to it, investigation reveal that present accused gave counterfeit currency notes to accused

No.1 Kazi Usman Jamilur Rehman who used the same as genuine. It was also revealed that present accused received counterfeit currency notes worth Rs.30,000/-. One of the accused is still absconding. In case of grant of bail, there is possibility of destruction of evidence.

7] I have considered rival submissions.

8] It appears that the investigation is completed, charge- sheet is filed. After arrest of co-accused Kazi Usman he was interrogated. He disclosed name of the present accused. On 21/5/2023 house of present accused was searched, but no incriminating article was found. There is no convincing material to show complicity of this accused in the offence.

9] I think it would not be proper to detain accused till conclusion of trial.

10] The apprehension of the prosecution has no basis. In such circumstances, he is entitled for bail."

4. The perusal of the order clearly reveals that the applicant received counterfeit currency from accused No.2 and accused No.2 revealed that the counterfeit notes were received from accused No.3. Learned APP submitted that accused No.3 is absconding.

5. Learned APP opposed the application. My attention is invited to the contents of the affidavit in reply filed by the respondent-State.

6. In my opinion, in the facts and circumstances of the present case, considering that accused No.2 has been

enlarged by the trial Court, even the present applicant can be enlarged on bail by imposing conditions. There are no criminal antecedents reported. The investigation is complete and the chargesheet is filed. The applicant does not appear to be a flight risk. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Usman Jamilur Rehman Kazi in connection with C.R. No. 144 of 2023 registered with Naupada Police Station shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- with one or more local/sureties in the like amount.
- (c) The applicant shall attend the Investigating Officer of Naupada police station twice a month, first and third Saturday of every month, between 11.00 a.m. and 1.00 p.m.
- (d) 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 the facts to Court or any Police Officer. The applicant shall not tamper with evidence.
- (e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated,

in case there is any change.

(f) The applicant shall not leave India without prior permission of the trial Court.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) The applicant shall surrender his passport to the investigating officer. If the applicant does not have a passport, the applicant shall file an affidavit before the trial Court to that effect.

7. The application is disposed of.

(M. S. KARNIK, J.)