

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3034 OF 2023**

Kiran Atmaram More	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

**WITH
BAIL APPLICATION NO. 18 OF 2024**

Ayub Ejhar Khan @ Guddu	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

**WITH
BAIL APPLICATION NO. 3248 OF 2023**

Prashant Uttam Baviskar	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Tapan Thatte a/w. Mr. Vivek N. Arote and Mr. Akshay Dingale for applicants in all applications.

Mr. Sagar R. Agarkar, APP for respondent-State in all applications.

Mr. Afroj Shaikh, API, DCB, CID, Unit-10, Mumbai.

CORAM : MANISH PITALE, J.

DATE : 03rd DECEMBER, 2024

P.C. :

. Heard learned counsel for the applicants and the learned APP for the respondent-State.

2. The applicants are seeking bail as they were arrested in connection with FIR No.1203 of 2022 dated 27.12.2022, registered at Powai Police Station, Mumbai for offences under Sections 489A,

489B, 489C, 489D and 120B read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. The applicants Ayub Ejhar Khan @ Guddu and Prashant Uttam Baviskar were arrested on 01.01.2023 and applicant Kiran Atmaram More was arrested on 21.03.2023.

4. The allegation against the applicants and the co-accused persons, is that they were involved in counterfeiting currency worth about ₹ 83 lakhs.

5. The named accused person Saujanya Bhushan Patil was allegedly apprehended from a particular place, while he was dealing with the counterfeit currency. Investigation into the matter led to involvement of other accused persons, including the applicants before this Court.

6. The investigation was completed, charge-sheet was filed in March 2023 and the applicants have continued to remain in custody since their respective dates of arrest.

7. The learned counsel for the applicants made two submissions in support of the prayers made in the applications. Firstly, it was submitted that even if the material on record is to be taken into consideration, at worst, an offence under Section 489E of the IPC, pertaining to making or using documents resembling currency-notes or bank-notes, could be said to be made out and not offences under Sections 489A to 489D of the IPC, which necessarily pertain to counterfeit currency. It was submitted that the offence under Section 489E of the IPC being a bailable offence, punishment being payment

of fine, the applicants deserve to be enlarged on bail. In that context, reference was made to Section 28 of the IPC, which defines “counterfeit currency”. It was sought to be demonstrated that in such cases, there could be gradation of intensity of involvement in the offences in question, the base level being resemblance with the currency-notes and the highest being counterfeit or even high quality counterfeit currency, as defined under explanation (b) of Section 15 of the Unlawful Activities (Prevention) Act, 1967. It was submitted that even if the statement of the first informant is to be taken into consideration, read with the report of Currency Note Press about its opinion regarding the currency seized in the present case, it would be obvious that only the aspect of resemblance would be made out and not counterfeiting of currency.

8. Secondly, it was submitted that the statements of witnesses recorded in the present case, indicate only omnibus and general allegations. Such statements were recorded much after the alleged act of counterfeiting the currency undertaken by the accused persons in August 2022 and also, after considerable period of time of the main accused being apprehended in December 2022. It was submitted that the investigating authority has not been able to gather convincing material to link the applicants with the alleged offences. On this basis, it was submitted that this Court may consider enlarging the applicants on bail, as even charge has not been framed till date.

9. On the other hand, the learned APP submitted that the question as to whether Sections 489A to 489D of the IPC would apply or the case would fall under Section 489E of the IPC, is a matter for trial, in the light of the report of Currency Note Press,

Nashik Road. The aforesaid aspect cannot be considered at this stage itself. It is further submitted that the statements of witnesses sufficiently indicate the involvement of the applicants in the present case along with the co-accused persons. The investigating authority has taken all care to record the statements of relevant witnesses, including the person from whom the colour printers were purchased by the accused persons, in order to carry out the activity of counterfeiting the currency. It is submitted that no case is made out by the applicants.

10. This Court has considered the rival submissions, in the light of the material on record. The question as to whether the applicants would ultimately be held responsible for a lesser offence under Section 489E of the IPC or they would ultimately be convicted under Sections 489A to 489D of the IPC, in the facts and circumstances of the present case, would necessarily be a matter for trial. This Court is not impressed by the submission made on behalf of the applicants that in the light of the statement of the first informant, as to the nature of resemblance of the seized currency with the original currency or the report of the Currency Note Press, it could be said at this stage itself that the involvement of the applicants, at worst, could be said to be under Section 489E of the IPC. This Court is of the opinion that it would be at the stage of trial that such a matter could be thrashed out, particularly in the face of the emphatic conclusion given by the Currency Note Press that all the suspected notes recovered in the present case, were counterfeit notes, due to the reasons given in the report. In the face of such material, it cannot be said that the applicants have made out a *prima facie* case in their favour.

11. As regards the statements of witnesses, recorded during the course of investigation, it was claimed that the statement of the brother of the main accused person levelled only general and omnibus allegations and even the statement of the taxi driver recorded under Section 164 of Code of Criminal Procedure, 1973, could be said to be in general terms. This Court, upon perusal of the aforesaid statements and also, the statement of the wife of a co-accused person, who is now deceased, finds that specific allegations have been made against the applicants also and *prima facie* involvement of the applicants in the aforesaid serious offences can be said to be made out. There is substance in the contention raised by the learned APP that the investigation in the present case has been carried out in a detailed manner, including recording the statement of the person from whom the colour printers were purchased, which were used for counterfeiting currency to the tune of ₹ 83 lakhs.

12. This Court is of the opinion that at this stage, even when the trial is yet to begin, this Court cannot be called upon to conduct a mini-trial to consider the present bail applications.

13. No case is made out for granting bail. The applications are dismissed.

(MANISH PITALE, J)

Priya Kambli