

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

**INTERIM APPLICATION NO.1053 OF 2024
IN
CRIMINAL APPEAL NO.219 OF 2021**

Javed Abdul Qadir ManiyarApplicant
Versus
State of Maharashtra Respondent

Ms. Anima Mishra, Advocate a/w. Anuj Singh i/b. AUPA JURILEX
for the Applicant.

Smt. M.H. Mhatre, APP for the Respondent-State.

**CORAM : SARANG V. KOTWAL AND
SHIVKUMAR DIGE, JJ.**

DATE : 23rd APRIL, 2024

P.C. :

1. This is the third time that the Applicant has approached this Court for his release on bail during pendency of his Appeal.

2. The Applicant was the accused No.2 in Sessions Case No.20/2015 before the learned Sessions Judge, Nasik. Learned Judge vide his judgment and order dated 7.7.2018 convicted the Applicant and his co-accused Dnyaneshwar Patil for commission

of the offences punishable under Section 489-A, 489-B, 489-C, 489-D and 489-E read with 34 of IPC. The major punishment imposed on the Applicant and his co-accused was imprisonment for life.

3. At the first instance, the Applicant had preferred Criminal Application No.1081/2018 in Criminal Appeal No.868/2018. That Appeal was preferred by both the accused together. The Bail Application i.e. Criminal Application No.1081/2018 was also jointly filed. A Division Bench of this Court vide the order dated 13.8.2018 disposed of that application as withdrawn. Learned counsel for the Applicants therein had sought liberty to withdraw that application with further liberty to apply after a period of two years, in the event the Appeal was not heard in the meantime. After that, the Applicant filed a separate appeal memo and his appeal was separated. It was numbered as Criminal Appeal No.219/2021.

4. The Applicant preferred second bail application vide Criminal Interim Application No.834/2021. It was decided on 17.3.2022. On that occasion, the other Division Bench had

directed that the Appeal itself be listed for final hearing in the week commencing from 11.4.2022. In view of that position, the bail application i.e. I.A. No.834/2021 in Criminal Appeal No.219/2021 was disposed of.

5. Learned counsel for the Applicant submitted that the Appeal is still not heard and decided. It is still pending. The Applicant is in custody after his conviction on 7.7.2018. Thus, more than six years have passed. The Appeal is not likely to be heard in the near future. Considering these submissions, we have heard learned counsel for the Applicant as well as learned APP.

6. Heard Ms. Anima Mishra, learned counsel for the Applicant and Smt. M.H. Mhatre, learned APP for the Respondent-State.

7. The prosecution case is that on 10.10.2014, the police received a secrete information that two persons were to come to Sainath Nagar, near Indiranagar, Nashik with counterfeit currency notes of Rs.100/-. The police arranged to conduct a raid. Two panchas were called. One bogus customer was arranged for. All of them went to the spot. The raiding party

saw two persons at the spot. The bogus customer went near them. After some time, he gave the predetermined signal. The raiding party rushed there. Both the accused tried to run away but both of them were caught at the spot. The Applicant was one of them. They were found to carry counterfeit currency notes of Rs.100/- denomination in 42 bundles. There were 4200 currency notes worth about Rs.4,20,000/-. On this basis, the FIR was lodged.

8. The co-accused of the Applicant led the police officers to a place where the computer, printer and other articles were found. They were seized.

9. During trial, the prosecution examined eleven witnesses including the police officers, the panchas and the bogus customer. The police officers and the panchas supported the prosecution case. The bogus customer did not support the prosecution case and he was declared hostile.

10. Learned counsel for the Applicant submitted that the Applicant was on bail during trial and he has not committed any other offence while he was on bail. Even if the prosecution case

is taken at its highest, at the most Section 489-C may be attracted. Under that Section, the maximum punishment provided is seven years. The Applicant is already in custody for almost six years. The other offences for which the Applicant is convicted are not attracted.

11. Learned counsel for the Applicant relied on the order passed by this Court in Criminal Interim Application No.3380/2023 in Criminal Appeal No.868/2018. By that order, the co-accused Dnyaneshwar Patil was granted bail during pendency of his Appeal. That order was passed on 8.2.2024. Learned counsel for the Applicant claimed parity.

12. Learned APP tried to oppose these submissions. However, she could not oppose the submission that the parity applies in this case as the co-accused is granted bail.

13. We have considered these submissions. As submitted by learned counsel for the Applicant, in this case the principles of parity apply. If at all, the Applicant's case may be better than the case of the co-accused who is granted bail by the aforesaid order dated 8.2.2024.

14. We find substance in the submission of learned counsel for the Applicant that at the highest it could be a case under section 489-C of IPC, for which the maximum punishment is seven years. The Applicant is already in custody for about six years.

15. In this view of the matter, since the Appeal is not likely to be decided in the near future, the Applicant deserves to be released on bail during pendency of his Appeal.

16. Hence, the following order :

:: O R D E R ::

- i. During pendency and final disposal of the Criminal Appeal No.219/2021, the Applicant is directed to be released on bail on his executing a P.R. Bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- ii. Interim Application is disposed of accordingly.

(SHIVKUMAR DIGE,J.)

(SARANG V. KOTWAL, J.)

Deshmane (PS)