

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1437 OF 2015

Ghanshyam Sitaram Singh.	Applicant.
VS	
The State of Maharashtra.	Respondent.

WITH
BAIL APPLICATION NO.1487 OF 2015

Kiran Vasant Pawar.	Applicant.
VS.	
The State of Maharashtra.	Respondent.

Ms.Anjali Patil for the Applicant in BA No.1437/2015.
Mr. Aabad Ponda with Shailesh Kharat for the Applicant in
BA No.1487/20915.
Mrs.P.P.Shinde,APP. for the State.
Mr. Kale,PSI from Navghar Police Station present in court.

CORAM : A.S. GADKARI, J.
DATE : 14th January, 2016

PC:

The applicants are seeking bail in CR No.24/2015 registered with Navghar Police Station, Mumbai under Sections 406,408,420,465,467,468,471, 477(a), 120(B) read with 34 of the Indian Penal Code.

2) The applicant in Bail Application No.1437/2015 is the owner of M/s. Om Sai Express Cargo. The applicant

in Bail Application No.1487/2015 is an employee of M/s. Sai Sradha Enterprises owned by one Mr. Ashadul Jakir Shaikh. It is the prosecution case that, a company by name BMW Motor Car, Germany has appointed M/s. Ajility Logistic Company to transport and supply the spare parts of the said car to Navneet Motors at Andheri and Infirinity Motors at Worli, from Bhiwandi. That, the said Ajility Logistic Private Ltd. appointed M/s. Sanket Octroi Services, Sai Sradha Enterprises. Om Sai Express Cargo and Jagruti Express Cargo as their octroi clearing agents for transporting the goods from Bhiwandi to Mumbai. It is the further prosecution case that, though the goods carried by Ajility Logistic Company entered into the jurisdiction of Mumbai Municipal Corporation, the octroi on the said goods was not paid to the Corporation. The Mumbai Municipal Corporation realized the said fact during the course of audit. It is also the prosecution case that the applicants submitted the forged and fabricated octroi chalans to the said Ajility Logistic Company and also claimed the amount alleged to have been paid as

octroi and in fact received the said amount from the said Ajility Company. That, as the Mumbai Municipal Corporation did not receive the Octroi payment, they issued a notice to Navneet Motors. Infirmity Motors and BMW Company for deposit of octroi duty. In the premise, the first information report is lodged by the Assistant General Manager of Ajility Logistic Pvt. Ltd. After lodging of the FIR, the police carried out the investigation and as of today the police have filed the charge sheet before the Court of competent jurisdiction.

3) The learned counsel for the respective parties submitted that the applicant Ghanshyam Sitaram Singh is arrested on 27.3.2015 and applicant Kiran Pawar on 29.8.2015. They submitted that as of today the investigation is completed and there is no further need of custody of the applicants. They submitted that the applicants are ready to abide all the conditions imposed by the Court if released on bail.

4) The learned APP. on the other hand submitted that though the charge sheet is filed, further

investigation as contemplated under Section 173(8) of the Cr. P.C. is under progress and if the applicants are released on bail they might tamper with the prosecution evidence and or influence the prosecution witnesses.

5) I have perused the entire charge sheet annexed to the application. While submitting the charge sheet the draft charges or the gist of allegations against the applicants have been narrated by the Investigating Agency. It is specifically stated in the gist of the allegations that the applicants and other wanted accused persons in connivance and in conspiracy with the officers and employees attached to the Octroi Department of Mumbai Municipal Corporation have committed the present crime thereby causing criminal breach of trust and other related offences as has been mentioned in the final report not only against the BMW Car Company but also against the Government. On a query put to the APP whether any of the officer from the Mumbai Municipal Corporation has been charged with the offence as mentioned in the present charge sheet, the learned APP.

on instructions of the Investigating officer submitted that no Municipal Officer has been charged as an accused in the crime. It appears to me that though the investigating agency in unequivocal terms has stated in the final report that the applicants and the other accused persons in connivance and in conspiracy with the officers /employees attached to the Octroi Department of Municipal Corporation have committed the present crime, the Investigating Agency for the reasons best known to them not charged the said officers in the present crime till today. In view of the above, I am of the opinion that the applicants are entitled to be released on bail.

5) Hence, I pass the following order.

ORDER

a) The applicants namely Ghanshyam Sitaram Singh and Kiran Vasant Pawar shall be released on bail in CR No.24/2014 registered with Navghar Police Station, Mulund, Mumbai on their furnishing PR bond in the sum of Rs.50,000/- each with one or two solvent sureties in the like amount.

- b) After their release from Jail, the applicants shall attend the trial Court on 1st Monday of every month till the conclusion of trial. The applicants shall also attend all the dates of the trial court.
- c) The applicants shall not tamper with the evidence and/or influence the prosecution witnesses.
- d) The application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)