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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1360 OF 2016

Vishwas Dattatraya Chavan
and anr .... Applicants
V/s.
The State of Maharashtra .... Respondent

Mr. Umesh R. Mankapure, for the Applicants.
Ms. R. M. Gadhvi, APP for the Respondent State.

CORAM : A. M. BADAR, J.

DATE : 9th AUGUST, 2016.

P.C. :

1. The applicant/accused, in crime No.83 of 2016, registered with Sanjay Nagar Police Station, District: Sangli, for the offence punishable under sections 454, 457, 380 read with 34 of the Indian Penal Code, at the instance of Excise Department, are praying for pre-arrest bail.

2. At the request of learned counsel for the applicant, the application is heard.

3. The learned for the applicant counsel argued that the principal amount of Rs.2.5 crore for which the detention was ordered, is already paid. Only interest and penalty remained to be paid. The learned

counsel further argued that as per the provisions of section 11DDA of the Central Excise Act, detention lapses after period of six months. Hence, according to the learned counsel, in case in hand, the detention lapsed and therefore, no offence is made out

4. Perused the F.I.R. lodged by Usha Shankarrao Modekar, Superintendent of Central Excise, Sangli. From the record made available, it is clear that on 16th September, 2015, Excise Department for securing the interest of the revenue, due to non payment of Central Excise Duty amounting to more than Rs.2.52 crores had detained goods i.e. sugar worth Rs.3.29 crores approximately. Seal of the Excise Department was affixed to the godowns of the sugar factory where the detained material was kept for safe custody. Because of subsequent lapses, the Excise Department conducted inspection of the sugar factory. During that inspection, it was found that the godowns where sugar was detained by affixing seal of the Central Excise, were not containing detained sugar. The Excise Officer has categorically mentioned in the F.I.R. that godown Nos. 5, 7 and 15 sealed on 16.9.2015 for detaining the sugar were not containing the seized sugar. From the detention order, it is seen that the sugar was detained and godowns were sealed. The F.I.R. reveals that present applicants have shifted the seized stock of sugar by breaking upon seal affixed by the Excise Officer.

5. Provisions of Section 11DDA of the Central Excise Act, 1944, provides for extending the period of detention upto two years. As such, it cannot be said that the detained sugar was shifted after the detentin order lapsed due to passage of time.

6. Considering this material, borne from the F.I.R. lodged by public servant, no case for grant of ad-interim anticipatory bail is made out.

7. Consequently the main application does not survive and the same is rejected.

[A. M. BADAR, J.]