

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.316 OF 2016

Shri Vikas Dongare

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.A.B. Avhad for the Applicant

Mrs.P.P. Shinde, APP, for Respondent – State

Mr.S.G. Kale, PI, Navghar Police Station – present

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

DATE: **APRIL 5, 2016**

P.C.:

1. This is an application for pre-arrest bail as the applicant-accused is facing prosecution under section 406, 408, 420, 465, 467, 468, 469, 471, 477A r/w 34 of the Indian Penal Code at C.R. No.77 of 2015 on 7.4.2015 with Navghar police station. The complaint is registered at the instance of one Mr.Maxwel Agnel Lobo, Security Officer of UPS Multinational company. It is the case of the complainant that he was a security officer working with UPS Multinational company which provides warehouse services, transportation of products which are imported by various companies. In the year 2009, the company transported the goods through one firm Shri Sai Express Cargo wherein the applicant-accused and one Ajay Pawar were having partnership. Thereafter in 2011, the company stopped functioning and thereafter Ajay Pawar, the co-accused approached the company of the complainant for his business. In the year

2014, at the time of verification and examination by members of the vigilance team of Octroi department of the Mumbai Municipal Corporation, it was detected that during the period from August 2011 to October, 2012, the company of the complainant did not pay the octroi in 272 transportations and the invoices of such transportations are bogus and thus, the vigilance team gave notice of payment of octroi of Rs.5104274/-. Hence, the offence was registered.

2. The learned Counsel for the Applicant submitted that the applicant was not associated with Ajay Pawar. He has only provided his vehicle to Ajay Pawar. The contract of transportation was taken by Ajay Pawar and he only looked after the business. It was his responsibility to pay octroi though he has taken money from the company. He further submitted that the applicant-accused has attended the concerned police station. When he was granted interim pre-arrest bail and he has cooperated fully.

3. Learned Prosecutor while opposing this application has submitted that the police have clue that the applicant-accused was associated with the person i.e., one Sachin Phadtare, who used to prepare fake octroi 'B' forms and for that purpose, the applicant-accused used to get Rs.10,000/- per month from co-accused Sachin Phadtare as the said Sachin Phadtare was receiving Rs.50,000/- from one Ghanshyam Sitaram Singh, who is also a co-accused.

4. Perused the FIR, the statements of persons recorded by the Investigating Officer. It is a case of octroi evasion. It appears from the record that the applicant-accused was involved providing forged octroi 'B' forms. He worked as middleman between Ghanshyam Singh and Sachin Phadtare and other two co-accused out of whom Ghanshyam Singh was arrested and released on bail and Sachin Phadtare is absconding. He was getting Rs.10,000/- per month from Ghanshyam Singh. The police have clue that the applicant-accused used to give his vehicle i.e., Maruti Omni to Ajay Pawar, the principal accused, who is released on bail. Considering this as also the nature of the offence, I am inclined to grant pre-arrest bail to the applicant-accused on the following terms:

- i) In the event of arrest, the applicant-accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount;
- ii) The applicant-accused shall cooperate with the Investigating Officer and attend the concerned police station on every Monday from 4 pm to 6 pm for a period of one month or till filing of chargesheet, whichever is earlier.
- iii) The applicant-accused shall not tamper with the evidence or pressurise the complainant;

- iv) The applicant-accused shall not indulge into any criminal activity;
 - v) The applicant-accused shall not abscond or leave India without prior permission of the Court and furnish his permanent address to the Investigating Officer alongwith documentary proof of his address.
 - vi) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.
5. Anticipatory Bail Application is disposed of on the above terms.

(MRIDULA BHATKAR, J.)