IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.629 OF 2021

Mr. Pradip Hiraman Salavi .. Applicant

Vs.

The State Of Maharashtra .. Respondent

Mr.Kuldeep S. Patil, Advocate for Applicant.
Mr. Y.M. Nakhwa, A.P.P. for the State-Respondent.
PI Anand Mudaliyar, EOW Mira-Bhayandar, Vasai-Virar Commissioner Office present.

CORAM : PRAKASH D. NAIK, J.
DATE : 23RD JUNE, 2021

PC.

1. The applicant is arrested on 03.12.2019 in connection with C.R. No. I-222 of 2019 registered with Nalasopara Police Station, District Palghar for the offences punishable under Sections 420, 465, 467, 468, 469 read with 34 of Indian Penal Code (for short 'IPC') and Sections 132(1)(e), 132(1)(f), 132 (1)(3) and (4) of the GST Act.

2. The case of the prosecution in brief is as follows:-

i) The complainant is the Assistant Commissioner of Sales Tax. It is alleged that he was informed about the alleged fraud committed by the applicant and the other accused. It is alleged that under the pretext of providing job to Mr. Abdul Dollare, he was induced to submit documents such as Aadhar Card, Electricity bill and other documents and thereafter misused the said documents by opening a false bank account in the name of "Icon industries" with Thane Co-operative bank, Dadar branch. It is further alleged that the GST was claimed and the applicant alongwith the other accused cheated the government and committed a fraud of Rs.2,86,80,562/- (Two Crores Eighty Six Lac Eighty Thousand Five Hundred and Sixty Two only).

ii) FIR was registered vide C.R. No. I-222 of 2019 on 26.06.2019 at Nalasopara Police Station, Dist. Palghar for offences punishable under Sections420, 465, 467, 468, 469 read with 34 of IPC and Sections 132(1)(e), 132(1)(f), 132 (1)(3) and (4) of the GST Act.

3. Learned counsel for the applicant submitted that the applicant is in custody for a period of one and half year. Co-accused in whose account the same amount was transferred and encashed, was granted bail by the Sessions Court. There

are no other criminal antecedents against the applicant.

4. Learned APP submitted that the applicant has played vital role in this transaction by using fake Aadhar Card, Electricity bill and conspired with the co-accused. False account was open in the name of Icon Industries with Thane Co-operative bank, branch Dadar. The GST was claimed and loss was caused to the Government to the tune of Rs.2,86,80,532/-.

5. It is apparent that on completing investigation, charge-sheet is filed. All the other accused are granted bail. Copies of order granting bail to the co-accused are annexed to this application. The accused Nilesh Ramchandra Jadyar was granted bail by Sessions Court vide order dated 11.05.2020. While granting bail it was observed that role attributed to him was that he had referred Abdul Dollare to accused No.1 and he had knowledge about the transaction of GST. The Court further observed that there is nothing on record to show that he is habitual offender. Investigation is completed and charge-sheet is filed. Jitendra Kumar Singh was granted bail by Sessions Court vide order dated 11.05.2020. The case of the prosecution

against him is that he had helped accused No.1 to form fictitious company and had also taken amount from accused Atul Kiri. The learned Sessions Judge while granting bail has observed that the filing of the charge-sheet indicates that investigation is completed. He had received cash from Atul Kiri. There is nothing on record to show that he is habitual offender. He is in jail since last three months. There is no reason to keep the said accused in custody. Accused Atul Kiri was also granted bail by learned Session Judge, Vasai vide order dated 11.05.2020. The order indicates that the charge-sheet was filed against him and hence, investigation is completed. The role attributed to him was that he had encashed the cheque and had given the amount to other accused. Certain articles such as cash was recovered from him. There is nothing to show that he was habitual offender. He is in judicial custody. He is in custody from three months. Applying the said principles, it can be seen that the present applicant is in custody for one and half year. There are no criminal antecedents against him. The persons who had allegedly received the cash amount were granted bail. Further detention of the applicant is not warranted and hence, case for grant of bail is made out.

ORDER

(i) Bail Application No.629 of 2021 is allowed;

(ii) The applicant is directed to be released on bail in connection with C.R. No. I-222 of 2019 registered with Nalasopara Police Station, District Palghar on furnishing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;

(iii) The applicant shall report Nalasopara Police Station once in three months on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further orders;

(iv) The applicant is permitted to furnish provisional cash bail in the sum of Rs.25,000/- for a period of 8 weeks in lieu of sureties.

(v) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)