

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

BAIL APPLICATION NO.2517 OF 2023

Subhash Digambar Kale

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Aniket Nikam i/b Mr. Amit Icham, for the Applicant.

Ms. R. V. Newton, APP, for the Respondent – State.

CORAM: MADHAV J. JAMDAR, J.

DATED: 12 AUGUST 2024

P.C.:

1. Heard Mr. Nikam, learned Counsel for the Applicant and Ms. Newton, learned APP for the Respondent – State.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1	C.R. No.	503 of 2022
2	Date of registration of F.I.R.	03/12/2022
3	Name of Police Station	Kurduwadi, District - Solapur
4	Section/s invoked in FIR	489B, 489C, 420 & 34 of the <i>I.P.C., 1860</i>
5	Date of incident	03/12/2022
6	Date of arrest	03/12/2022
7	Date of filing Charge-sheet	28/02/2023
8	Section/s applied in Charge-sheet	489A, 489B, 489C, 489D, 420, 201, 120B & 34 of the <i>I.P.C., 1860</i>

3. The Respondent – State of Maharashtra has opposed this Bail Application by filing Affidavit-in-Reply of Suraj M. Nimbalkar, Police Sub Inspector, presently attached to Local Crime Branch, Solapur Rural, District – Solapur dated 24th July 2024. The prosecution case is set out in Paragraph No.4 of said Affidavit-in-Reply. Said Paragraph No.4 reads as under:

“4 . I say that the procution case, in short, is as under :-

(a) That FIR was lodged by Mr. Abasaheb Laxman Mundhe, Police Constable, B. No. 902, attached to Local Crime Branch, Solapur Rural wherein he stated that he has been posted in the Local Crime Branch, Solapur Rural since February 2022 and he was working in the investigation team.

(b) It is the case of the Orig. Complainant/Informant that on 03.12.2022 at 14.00 hrs. a team consisting of Shri Shrikant Gaikwad, A.S.I., Shri. Biraji Parekar, A.S.I., Shri Nilkanth Jadhavar, A.S.I., Shri Sarjerao Bobde, Police Head Constable (B. No.1181) Shri Haridas Pandhare Police Head Constable (B. No.460), Shri Vijaykumar Bhure Police Head Constable (B. No.425), Shri Salim Bagwan, Police Head Constable (B. No.618), Shri Ravi Mane, Police Naik (B. No.1612), Shri Vinayak Ghorpade, Police Constable (B. No.2074), Shri Dilip Thorat Police Constable (B. No.848) were called to their room and informed that they were called and informed that as per confidential information, a person namely Harshal Lokre, is in possession of a large amount of fake notes and he would come to Tembhurni check in Kurduwadi town in order to dispose of those fake notes by pretending that they are real notes in the market. However, legal action will be taken in this regard. Later, government vehicle i.e. MH 13 D.M. 9441 and private car No. M. H. 13 DE-7828 were dispatched to Kurduwadi in order to take action in response to the above confidential information.

(c) *It is the case of the Orig. Complainant/Informant that thereafter they stopped near the office of Adishakti Mangal in Shiwara of Kurdu village on Shetfal Road near Kurduwadi City. It is further case of the Orig. Complainant/Informant that as per the orders of Assistant Police Inspector Mr. Pore, during the course of the operation, the Orig. Complainant/Informant, along with Shri Pandhare, Police Head Constable went to Kurduwadi town in order to conduct the panchanama and two panchas namely 1) Mahadev Arjun Khawle, 43 years of age, a business employee, a sweeper, N.P. Kurduwadi, R/a. Annabhau Sathe Nagar, Kurduwadi, Ta. Madha, G. Solapur and 2) Mushtaq Ganibhai Dalwale, 57 years old, Business – Hotel Business, Ra. Behind Kurduwadi Police Station, Kurduwadi, Ta. Floor went to Solapur where Mr. Dhananjay Pore, A.P.I., explained the news to the two Panchas. Further action was taken after he consented to act as Panchas. Thereafter, trap team came to the spot of incident and arranged a trap. After some time, one person came on Splendor Plus bike from the direction of Tembhurni having registration No. MH 45 J 3704 and stopped at the check post. At that time, the accused was caught by a five-members team of the police. It was 16.15 pm. When the police asked him his name, age and address, he replied his name as Harshal Shivaji Lokre, aged 20 years, residing at Kandar, Tal. Karmala, Dist.: Solapur. It is further case of the Orig. Complainant/Informant that a total of 5 bundles of Rs.500/- denomination notes were found in a cloth bag when Mr. Pore, Assistant Police Inspector took his search since it was found that something was hidden inside the sky blue shirt on his body. When the notes were verified by panch and Mr. Dhananjay Pore, Assistant Police Inspector, it was found that the notes were printed on thin, lighter paper than the weight of the regular notes. Since he had a motorcycle and 5 bundles of notes, each bundle was numbered 1 to 5 respectively. The description of the aforesaid bundles are as under:-*

1) 00 - 00/- Bundle No.1 contains a total of 100 bank notes of

different denominations of Rs.500 denomination.

2) 00 - 00/- Bundle No.2 contains a total of 98 notes of denomination of Rs.500 denomination that look like Indian currency.

3) 00 - 00/- Bundle No.3 contains a total of 100 notes of denomination of Rs.500/- that look like Indian currency.

4) 00 - 00/- Bundle No.4, a total of 99 notes of denomination of Rs.500 resembling Indian currency.

5) 00 - 00 /- Bundle No. 5 contains a total of 96 notes in the denomination of Rs.500/- resembling Indian currency.

Even the investigating agency also seized Hero Honda Splendor Plus Motorcycle No. MH 45 J 3704, with 'Chhatrapati' written on its rear number plate, priced at Rs. 20,000/-.

*(d) It is the case of the Orig. Complainant/Informant that since the place where the accused was caught was on a public road, further action was taken at Kurduwadi Police Station. In this, the number of 5 bundle notes received by Harshal Lokre was mentioned in detail under the Panchanama dated 03.12.2022. Hereto annexed and marked as **Exhibit A** is the copy of the Panchanama dated 03.12.2022. The notes recovered from the possession of the accused, Harshal Shivaji Lokre and on further verification, it has been found that these notes were provided by Subhash Lokre from an unknown place and despite knowing that they were fake, they were kept in a state of possession with an intention to sell them in the market by pretending to be genuine.*

(e) On the basis of complaint lodged by the Orig. Complainant/informant, offence vide C.R. No.503/2022 U/secs. 489-A, 489-B, 489-C, 489-D, 420, 421, 201, 120-B r/w. 34 of the Indian Penal Code came to be registered with Kurduwadi Police Station, Dist.: Solapur and investigation was commenced."

4. It is the submission of Mr. Nikam, learned Counsel for the

Applicant that the Applicant is incarcerated since 3rd December 2022, investigation is completed and that Charge-sheet has been filed on 28th February 2023. He submits that as far as the Applicant's role in the offence is concerned, during inquiry from co-Accused Harshal Lokare, he disclosed that the present Applicant handed over to him some counterfeit currency notes. He submits that this confession is hit by Section 25 of the *Indian Evidence Act, 1872* ("Evidence Act"). He submitted that there is a recovery of about 580 counterfeit currency notes of 500 denominations from the Applicant under Section 27 of the Evidence Act. He therefore submitted that, at the most, the Applicant can be said to have been involved in the offence under Section 489C of the *Indian Penal Code, 1860* which deals with possession of the counterfeit currency notes. He submitted that as far as Section 489C is concerned, the maximum punishment is 7 years and the said offence is bailable. On instructions, he submitted that there are no antecedents against the Applicant.

5. On the other hand, Ms. Newton, learned APP strongly opposed the Bail Application. She pointed out detailed Affidavit dated 24th July 2024 of Suraj M. Nimbalkar, Police Sub Inspector, presently attached to Local Crime Branch, Solapur Rural, District – Solapur. She submitted that the Applicant is involved in the commission of the offence. The Applicant was in possession of counterfeit currency notes. She

submitted that the Applicant has collected those counterfeit notes from Accused Nos.3 and 4 who were manufacturing the same. She submitted that the Applicant is a part of the syndicate dealing in printing and circulation of fake currency notes and it has the propensity of having a disastrous effect on the country's economy. She therefore submitted that the Bail Application be rejected.

6. As far as the aspect of antecedents is concerned, Ms. Newton, learned APP submitted that in the Affidavit-in-Reply, it is not mentioned that there are any antecedents against the Applicant.

7. Perusal of the record shows that F.I.R. was lodged on 3rd December 2022 and the Applicant was arrested on 3rd December 2022. It is an admitted position that the investigation has been completed and that the Charge-sheet has been filed on 28th February 2023. As per the Charge-sheet there are about 44 witnesses proposed to be examined by the prosecution. The Applicant is incarcerated for about 1 year and 9 months. Accordingly, the trial will take a considerably long time to conclude.

8. Speedy trial is one of the facets of right to life and liberty guaranteed under Article 21 of the Constitution of India. Speedy trial is an essential ingredient of "reasonable, fair and just" procedure guaranteed by Article 21 and it is Constitutional obligation of the state to devise such a procedure as would ensure speedy trial to the Accused.¹

¹ Hussainara Khatoon (IV) v. Home Secy., State of Bihar, (1980) 1SCC 98

As there is violation of right of speedy trial guaranteed to the Applicant under Article 21 of the Constitution of India, the Applicant is entitled for bail.

9. The Applicant does not have any criminal antecedents.

10. The Applicant does not appear to be at risk of flight.

11. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

12. In view thereof, the following order:-

ORDER

- (a) The Applicant – Subhash Digambar Kale be released on bail in connection with C.R. No.503 of 2022 registered with the Kurduwadi Police Station, District – Solapur on his furnishing P.R. Bond of Rs.1,00,000/- with one or two solvent sureties in the like amount.
- (b) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (c) The Applicant shall report to the Kurduwadi Police Station, District – Solapur once every week i.e. on every Sunday between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.
- (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 such a person from disclosing the facts to the Court or to any Police personnel.
- (e) The Applicant shall not tamper with the prosecution evidence

and shall not contact or influence the Complainant or any witness in any manner.

- (f) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (g) The Applicant shall surrender his passport, if any, to the Investigating Officer.

13. The Bail Application is disposed of accordingly.

14. It is clarified that the Trial Court shall decide the case on its merits, uninfluenced by the *prima facie* observations made in this Order.

[MADHAV J. JAMDAR, J.]