IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

912. CRI.APPLN/385/2015 WITH CRI.APPLN/416/2015

SACHIN S/O MANAK PANWAR
V/S
STATE OF MAHARASHTRA

WITH
CRI.APPLN/189/2015 WITH CRI.APPLN/415/2015

PRATIK S/O BABULAL AGRAWAL
V/S
THE STATE OF MAHARASHTRA

Mr. H.D. Deshmukh, Advocate for applicant in CA No. 385/15.
Mr. R.R. Mantri, Advocate for applicant in CA No. 189/15.
Mrs. M.A. Deshpande, APP for State.
Mr. Shrikant S. Patil, Advocate for assisting APP.

CORAM : T.V. NALAWADE, J.
DATED : 28th January, 2015.

ORDER :

1. Both the applications are filed for bail. Heard both the sides. This Court has perused the papers of investigation.

2. The crime was registered on the basis of report given by Jawahar Shetkari Sahakari Sutgirni Limited, Dhule to Dhule Taluka Police Station. This society has purchased cotton bales and it had paid VAT. The cotton was sold to the Society in the names of different firms which were proprietary concerns, having separate VAT TIN numbers. It is the allegation of the Society that

even when it had paid the VAT in respect of every transaction, the VAT was not deposited with the concerned department of the Government. It is the case of the Society that it is entitled to reimbursement of such tax and when it took steps for having reimbursement, it was informed that the VAT amount was not deposited by the vendor with the concerned department. This total amount of VAT was around Rs. 3.67 Crore. In the complaint, Society gave the names of the firms and also the proprietors of the firms.

3. It appears that the transactions were mostly done through one commission agent and commission agent had contacted one Dinesh Balkishan Agrawal. Allegations are made that though the transactions were made between the Society and different firms, it is Dinesh Agrawal, who was making the transactions in the names of these firms. There is allegation that one Sachin Manak Panwar, applicant from the first proceeding is the proprietor of Chirag Enterprises and many transactions were made with Chirag Enterprises and the VAT which was paid was deposited in the bank account opened by Chirag Enterprises. This amount was more than Rs. 64.46 lakh.

4. The applicant from the second proceeding Pratik Agrawal is the son in law of Dinesh Balkishan Agrawal, the main

accused. There are allegations against applicant from the second proceeding that he was actually handling the business of Dinesh and he was handling the accounts of Dinesh and he was making the transactions of transfer of amounts from various accounts and that way, he is also benefited.

5. Chargesheet is filed and the prosecution wants to prove from the account statements of Vaishali Cotex of which Dinesh is proprietor, he amount of Rs. five Crore was diverted to the concerns by name Rajesh and Rajni and some amount was also paid by cash to these concerns by Vaishali Cotex. The prosecution wants to prove that though the concerns like Rajesh and Rajni are standing in the name of different persons, the present applicant Pratik was running the business under those names.

6. This Court asked the learned APP, who is assisted by learned counsel Shri. S.S. Patil and who has filed appearance for original complainant that whether there is some material to show that Pratik was benefited out of these transactions or that any concern of Pratik had supplied cotton to the complainant Society. The submissions show that there is no such record. Though the prosecution wants to prove that Pratik had started three concerns, no transactions were made by the Society with

those three concerns. This applicant is behind bar since 30.8.2014.

7. The chargesheet is filed for the offences punishable under sections 408, 406, 420, 467, 468, 34 etc. of I.P.C. and 120-B of I.P.C. also. The main accused Dinesh is arrested and he is still behind bars. The submissions were made by the learned counsel for the applicant Pratik that some amount (Rs. 49.70 lakh) is already deposited by other accused from the aforesaid amount of Rs. 3.70 Crore. In view of this submission, this Court holds that the applicant from the first proceeding viz. Sanch Panwar can be granted bail subject to condition that he deposits the amount, which is shown to be due from him as VAT. Though the initial amount was Rs. 64.46 lakh, the submissions made show that with the penalty and other things, the amount may go up to Rs. 76 lakh. This Court holds that applicant Sachin Panwar can be released on bail subject to condition of deposit of Rs. 76 lakh by him with the Department which is to be accepted as VAT. Only after depositing of such amount by Sachin, he is to be released on bail. So, his application is allowed. If he deposits the amount of Rs. 76,00,000/- (Rupees seventy six lakh), he is to be released on bail on his furnishing PR and SB of Rs. 5,00,000/- (Rupees five lakh) and one solvent surety of like amount. He is

not to commit similar offence. He is not to tamper with the prosecution witnesses.

8. Application of applicant Pratik Agrawal is allowed. He is to be released on bail on his furnishing PR and SB of Rs. 1,00,000/- (Rupees one lakh) with one solvent surety of like amount. He is not to tamper with the prosecution witnesses. He is not to commit similar offence. There is liberty to the State, prosecuting agency to bring to the notice of this Court at any time that there were such transactions directly made by the complainant with this man and there is some outstanding VAT amount against him. In that case, the State may apply for imposing some conditions or modification of the present order.

10. Both to surrender the passports, if any and not to leave country without prior permission of Sessions Court.

11. Hamdast allowed.

12. The applications filed for permission to assist the learned APP are allowed and disposed of.

[T.V. NALAWADE, J.]

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