IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.256 OF 2015

Manan Kishore Barbhaya ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.Subodh Desai or the Applicant
Mrs.P.P. Shinde, APP, for Respondent – State
Mr.Vinay Sonpal for Resp. No.2

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **MARCH 28, 2016**

P.C.:

1. The application is moved for pre-arrest bail as the applicant-accused is prosecuted for the offences punishable under sections 420, 463, 464, 468, 409, 471 of the Indian Penal Code and also under section 74(1),(b), (c), (d), (e), (f) and 72 (2), (4) and (5) of the Maharashtra Value Added Tax Act, 2002 in C.R. No.126 of 2014 with Navghar police station, Mulund, Mumbai. One Sunil P. Shinde, a Sales Tax official, gave information to the police pursuant to which the offence was registered. It is the case of the complainant that after the implementation of MVAT Act, 2002, the Department found that the VAT was not paid to the Government but the Traders have misused the facility of set-off which is granted under the Act. It was found that one M/s.Universal Trading company, Wagle Estate, Thane had submitted some bogus invoices and during the enquiry,

M/s.Universal Trading company, it was found that some invoices were issued in the name of M/s.Pioneer Trading Company. So, the officer found, on query, that the applicant Manan Kishore Barbhaya is the proprietor of the said company. In the year 2012, he was called in the office and he filed affidavit that he is not having any actual business of sale and purchase of goods but one Jayeshbhai used to take his signatures on blank papers and in lieu of that, he used to pay him Rs.4,000 to Rs.5,000/- per month. The Department further conducted enquiry and found that many invoices were issued to various traders of the sale of some goods though nothing was in fact sold or purchased. However, these invoices showed different amounts of sale and purchase of goods. On the basis of these bogus invoices, a number of purchasing dealers took benefit of set-off and thus, the government was at a loss of Rs.1,89,22,072/-. Thus, it is the case of the prosecution that the applicant-accused is responsible for loss of this revenue of such huge amount and hence, the offence is registered against the applicants-accused for the same.

2. Mr.Desai, the learned Counsel for the applicant, has submitted that the Department has started enquiry in the matter in 2012. However, they did not arrest him. In 2014, the offence was registered against the applicant-accused and since then, he is not arrested but he has cooperated with the Department and he is under protection given by the Sessions Court in the Anticipatory Bail Application filed before the

Sessions Court. He further submitted that in the affidavit that he has filed before the Department, he has mentioned his role and it was Mr.Jayeshbhai, who was active in committing this offence and the applicant-accused is innocent. The learned Counsel for the applicant submitted that he is not at all benefited out of the said issuance of bogus invoices and his custodial interrogation is not required as he is giving full cooperation and the police did not want his arrest since last four years.

3. Learned Prosecutor has opposed the application. He has produced the file of investigation before the Court. He relied on the statement of Jayeshbhai, which is referred to in the FIR by the applicant-accused. He submitted that the role played by the applicant-accused requires custodial interrogation and the police wants to know what is the exact role played by Jayeshbhai and other persons.

4. Perused the FIR, the statements of Jayeshbhai Sanghvi and other witnesses. It appears from the record of investigation that the applicant-accused has issued bogus purchase invoices in the name of M/s.Pioneer Trading company to many dealers or traders to enable them to get benefit of set-off when there was no actual sale or purchase of goods and the VAT was not at all paid to the treasury. The applicant-accused as per the FIR, has blamed one Jayeshbhai Sanghavi. However, it appears that during the course of investigation, the said person has given different

clues. Considering the role played by the applicant-accused in issuing bogus invoices and there is an evasion of tax causing loss to the tune of Rs.1,89,22,072/-, I am of the view that it is necessary for the police to interrogate the applicant-accused and others, if any, to find out the volume of offence. Further, interim protection given to the applicant-accused cannot be considered as a ground to grant pre-arrest bail.

5. In the circumstances, the Anticipatory Bail Application is rejected.

(MRIDULA BHATKAR, J.)