IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2270 OF 2021

Bhupendra Majethia s/o Hargovind Majethia ... Applicant
versus
The Superintendent (A.E),
Investigation-A, Mumbai, CGST Mumbai
South Commissionerate and another ... Respondents

Mr.Brijesh Pathak, Advocate for applicant.
Mr.R.M.Pethe, APP, for State.
Mr.J.B.Mishra with Mr.Ashutosh Mishra, Advocates for Respondent no.1.

CORAM : PRAKASH D. NAIK, J.

DATE : 23rd September 2021

PC :

1. The applicant is apprehending arrest in File No.V/CGST/MS/AE/Gr-01/Shreeji Jewellers/1011/2020-21 for offence under Section 132 of Central Goods and Services Tax Act, 2017 (`The Act' for short).

2. Brief facts of the case are as under :-

(i) The intelligence gathered indicate that the applicant is engaged in availing of fraudulent input tax credit under fake invoice without movement of goods. Investigation was conducted u/s.67(2) of CGST Act. The respondents started scrutiny of the suppliers of applicant from 111 suppliers. Verification of premises of 12 suppliers was conducted and it was found that they were non existent;

(ii) Total Input Tax Credit (ITC) availed from these suppliers was Rs.13 crores approximately;

(iii) The applicant had not complied the summons. Statement of applicant was recorded u/s.70 of CGST Act. He admitted that he took invoices from three suppliers without supply of goods and did not make payments to those suppliers. The statement is corroborated by the fact that three suppliers were found non existent;

(iv) Non existent 12 suppliers proved beyond doubt that the applicant is engaged in availing fraudulent ITC.

3. The applicant preferred application for anticipatory bail before Sessions Court. The said application was rejected on 16th September 2021.

4. Learned advocate for applicant submitted that applicant has been falsely implicated. The statement of applicant was recorded under coercion. The applicant was forced to make deposit of Rs.15 lakh on 4th February 2021. He was forced to prepare post date cheques of Rs.2.41 crores. The officer of first respondent had demanded bribe. The ACB complaint was filed with Anti Corruption Bureau. The CGST Act is special Act containing mechanism for demand of tax not paid or credit of refund erroneously taken. The payment of tax paid invoices are made through proper banking channel. All the transactions are accounted in books of accounts. The show cause notice was required to be initiated by the respondent

no.1 which is not done. The CGST Act being taxing statute, provides for all eventualities including recovery of tax. The applicant would prove in adjudication proceedings that transactions were genuine and goods were duly received. The provisions of Section 132 of the Act indicate that each transaction offending any of the provisions would be an offence under CGST Act. Investigation is being conducted with pre-meditated mind set of incriminating the applicant. Learned counsel for applicant relied upon decision in the case of **Prasad Purshottam Mantri Vs. Union of India (2019{29}G.S.T.L.647 {Bom})** and **Hanumanthappa Pathrera Lakshmana Vs. State, Senior Intelligence Officer, D.G. of GST Intelligence, Bengaluru (2020{38}G.S.T.L.447 {Kar})**.

5. Learned counsel for respondents submitted that there is sufficient material against applicant. The transactions were fraudulent. Investigation is in progress. The claim of the applicant is false. The suppliers were not existent. Section 132 of the Act deals with punishment for certain offences. The statement of applicant was recorded u/s.70 of the Act wherein he confessed that he took invoices. The investigation is in progress and custodial interrogation of the applicant is necessary.

6. I have perused the documents. There is sufficient evidence against applicant. He is engaged in availing fraudulent tax credit. The statement of applicant was recorded u/s.70 of the Act. There are 12 non existent suppliers. The respondents have power to arrest. What is required is reason to believe about involvement of the suspect. There is sufficient evidence on record to satisfy the reason to believe. The decisions relied upon by advocate for

applicant are not applicable to the facts of this case.

7. Considering the factual aspects of the matter, no case is made out for granting relief to the applicant.

ORDER

(i) Anticipatory Bail Application no.2270 of 2021 is rejected.

(PRAKASH D. NAIK, J.)

MST