IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 613 OF 2017

Yogesh Vasantrai Rawal ... Applicant
V/s.
The State of Maharashtra ... Respondent

- Mr.K. Solanki for the Applicant.
- Mr.R.M. Pehte, APP for the Respondent-State.
- Mr.Rokade, P.I., Kandivali Police Station.

CORAM : PRAKASH D. NAIK, J.

DATE : 1st MARCH, 2019.

P.C. :

1] The Applicant is apprehending arrest in connection with C.R. No. 433 of 2016 registered with Kandivali Police Station for the offence punishable under Sections 420, 465, 467, 468, 471 of the Indian Penal Code and Section 74(1)(b)(c)(d)(f)(2)(4) of Maharashtra Value Added Tax, 2002. The FIR was registered on 9th December, 2016.

2] The Prosecution case is that the Asst. Commissioner, Sales Tax-Investigation visited establishment of M/s.Growell Enterprises. On enquiry it was informed by person present at the premises that, Mr.Rajesh Patel had sold the premises to him and he has shifted to another place at Cosmos Cooperative Housing Society, Borivali. Enquiry was made with father of Mr.Rajesh Patel who was present at the said place. It was informed that Mr.Rajesh Patel has joined new employment and old business was look after Mr.Kirti Doshi. No documents relating to business were found. Upon enquiry with Mr.Kirti Doshi regarding account books of M/s.Growell Enterprises, it was informed that those account books are kept in office. Upon inspecting office of Mr.Doshi, documents relating to M/s.Growell Enterprises, M/s.Alpesh Trading Company, M/s.Shreeji Sales, M/s.Caprihance Trade Centre were secured revealing that on the basis of bogus sales purchase bills, the merchants have benefited on account of set off in sales tax. The Applicant has traded under the name of M/s.Shreeji Sales during the period from 01/04/2008 to 31/03/2011. He prepared forged and fabricated tax invoices work of Rs.13,43,96,378/- and given forged bills to different merchants. As per bills, refund of Rs.61,41,683/- was taken. The Applicant is the owner of the Proprietary concern M/s.Shreeji Sales and carrying out business in Hardware, Chemical Industrial items etc. It is registered with the Sales Tax Department and the account is maintained with Saraswat Co-operative Bank, Borivali (W) and Punjab National Bank, Borivali, Mumbai. The Applicant submitted the Sales Tax Returns upto March

2011. The Applicant has done this with a view to evade the payment of value added tax to the Sales Tax Department. Under the Maharashtra Value Added Tax Act, 2002 inquiries were made by the the Sales Tax Officer and he found the aforesaid irregularities and the FIR was lodged.

3] Learned counsel for the Applicant submits that the custodial interrogation of the Applicant is not necessary. The Applicant is not involved in fabrication of any document. The tax is already paid by the parties.

4] Whereas learned APP submits that the Applicant has not paid any value added tax. The offence is of serious nature. The matter involves fraudulent act of evading huge amount of tax and to find out the mis-deed of the persons involved in the said activities, custodial interrogation of the Applicant is necessary.

5] The Applicant had preferred anticipatory bail application before the Sessions Court, which was rejected on 1st April, 2017. Thereafter, the Applicant had preferred this application on 7th April, 2017 before this Court. The Application was dismissed for want of prosecution and subsequently, it was restored vide order dated 6th

February, 2019. The Applicant is without interim protection for a period of two years.

6] Learned APP submits that the Applicant has not cooperated with the investigation. It is noted that the allegations include preparation of false documents with intention to evade the payment of value added tax. It is also alleged that the Applicant has registered with ulterior motive to have benefit to the other business houses to evade tax. The charges are, therefore, of serious nature and there is deliberate attempt to avoid the tax.

7] Considering the factual matrix, no case of grant of anticipatory bail is made out. Hence, the Application is rejected.

[PRAKASH D. NAIK, J.]