

FIR No. 34/17  
**State Vs. Shahbuddin M. Khan & Ors.**  
U/s 420/467/468/471/120B of IPC  
PS Maya Puri  
30.06.2020

Present: Ld. APP for the State present through video conferencing  
(Cisco Webex "Meeting ID No. 576403936").

Sh. Neeraj Dahiya, Ld. Counsel for the accused through video  
conferencing (Cisco Webex "Meeting ID No. 576403936").

Arguments heard on the bail application moved on behalf of the  
accused Shahbuddin M. Khan. It is stated that the accused is falsely  
implicated in the present case. It is stated that the accused in JC since  
25.11.2017. Co-accused persons have already even granted bail.

Bail application is opposed by Ld. APP for the State.

Perusal of the record reveals that only allegations against the  
accused/applicant is that he has assisted the main accused Kewal Kishan  
Kant in order to siphon off Rs. 36 lakhs from the complainant on the pretext  
of selling of aluminium scrap lying in the godown of Jyoti Infrastructure  
Company and belonging to one J.K. Trading Company. During the course  
of investigation, it was revealed that out of Rs. 31 lakhs deposited by the  
complainant in the account of J.K. Trading Company, about Rs. 25,50,000/-  
had been transferred partly in the account of one Lucky Trading Company  
and partly in the account of Aman Textiles Company. The proprietor of both  
Aman Textile Company and Lucky Trading Company is Shahbuddin M.  
Khan (i.e. the applicant herein). The co-accused Mohd. Shafi and Shehzad  
Shahbuddin Khan have already been released on bail. As per the final  
supplementary charge sheet filed by the IO on 24.12.2019, the  
investigation in the present case is complete. The co-accused persons  
namely Kewal Kishan Kant, Ratan Lal Parmar and Ashok Prajapati @  
Dinesh Pandey @ Dipesh Patel have already been declared absconder/

proclaimed offender. On the basis of investigation conducted by the IO, it is apparent that the accused/applicant had conspired with other accused persons in order to dishonestly induce the complainant to part with Rs. 36 lakhs on the pretext of selling aluminium scrap, which aluminium scrap was never delivered to the complainant. Supplementary charge sheet along with FSL Result filed by the IO on 27.04.2019 only indicates that the accused/applicant is the proprietor of M/s. Lucky Trader Company and M/s. Aman Textile Company, in whose bank accounts cheated amount was transferred. However, there is nothing on record to indicate that the accused/applicant has forged any document.

While dealing with question of making of false document, the Hon'ble Supreme Court of India in Mohd. **Ibrahim & Ors. Vs. Sate of Bihar (2009) 8 SCC 751**, held as under:-

*“In short, a person is said to have made a false document, if (i) he made or executed a document claiming to be someone else or authorized by someone else; or (ii) he altered or tempered a document; or (iii) he obtained a document by practicing deception, or from a person not in control of his sense.”*

Recently, the Hon'ble Supreme Court of India in the case of **Sheila Sebastian vs. R. Jawaharaj on 11 May, 2018** while upholding decision of acquittal of accused persons by the Hon'ble High court of Madras, Madurai Bench rendered after reversing the concurrent finding of Ld. appellate court as well as Ld. trial court has observed as under:

*“The definition of false document” is a part of the definition of “forgery”. Both must be read together. 'Forgery' and 'Fraud' are essentially matters of evidence which could be proved as a fact by direct evidence or by inferences drawn from proved facts. In the case in hand, there is no finding recorded by the trial Court that the respondents have made any*

*false document or part of the document/record to execute mortgage deed under the guise of that 'false document'. Hence, neither respondent no. 1 nor respondent no. 2 can be held as makers of the forged documents. It is the imposter who can be said to have made the false document by committing forgery. In such a event the trial court as well as appellate court misguided themselves by convicting the accused. Therefore, the High Court has rightly acquitted the accused based on the settled legal position and we find no reason to interfere with the same.*

*Simultaneously it was held, after making strong remark against shabby investigation since the investigating officer did not make any effort to nab the imposter, that "Apart from that, it is not as though the appellant is remediless. She has a common law remedy of instituting a suit challenging the validity and binding nature of the mortgage deed"*

No where in the main charge sheet or in the supplementary charge sheet, it is specified as to which document has been forged by the accused/applicant. Under these circumstances and considering the fact that the accused has already suffered incarceration in JC for about 2 ½ years, the present Covid-19 pandemic scenario and the fact that the investigation is now complete, no useful purpose will be served by keeping the accused in JC. Accordingly, the accused Shehzad M. Khan is hereby released on bail on his furnishing the personal bond in the sum of Rs. 40,000/- and one surety of the like amount. Bail application stands disposed of.

Copy of this order be sent to Ld. Counsel for the accused/applicant Shahbuddin M. Khan through WhatsApp.



(Pankaj Arora)  
MM-03(West)/THC/Delhi  
30.06.2020



CC No. 1655/18  
*Ram Kishore Goel Vs. State*  
PS Nihal Vihar  
30.06.2020

Present: Sh. Akhil Mittal, Ld. Counsel for the complainant present through video conferencing (Cisco Webex "Meeting ID No. 919211305").

Adjournment sought as Ld. Counsel for the complainant is not prepared with the file due to the lockdown scenario.

At request, the matter be put up for arguments on the point of summoning on 18.07.2020.



(Pankaj Arora)  
MM-03(West)/THC/Delhi  
30.06.2020