

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1683 OF 2024

Sumit @ Sam Yashpal Sharma

...Applicant

Versus

The State of Maharashtra

...Respondent

WITH

BAIL APPLICATION NO. 3151 OF 2024

Vinod Karutedat Vijayan

...Applicant

Versus

The State of Maharashtra

...Respondent

WITH

BAIL APPLICATION NO. 3562 OF 2024

Wasim Bandu Salmani

...Applicant

Versus

The State of Maharashtra

...Respondent

- Mr. Aniket Nikam a/w Mr. Amit Icham, Mr. Pratik Jadhav and Mr. Dushyant Digamber, for Applicant in BA/1683/2024.
- Mr. Hrishikesh Mundargi i/b Ms. Shradha Samant, for Applicant in BA/3151/2024.
- Mr. Surender M. Sharma, for Applicant in BA/3562/2024.
- Mr. Sagar R. Agarkar a/w Ms. Megha S. Bajoria, APPs for Respondent.
- Mr. Poonam Yadav, API, DCB CID Unit No.XI, Kandivali Police Station.

CORAM : MANISH PITALE, J.

DATE : 16th OCTOBER, 2024.

P. C. :

1. These three applications are filed by accused Nos.2, 3 and 4 seeking bail, as they were all arrested on 26.01.2022, in connection with First

Information Report No.88 of 2022, registered with the Dahisar Police Station, Mumbai. (Subsequently an FIR No.06 of 2022 of DCB, CID, Unit-XI), for offences under sections 489-A, 489-B, 489-C and 120-B read with Section 34 of the Indian Penal Code, 1860 (IPC).

2. There are total seven accused persons in the present case. The allegation against the applicants is that on a tip-off, the taxi in which they were traveling with accused No.1 was apprehended and a bag containing counterfeit currency to the tune of ₹ 5 Crores was recovered. The material on record shows that on the statement given by the applicants and co-accused person, the investigating authority reached a hotel and the remaining three accused persons were apprehended with counterfeit currency to the tune of ₹ 2 Crores.

3. The learned counsel appearing for the applicants in these applications submitted that, at worst, offence under Section 489-C regarding possession of counterfeit currency could be invoked against the applicants, but the said offence is bailable and hence, further incarceration of the applicants is not justified, particularly when they do not have any criminal antecedents. But, the sheet anchor of the contentions raised on behalf of the applicants is an order dated 02.02.2024 passed by this Court (Coram : M.S. Karnik, J.) in Bail Application No.1715 of 2023, whereby co-accused No.5 – Pradeep Dhanpal Choudhary was granted bail. It was submitted that the role of the said accused

person according to the investigating authority was much higher, in the sense that the equipments used for printing counterfeit currency were allegedly recovered from the said accused person. Despite the aforesaid allegation against the aforesaid accused person, this Court by the said order granted bail to him, essentially on the ground of the said applicant having undergone incarceration from 26.01.2022 for a period of about 2 years, there being no criminal antecedents against him and there being no substantial progress in the trial. It was found that the trial would take a considerable period of time and on that basis, the said applicant was released on bail.

4. The learned counsel for the applicants submit that the aforesaid reason applies with even greater force in the case of the applicants, simply for reason that they have now undergone incarceration for a period of about 2 years and 10 months. According to the learned counsel for the applicants, the said applicants before this Court can be said to be only in possession of the counterfeit currency and hence, the applications may be allowed. The applicants undertake to abide by the conditions that may be imposed by this Court.

5. The learned APPs appearing on behalf of the State vehemently opposed these applications. They pointed out the seriousness of the offences under Sections 489-A and 489-B of the IPC, highlighting the fact that the

punishment under Section 489-B can be imprisonment for life. It was submitted that sufficient material is available on record alongwith the charge-sheet to show the involvement of the applicants with regard to the nefarious activity, which is a direct attack on the economy of the country and its sovereignty. It is submitted that charges are already framed and the list of witnesses shows 34 witnesses, but in practical terms fewer witnesses would be examined. Hence, this Court may consider expediting the trial instead of allowing the applications. But, the learned APPs could not dispute the fact that this Court (Coram : M.S. Karnik, J.) granted bail to co-accused No.5, only on the ground of period of incarceration suffered by the said accused person and the trial likely to take long time for being completed. The learned APPs could also not disputed the fact that accused Nos.6 and 7 have also been granted bail on the very same ground by the Sessions Court.

6. This Court has considered the rival submissions in the light of the material placed on record. There can be no doubt about the fact that the applicants alongwith the co-accused persons are facing prosecution for very serious offences pertaining to counterfeit currency. It is to be noted that counterfeit currency not only adversely affects the economy of the nation but it threatens its sovereignty, as such counterfeit currency is often used by anti national elements and terrorists. Therefore, there can be no doubt about the fact that the applicants alongwith co-accused persons are facing prosecution

for very serious offences

7. This Court is not going into the contentions sought to be raised on behalf of the applicants that, at worst, they could be held liable for offence under Section 489-C of the IPC, which pertains to possession of counterfeit currency, simply for the reason that Sections 120-B and 34 of the IPC are also invoked in the present case. There could be enough material to link the applicants with the co-accused persons on the aspect of printing the counterfeit currency apart from possession thereof.

8. But, in the face of the order dated 02.02.2024, passed by this Court (Coram : M.S. Karnik, J.) in Bail Application No.1715 of 2023, whereby co-accused No.5 – Pradeep Dhanpal Choudhary has been granted bail, the applicants before this Court are entitled to claim that they also deserve to be enlarged on bail on the principle of parity.

9. A perusal of the order passed in favour of co-accused No.5 shows that he was enlarged on bail on the ground of having suffered incarceration for 2 years, he having no criminal antecedents and the trial likely to take a long time to be concluded. It is to be noted that the equipment used for printing the aforesaid counterfeit currency was recovered at the behest and from the said co-accused No.5. Despite the aforesaid facts, co-accused No.5 was granted bail on the said grounds.

10. The applicants before this Court having been arrested on 26.01.2022, have undergone incarceration for a period of about 2 years and 10 months. They also do not have any criminal antecedents and therefore, the reasons recorded in the order dated 02.02.2024, while granting bail to co-accused No.5 would apply with equal force or even more to the applicants in these applications, since they have undergone incarceration for a longer period of time. It is to be noted that accused Nos.6 and 7 were also enlarged on bail by the Sessions Court, essentially relying upon the order granting bail to co-accused No.5.

11. The principle of parity clearly applies in favour of the applicants and only on that ground the applications will have to be allowed. It is to be noted that although charges have been framed, the recording of evidence of the witnesses is yet to commence and the trial would take its own time to be concluded.

12. In view of the above, the applications are allowed in the following terms :

- (A) The applicants (1) Sumit @ Sam Yashpal Sharma, (2) Vinod Karutedat Vijayan and (3) Wasim Bandu Salmani, shall be released on bail in connection with FIR No.88 of 2022, registered with the Dahisar Police Station, Mumbai.

(Subsequently an FIR No.06 of 2022 of DCB, CID, Unit-XI), on furnishing PR Bonds of ₹ 1,00,000/- each with one or two sureties each in the like amount to the satisfaction of the Trial Court.

- (B) The applicants shall report to DCB CID Unit XI, once in a week on every Monday of the Month between 11:00 a.m. and 02:00 p.m.
- (C) The applicants 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 them from disclosing the facts to Court or any Police Officer. The applicants shall not tamper with evidence.
- (D) On being released on bail, the applicants shall furnish their active contact numbers and residential addresses to the Investigating Officer and shall keep them updated, in case there is any change.
- (E) The applicants shall not leave the jurisdiction of Mumbai / Mumbai Suburban District, after being released on bail. After a period of 6 months, it is open for the applicants to apply for the modification of this condition as well as the condition of reporting to the Investigating Officer.

(F) The applicants shall attend the trial regularly. The applicants shall cooperate with the Trial Court and shall not seek unnecessary adjournments.

(G) The applicants shall surrender their passports to the Investigating Officer. If the applicants does not have passports, they shall file the affidavit to that effect with the Trial Court.

13. Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicants shall be liable to be cancelled.

14. It is made clear that the observations made in this order are limited to the question of grant of bail to the applicants and that the Trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

15. The applications are disposed of accordingly.

(MANISH PITALE, J.)