HON'BLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.5638 of 2019

O R D E R :

This Criminal Petition, under Section 438 of the Code of Criminal Procedure, 1973 is filed by the petitioner, who is A.2, for grant of anticipatory bail in the event of his arrest in Crime No.1 of 2018 on the file of the CID, EOW, T.S. Hyderabad, registered for the offences punishable under Sections 406, 420, 468, 471, 477-A and 120-B IPC.

The prosecution case is that the Asst.Commissioner (S.T.) Begum Bazar Circle, Commercial Taxes Department, Government of Telangana, Hyderabad, lodged a complaint before the Addl. DGP, CID, Telangana State, Hyderabad, stating that on credible information about movement of edible oil consignment to the State of Telangana with bogus documents i.e. transits passes from Krishnapatnam port, Andhra Pradesh, showing them as moving outside the State of Telangana unloading the goods in the state of Telangana to evade taxes. In this regard, while the Enforcement Wing Department, conducting vehicular traffic check on 21.01.2017 at Vadapally Check Post, noticed that, one Oil Tanker bearing No.TN-12-E-9281 being unloaded at Ushodaya Enterprizes Private Limited, Katedan, Hyderabad. During the vehicular traffic check, the officer noticed that the Oil Tanker which was moving to Nanded and New Delhi were being disposed in the State of Telangana in Lorry Tanker supra and noticed the contents of the tanker were being unloaded at Ushodaya Enterprizes Private Limited, Katedan, Hyderabad. At that time, one M/s Jagan Industries, Hyderabad had appeared before the authorities claiming to be the owner of the goods having sold the same to M/s Ushodaya Enterprizes Private Limited, and produced invoice No.5005, dt.21.01.2017 at 12.44; 15 hours. While the authorities were examining the transaction as to open source of purchases of Oil by M/s Jagan Industries, one Mr.Akash Sarda claiming to be the proprietor of M/s Akash Foods appeared before the Enforcement authorities claiming to be the owner of the goods i.e. edible oil in lorry tanker supra, by producing invoice No.393, dt.21.01.2017 and way bill generated on 21.01.2017 at 15.28:50 hours showing a sale in favour of M/s Jagan Industries and requested for release of the Oil Tanker upon payment of the Tax and penalty. Further M/s Akash Sarda i.e A.1 agreed to deferent tax of 3% and issued 3 post-dated cheques and then the tanker was released by the authorities. Thereafter the A.1 filed W.P.No. 5658 of 2017 before the High Court seeking a direction to Commercial Tax authorities not to present the cheque for encashment and returned the cheques to the A.1. This Court after hearing directed the matter requires investigation in the case of M/s Akash Foods represented by Akash Sarda. and also in similar transactions pertaining to all Oil Dealers in the State and directed the Principle Secretary to the Government Revenue (CT) Department to institute a investigation through CID. On such direction, a complaint was made through

Asst.Commissioner (S.T.) Begum Bazar Circle, Hyderabad to the police Station supra.

Heard learned counsel for the petitioner/A.2 and the learned Additional Public Prosecutor appearing for the respondent State. Perused the material on record.

Learned counsel for the petitioner contends that the petitioner has not committed any offence and the police falsely implicated him. The petitioner is the father of A.1-Akash Sarda but the Commercial Tax Authorities without determine the Tax by conducting preliminary investigation, erroneously came to conclusion that M/s Akash Foods trying to evade tax of Rs.2,14,14,773/- and filed a false complaint. The police investigated the matter and examined 79 witnesses and thereafter apprehended the A.1. It is also contended that the petitioner is ready to abide by any conditions imposed by this Court, including assisting the investigating agency for his release on anticipatory bail in the event of his arrest in the above crime.

On the other hand, the learned Additional Public Prosecutor vehemently opposed the relief sought in the above petition.

As seen from the contents of the complaint and other material papers on record, there are allegations against the petitioner connecting with the other accused with regard to tax and for completion of investigation which is still to go on, I am not inclined to grant anticipatory bail to the petitioner.

However, if the petitioner/A.2 surrenders before the Court below concerned and moves an application for regular bail, after giving prior notice to the Public Prosecutor concerned within 15 days from today, the said application shall be considered in accordance with law.

With the above observations, the Criminal Petition is dismissed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE G. SRI DEVI

20.09.2019.
vvr

HON’BLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.3662 of 2019

Dt.20.09.2019
vvr

01.08.2019
Msr