IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1733 OF 2016

Dilip Chandrakant Chaulkar .....Applicant
V/s.
The State of Maharashtra ....Respondent

Mr. Nilesh S. Bagade Advocate for Applicant.
Mr. S. H. Yadav APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : OCTOBER 6, 2016.

PC :

1) Heard. This is an application under section 438 of the Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 217 of 2016 registered at Khalapur police station for offence punishable under sections 420, 406, 465, 468, 471, 475, 477 (A) of the Indian Penal Code.

2) It is the case of the prosecution that on 14/09/2016, Jayant Kandge who happens to be Chartered Accountant, lodged a report at the police station that present applicant was introduced to him through some friends, that he used to assist the complainant. In the year 2012, applicant had asked the complainant as to whether he would conduct VAT audit of Simplex Prefab Infrastructure for the year 2012-2013. Complainant had conducted VAT audit and submitted

a report. It appears that thereafter, Simplex Prefab Infrastructure had informed the complainant not to conduct the VAT audit for the subsequent years. Despite the same, VAT audit were found to be submitted to the Sales Tax Department for the year 2013-2014 and 2014-2015 bearing the signature of the complainant. The Sales Tax Department had conducted an inquiry and called upon the present applicant as the complainant has specifically denied the signatures.

3) It appears that on 06/08/2016, applicant was called before Sales Tax Authorities wherein he had admitted that he has forged the signature of the complainant on the said reports. Thereafter, the information was given to the owners of Simplex Prefab Infrastructure. On 14/09/2016, the Sales Tax Department had lodged F.I.R. against the present applicant alleging therein that he has committed the offence punishable under section 467, 471 etc which is registered as crime no. 213 of 2016.

4) The learned counsel for the applicant submits Jayant Kadage had sent an e-mail to Dhirendra@simplexgrop informing him that he and his associates were planning to visit Khopoli office on 26/12/2014 for VAT audit for the year 2013-2014 and that they would be a team of 5 persons. The contention

that applicant had disclosed to the Sales Tax Authorities that he had forged the signatures of the complainant was recorded under coercion of the officers of the Sales Tax Department. Sales Tax Department has also initiated prosecution against the present applicant for having committed the offence of fabrication and forgery.

5) It is a matter of record that applicant had not complained to any Authority that statement was obtained under coercion since 06/08/2016 and now he is being prosecuted by the Sales Tax Department also. It is admitted position that *prima facie* it appears that applicant has committed offences punishable under section 467, 471, 420 of the Indian Penal Code in respect of forging the Government documents. Hence, applicant does not deserve relief under section 438 of the Code of Criminal Procedure, 1973. However, it is made clear that observations made herein above are restricted to an application under section 438 of the Code of Criminal Procedure, 1973 and shall not be considered for the purpose of deciding an application under section 439 of the Code of Criminal Procedure, 1973.

6) Application, being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.)

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