IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.936 OF 2015

Mr.Amidas M. Mehta ... Applicant

Vs.

The State of Maharashtra & anr. ... Respondents

with

ANTICIPATORY BAIL APPLICATION NO.937 OF 2015

Mr.Rupesh Amidas Mehta ... Applicant

Vs.

The State of Maharashtra & anr. ... Respondents

with

ANTICIPATORY BAIL APPLICATION NO.587 OF 2015

Mr.Piyush Amidas Mehta ... Applicant

Vs.

The State of Maharashtra & anr. ... Respondents

Mr.N.R. Tiwari for the Applicants in all ABAs
Mrs.P.P. Shinde, APP, for Respondent – State
Mr.Vinay Sonpal for resp. No.2
Mr.S.T. Bile, PSI, RCF police station - present

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

DATE: **MARCH 10, 2016**

P.C.:

1. These three Anticipatory Bail Applications are filed by father Amidas and his two sons Rupesh and Piyush. All the applicants/accused are

prosecuted under three different C.Rs. However, the offences committed by all the three persons is of same nature. The charges levelled against them are also same so also the prosecuting agency and the Counsel fro the parties are the same. Therefore, though these Anticipatory Bail Applications are under different C.Rs, they are decided by this common order.

2. Amidas, the father, is charged for the offences punishable under sections 465, 468, 471, 420 r/w section 34 of the Indian Penal Code and also under section 74(1)(B), (2), (4) of the Maharashta Value Added Tax, 2002 in C.R. No.120 of 2014. The applicant-accused Piyush in Anticipatory Bail Application No.507 of 2015 is facing the same charges in C.R. No.121 of 2014 and Rupesh, the applicant-accused in Anticipatory Bail Application No.937 of 2015 is also facing the same charges in C.R. No.119 of 2014. All the offences are registered at RCF police station, Mumbai at the instance of one Chhagan Jaybhay, who is an Assistant Commissioner of Sales Tax (I-033) (Inv-A), Sales Tax Division, Maharashtra State, Mumbai on 10.5.2014. It is the case of the prosecution that the applicants/accused have prepared forged invoices and bills of sale of various goods without actually trading in them to enable the purchasers of the goods to claim set-off on the basis of those invoices and the bills though the actual sale has not taken place and the tax isnot deposited in the Government Treasury.

3. The learned Counsel for the Applicants has submitted that the applicants/accused are innocent and they have already deposited Rs.38 lacs with the Sales Tax Department at the time of raid and therefore, the Sale Tax Department is supposed to issue the necessary certificate. He further submitted that the applicants/accused have not committed any offence. They have not evaded any tax as they did not sell any product or goods and they should not be held responsible for the acts done by other persons, who actually evaded the tax. It is further submitted that their custody is not required for the investigation.

4. Both the learned Prosecutor appearing for the State as also the learned Prosecutor appearing for the Sales Tax department have submitted that the applicants/accused are required for custodial interrogation as they are facing charges under forgery so also for facilitating evasion of tax. The learned Prosecutor appearing for the State has produced a copy of the order in Anticipatory Bail Application No.1267 of 2013 and 1268 of 2013 rejected by this Court on 24.12.2014 wherein similar facts were involved. The learned Prosecutor for Sales Tax Department has submitted that by use of these forged invoices and the bills, the traders have evaded to pay taxes to pay the set-off. He submitted that the total MVAT due in Anticipatory Bail Application No.936 of 2015 is Rs.49,63,254, in Anticipatory Bail Application No.937 of 2015 is

Rs.1,72,07,713 and in Anticipatory Bail Application No.507 of 2015 is Rs.1,19,27,376/-. He further submitted that the applicants/accused are the members of one family. They have obtained Traders Identification Number (TIN) and have registered four companies on each TIN and on thus, 12 companies in all are registered by them. Through these companies, the applicants/accused facilitate the purchasers to claim set-off on the basis of those bogus, forged invoices and bills. Thus, the sale tax is evaded.

5. Heard both the parties. It appears that these three accused have prima facie used a peculiar modus operandi to earn money by way of commission on the value of the bills or invoices. These bills and invoices are bogus. The applicants/accused have prepared these machination in a very intelligent manner to facilitate the claim of set-off and to defraud the State exchequer. I am of the view that the offences are of serious nature as it pertains to the revenue of the State. The applicants/accused are facing charges of forgery and fabrication of false documents and therefore, their custodial interrogation for an effective investigation is a must to detect the manner in which the documents were created and especially to find out how, where and when the documents were created. I rely on the order passed by this Court on 24.12.2014 in Anticipatory Bail Application Nos.1267 of 2013 and 1268 of 2013, wherein similar facts were involved and this Court had rejected the same.

6. In these circumstances, the Anticipatory Bail Applications are rejected.

(MRIDULA BHATKAR, J.)