IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 614 OF 2017

Rajesh Jadhavbhai Patel & Ors. ... Applicants
V/s.
The State of Maharashtra ... Respondent

- Mr.K. Solanki for the Applicant.
- Mr.R.M. Pehte, APP for the Respondent-State.
- Mr.Lahane, API, Borivali 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. 603 of 2016 registered with Borivali 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 the Maharashtra Value Added Tax, 2002. The FIR was registered on 9th December, 2016.

2] The Applicants had preferred an application for anticipatory bail before the Sessions Court, which was rejected on 1st April, 2017. Thereafter, the Applicants had approached this Court by preferring the present application on 7th April, 2017. Which was subsequently dismissed for want of prosecution and the same was restored vide order dated 6th February, 2019. The Application is pending without any interim protection from this Court.

3] The Prosecution case is that the Sales Tax Officer visited M/s.Growel Enterprises at Borivali, which is registered with the Sales Tax Department under TIN No.27920289666 V/C. On inquiry, it was revealed that the firm and its proprietor (Applicant No.1) was not working at the address, which was given in Sales Tax Registration papers. On further inquiry, the officer visited to his new address and it was revealed that the Applicant No.1 has sold his business to Applicant No.3. On inquiry with Applicant No.3, it was revealed that there were no Books of Account in respect of the said business. There were documents in respect of M/s.Growel Enterprises, M/s.Alpesh Trading Company, M/s.Shreeji Sales and Caprihans Trade Center. It was revealed that the aforesaid firm had transacted with various business houses on the basis of false and bogus bills regarding sales and purchase. As per the Maharashtra Value Added Tax Act, 2002, the transactions of purchases and sales are required to be recorded and the Sales Tax is required to be recovered and paid to the Government. Such taxes are assessed on the basis of the genuine bills of genuine transactions. It was revealed that the accused, Applicant No.2, the owner of M/s.Alpesh Trading Company, deals in hardware, chemical industrial items. The Sales Tax Department has given Sales Tax Registration to M/s.Alpesh Trading Company from 1st January, 2016 and the said company has its bank account with Saraswat Cooperative Bank at Borivali and Punjab National Bank at Borivali. The company submitted the Sales Tax Returns upto March 2011. It is alleged that from 01/04/2008 to 31/03/2010 false translation bills have been prepared to help other business houses to evade tax amounting to Rs.64,03,348/- though it has been recovered. The aforesaid acts were done with a view to evade payment of value added tax.

4] Learned counsel for the Applicant submits that the custodial interrogation of the Applicants is not necessary. The tax is already recovered. The Applicants are not involved in fabrication of documents and their custodial interrogation is not necessary.

5] Learned APP submits that the offence is of serious nature. The accused have indulged in creation of false documents with a view to evade the tax. It is further submitted that the matter is in respect of evading huge amount of tax and therefore, custodial interrogation is necessary.

6] I have perused the documents. It is noted that the allegations include forgery and preparation of false documents with intent to evade tax although the tax is allegedly recovered from the various transactions, the manner in which the Applicants-accused have indulged in commission of the crime, does not entitle them to relief under Section 438 of the Cr.P.C.. The Applicants have registered the firms with ulterior motive to help other business houses to evade tax. The charges are, therefore, are of serious nature and hence, no case for grant of anticipatory bail is made out. Hence, the Application is rejected.

[PRAKASH D. NAIK, J.]