IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 647 OF 2019

Vinit Anil Jamsandekar ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Manas N. Gavankar for the Applicant

Mr. V. V. Gangurde, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 6th AUGUST 2019

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 6 of 2017 registered with the Meghwadi Police Station, Mumbai, for the alleged offences punishable under Sections 465, 468, 471, 420 r/w 34 of the Indian Penal Code; under Sections 74(1)(b), (c), (e), (f) r/w 74 (2), (4) and (5) of the Maharashtra Value Added Tax Act.

3 Perused the papers. According to the complainant-Ratnakar Gadhave, Assistant Commissioner of Sales-Tax Department, Mumbai, the applicant's company defaulted in paying Value Added Tax (`VAT') to the tune of Rs. 2,47,59,730/-. It is the prosecution case that during the period 2008-2012, the applicant's companies i.e. M/s. Dirbha Samarth Trading Pvt. Ltd.; M/s V3 Enterprises and Moksh Impex Company, issued fake bills. The applicant is stated to be the Director of the aforesaid two companies i.e. M/s. Dirbha Samarth Trading Pvt. Ltd. and M/s V3 Enterprises. Apart from the applicant, another accused Rasik Shah is also allegedly involved in the said offence. However, Rasik Shah expired in 2016. In the inquiry which was being conducted by the Assistant Commissioner of Sales-Tax, it was revealed that a bank account was opened in the name of one Shivaji Dhole, an illiterate person and signed blank cheques were taken from him by the applicant to operate the said account. On paper, Shivaji Dhole was also shown as the owner of the Moksh Impex Company, however, the business was being carried out allegedly by the applicant and co-accused-Rasik Shah. It is pertinent to note that although FIR was also lodged as against Shivaji Dhole, after investigation, 169 report was filed as against him, as there was no material

to show his complicity. It also appears that during the course of inquiry which was being conducted by the Assistant Commissioner of Sales-Tax, Rasik Shah had given information regarding fake bills given to M/s. Dirbha Samarth Trading Pvt. Ltd., M/s. Tulsiyani Pvt. Ltd., M/s. V-3 Enterprises, M/s. Deep Enterprises, M/s. Nidheesh Enterprises and M/s. Toral Enterprises. It is not in dispute that the applicant's companies failed to pay the VAT, pursuant to which, the said tax was recovered from the traders i.e. an amount of Rs. 2,47,59,730/- was received from the traders.

4 The applicant is in custody for the last two years. The applicant has filed an affidavit affirmed before the Senior Jailor, Mumbai Central Prison, Mumbai. The said affidavit of the applicant is taken on record and marked `X' for identification. In the said affidavit, the applicant has undertaken not to indulge in any illegal act; not to leave the limits of Greater Mumbai and Thane District without the permission of the Court; and that he would always be available to face trial and that he would abide by the conditions imposed by this Court. The investigation is complete and charge-sheet is filed.

5 Considering the aforesaid, further custody of the applicant is not warranted. Accordingly, the application is allowed on the following terms and conditions :

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 1,00,000/- with one or two local sureties in the like amount;

(ii) The applicant shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 12:00 noon, for a period of 12 months from the date of his release;

(iii) The applicant shall not leave the limits of Greater Mumbai and Thane District without the permission of the trial Court;

(iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(v) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(vi) The applicant to cooperate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;

(vii) The applicant shall file an undertaking with regard to clauses (ii) to (vi) in the trial Court, within two weeks of his release;

(viii) If there are two consecutive defaults either in attending the Police Station or in appearing before the trial Court, or breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

6 The application is disposed of in the aforesaid terms.

7 It is made clear that the observations made herein are *prima*

facie, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

8 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.