



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPA) NO. 85/2023 IN
CRIMINAL APPEAL NO. 880/2022

(SheikhGaffar @ Abdul Gaffar s/o Sehikh Mussa & anr. Vs. State of Maharashtra)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R.R. Vyas, Advocate for applicant.
Mr. P.K. Sathianathan, Special Counsel for non-applicant-sole

CORAM: VINAY JOSHI AND
MRS. VRUSHALI V. JOSHI, JJ.

DATED : 27/03/2024.

Heard.

2. This is an application of accused No.2 SheikhGaffar @ Abdul Gaffar s/o Sehikh Mussa seeking for suspension of execution of sentence passed in Sessions Trial Case No.69/2016, whereby the applicant was convicted for the offence punishable under Sections 489(B), 489(C), 120(B) of the Indian Penal Code and under Sections 16 and 18 of the Unlawful Activities (Prevention) Act, 1967 ('UAPA).

3. The learned counsel appearing for applicant would submit that the Trial Court erred in convicting the applicant in absence of convincing evidence. It is submitted that the seizure of counterfeit currency notes from the possession of accused was doubtful. The prosecution case is inconsistent about individual or a joint seizure of currency notes. It is submitted that mandatory provisions of the Investigation of High Quality Counterfeit Indian Currency Offences Rules, 2013 ("Rule of the year

2013”) have not been followed. The learned special prosecutor resisted this application by contending that the Trial Court has aptly dealt with the aspect of seizure and compliance of the mandatory provisions of the UAPA.

4. It emerges that initially, the accused No.1 was arrested on suspicion on which huge quantity of high quality counterfeit Indian currency notes were seized. During investigation, role of the applicant was disclosed. The Police led trap and arrested applicant along with co-accused with high quantity counterfeit Indian currency notes from applicant. The evidence was led to show seizure of counterfeit currency notes. The CDR of the mobile were procured. The Investigating Officer sought report from the Currency Printing Press, Nashik regarding similarity of seizure counterfeit currency notes.

5. We have gone through the note-sheet as well as other documents shown by the applicant to canvass the inconsistency. Prima facie, we do not see material about inconsistency on the canvass of direct evidence of seizure. The act of accused causes or likely to cause damage to the monetary stability of India which is termed as “terrorist act” punishable under Section 16 of the UAPA. Moreover, prima facie, there is material to disclose the conspiracy with the co-accused. The Trial Court has assigned the valid reasons which prima facie cannot be said to be perverse or against the evidence on record.

6. In view of above, application carries no merits, hence rejected.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)

Gohane