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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 441 OF 2019

Kalpesh Shamji Shah

....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Girish Kulkarni i/b Maitreya G. Shukla for the Applicant

Ms. Sharmila S. Kaushik APP for the State

CORAM : NITIN W. SAMBRE, J.

DATE: JULY 6, 2021.

P.C.:

1] Applicant is seeking pre-arrest bail in C.R. No. 86/2018 registered with Economic Offences Wing for offences punishable under Sections 420, 465, 467, 468, 471 of the Indian Penal Code along with Section 43(a)(b), 66 of The Information Technology Act.

2] The allegations against the applicant are, he has forged and fabricated the payment receipts of service tax department and used said forged and fabricated receipts while cheating various tax payers

including the public exchequer.

3] Shri. Kulkarni, learned counsel for the applicant would urge that applicant having realized this bonafide mistake has already deposited entire amount and as such, his custodial interrogation is not warranted in the case in hand.

4] Learned APP would oppose the claim particularly having regard to the *modus operandi* adopted by the applicant in the matter of commission of crime in question.

5] Considered the submissions.

6] It is apparent that applicant has collected huge amounts from tax payers. Instead of depositing the same with the department, has practiced fraud on said tax payers by passing fabricated receipts.

7] Merely because applicant has deposited the amount of tax

collected from tax payers, subsequent to the commission of crime i.e. after registration of offence, will not absolve him of the criminal liability. Rather it can be inferred that custodial interrogation of the applicant is very much warranted for the purpose of recovery of fabricated receipts and other material. In that view of the matter and having regard to the fact that there is sufficient material to prima facie implicate the applicant in the crime in question, in my opinion, no case for grant of anticipatory bail application is made out.

8] Application fails, stands rejected.

[NITIN W. SAMBRE, J.]