IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2105 OF 2016

Melvin P. D'souza .... Applicant

versus

The Union of India & Anr. ... Respondent

Mr.Niranjan Mundargi, Advocate i/b. Vikram R. Sutaria, Advocate for the Applicant.

Ms. Purnima H. Kantharia, Advocate for Respondent No.1.

Mr.S.S. Pednekar, APP for the State/Respondent No.2.

CORAM : MRS.MRIDULA BHATKAR, J.
DATE : 10th FEBRUARY, 2017.

P.C. :

1. The applicant apprehends arrest in C.R.No.130/16 of Silvassa Police Station, Mumbai for the offence punishable under sections 120-B, 467, 468, 471, 472, 420 of the Indian Penal Code. One Dharmendra Shamji Jadav, who was working as a Manager in Omnibus Industrial Corporation (OIDC), gave complaint to the police.

2. It is the case of prosecution that in Silvassa, if hoteliers if want to sell or make available liquor in their respective hotels, then they have to purchase the stock from OIDC. The applicant/accused was working as a Manager of Hotel Zill Hill at village Khanvel at Silvassa. The hotel is owned by a partnership firm M/s Zill Hill by one Balvantsingh C. Solanki and Mukesh B. Parmar. The amount paid for the purchase of the liquor from OIDC and the stock found in the Hotel Zill Hill did not match. There were 22 entries of the stock in the hotel, which found not countable. It is the case of prosecution that the RTGS payment receipts, which were produced in the bank and in OIDC, were forged. Therefore, the complainant who is the Manager of the Corporation, approached the police and offence was registered against the present applicant/accused, who was the Manager and was actually running the business of Hotel Zill Hill in the year 2015-2016.

3. The learned counsel for the applicant/accused has submitted that the applicant/accused is innocent. He has not

committed any offence, much less the offence of forgery and falsification of account. He is a Manager and is not aware how much money was in fact paid in the bank and how much order for the stock was placed with OIDC by the owners of the hotel. He further submitted that the person in whose name the liquor license stands, is the one who was dealing with placing orders, purchasing the stock of liquor and payment of the same. The applicant/accused is innocent. He has not committed any offence. The learned counsel further submitted that the FIR is against the owners of Hotel Zill Hill. Thus, the owners are the co-accused in the present case and therefore he prays for protection.

4. The learned prosecutor while opposing bail application, has relied on the complaint, so also the statement of witnesses i.e. one Dharmendra Shamji Jadav i.e. the complainant, one Sagar who is the Branch Manager of Dena Bank, Khanvel, one Sham Vitthal, who is working in OIDC Department as a salesman. Also she relied on the statement of

Shayarbhai Vimji, the senior guard in Excise Department and Kalpesh, who was working in Hotel Zill Hill and who has stated that it is run by the applicant/accused. The learned prosecutor further relied on statement of one Ranubhai, who was working as account keeper in OIDC. She further submitted that there is evidence to show that the applicant/accused was dealing with demand and the purchase of liquor. He used to go to Dena Bank and also used to deal with purchase of liquor from OIDC. She further submitted that though owners are also made co-accused in the present case, the statements of the witnesses disclose that principal accused is the applicant/accused. It is a forgery and cheating, therefore police need his custody.

5. Perused the FIR and the statements which are relied by the learned prosecutor. Prima facie there is evidence that the applicant/accused has committed a forgery and misappropriation of the amount and alsocheating. There is statement of Manager of Dena Bank, which shows that the seal of the bank was forged and the RTGS payment receipts which

were presented in OIDC are also bogus. Under such circumstances, considering the nature of offences, I am of the view that custodial interrogation is required and hence application stands rejected.

(MRIDULA BHATKAR, J.)