

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

**INTERIM APPLICATION NO.3380 OF 2023
IN
CRIMINAL APPEAL NO.868 OF 2018**

Dnyaneshwar Sitaram PatilApplicant
Versus
State of Maharashtra Respondent

Ms. Anima Mishra, Advocate a/w. S.T. Pandey, Anuj Singh i/b.
SBG And Associates for the Applicant.

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

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

DATE : 08th FEBRUARY, 2024

P.C. :

1. The Applicant is seeking his release on bail during pendency of Criminal Appeal No.868/2018. The Applicant had earlier preferred an application for bail pending his appeal. At that time the application was withdrawn as noted in the order dated 13.8.2018 passed in Criminal Application No.1081/2018 in Criminal Appeal No.868/2018. By the same order, specific liberty was granted to the Applicant to prefer a fresh application

for bail after a period of two years in the event the Appeal was not heard.

2. Said order was passed on 13.8.2018. More than two years have passed and yet the Appeal is not heard and decided. In this view of the matter, liberty granted to the Applicant has to be taken into consideration and, therefore, we are entertaining the present Application.

3. The Applicant was the accused No.1 in Sessions Case No.20/2015 before the Sessions Judge, Nashik. The learned Judge vide his judgment and order dated 7.7.2018 convicted the Applicant and his co-accused Javed Maniyar for commission of offences punishable under Sections 489-A, 489-B, 489-C, 489-D, 489-E read with 34 of IPC. The major punishment imposed on him was for imprisonment for life.

4. The Applicant has challenged that order in Criminal Appeal No.868/2018, which is still pending for final disposal.

5. Heard Ms. Anima Mishra, learned counsel for the Applicant and Smt. M.H. Mhatre, learned APP for the

Respondent-State.

6. The prosecution case is that on 10.10.2014 the police received the secrete information that two persons were to come near Sainath Nagar, near Indiranagar, near Jogging Track, Nashik with counterfeit currency notes of Rs.100/-. The police arranged to conduct raid. They called two panchas and one bogus customer. 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. The co-accused of the Applicant tried to run away. The Applicant and his co-accused were caught at the spot. They were found to carry counterfeit currency notes of Rs.100/- denominations amounting to Rs.4,40,000/-. On this basis, the FIR was lodged. During investigation, the Applicant led the police officers to a place where the articles used for preparing this counterfeit notes were stored. The panchnama was carried out and the articles, viz., computer, printer etc were seized from the spot. After investigation, the charge-sheet was filed and the trial was

conducted. During trial, eleven witnesses were examined 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 was declared hostile.

7. Learned counsel for the Applicant submitted that during trial, he was on bail. After his conviction, he was taken into custody and he has spent six years of actual imprisonment in jail. She submitted that at the highest the case does not travel beyond Section 489-C of IPC. In any case, there are no independent witnesses. The bogus customer has not supported the prosecution case. Learned counsel for the Applicant submitted that the house from where the articles were seized did not stand in the Applicant's name and there was no agreement to show that he was in possession of the said house.

8. Learned APP opposed these submissions. According to her, all the offences are made out. The Applicant himself had led the police officers to the place where the articles for making the counterfeit notes were found. Learned APP further relied on

the evidence led by the police officers and the panchas. She has particularly referred to the pancha's evidence to contend that the counterfeit notes were prepared by the Applicant himself. Therefore, all the offences are made out.

9. We have considered these submissions and in particular we have perused the evidence of the pancha PW-4 Yogesh Saundane. In his substantive evidence, he has stated that in the house shown by the Applicant he had seen the scanner, a photocopying machine, a computer, a cutter and blank papers. He has not referred to any fake currency notes in the house. That is significant. Because other articles are common articles and unless they were used in some manner in producing the counterfeit notes they would be innocuous.

10. The bogus customer has not supported the prosecution case and, therefore, there is a reasonable possibility that offence under section 489-C of IPC only can reasonably be proved against the Applicant which attracts the maximum punishment of seven years; out of which the Applicant is already in custody for more than six years.

11. In this view of the matter, the Applicant deserves to be released on bail pursuant to the liberty granted to him by the earlier order. Hence, the following order :

:: O R D E R ::

- i. During pendency and final disposal of Criminal Appeal No.868/2018, the Applicant is directed to be released on bail on his executing a PR 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)

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
2024.02.12
14:52:48 +0530