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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2690 OF 2021**

ASAD ARIF THAVER

....Applicant.

V/s

THE STATE OF MAHARASHTRA

.....Respondent

Mr. Ram Upadhyay i/b Law Competere Consultus for the Applicant.

Mr. J. S. Lohokare, APP for the Respondent/State.

API Ajay Chavan, Dr. D.B. Marg Police Station, Mumbai, present.

CORAM: NITIN W. SAMBRE, J.

DATE: DECEMBER 06, 2021

P.C.:-

1] The Assistant Commissioner of Taxes under G.S.T. lodged a complaint against one Shaikh Riyazhussain Iqbalhussain, a Proprietor of Iqbal Auto Parts (hereinafer referred to as “the said Proprietor) for the offence punishable under Sections 420, 468, 471 of the I.P. C. and Section 132(1) of the G.S.T. Act.

2] The case of the prosecution is, the said Applicant through self-declaration got himself registered vide Reg. No. GSTIN27HBOPS6519C1Z6 and illegally claimed G.S.T. refund of Rs 2,17,17,360/-, thereby causing misappropriation. As such, the

offence under question.

3] Mr. Upadhyay, learned Counsel for the Applicant would urge that Applicant is in the business of foreign exchange. According to him, Applicant received requirement of foreign exchange which was processed for the passengers who were to travel abroad through Travel Companies ABC Enterprises and Balaji Enterprises. Accordingly, said amount was delivered to the passengers/said Firms for which G.S.T. was already paid and intimation was given to R.B.I.. It is claimed that the Applicant is not a beneficiary of the amount in the offence in question and that being so Application needs to be allowed as Applicant has roots in the Society and is available for investigation.

4] The learned APP would urge that the said Proprietary Firm generated G.S.T. registration on the basis of forged documents viz leave and license agreement, electricity bills, bank account and availed G.S.T. benefit of Rs 2,17,17,360/-. It is claimed that out of the aforesaid benefit, an amount of Rs 74,99,499/- was deposited in the Bank Account of ABC Enterprises. It is claimed that the said amount of Rs 74,99,499/- was transferred to the Account of the

Applicant i.e. Thaver Forex Pvt. Ltd and further the said amount is shown to be transferred to Weizmann and Wallstreet. It is claimed that there is enough material to infer involvement of the Applicant in crime and as such, Application be rejected.

5] Considered submissions.

6] From the investigation papers it appears that proprietor of Iqbal Auto Parts generated registration number under G.S.T. Act and availed tax benefit of Rs 2,17,17,360/-. The said amount appears to have gone to the share of four Firms of which Balaji Enterprises and ABC Enterprises have transferred an amount of Rs 46,60,280/- to the Firm of the Applicant Thaver Forex Pvt. Ltd. From the Firm of the Applicant benefits were further transferred to Weizmann and Wallstreet.

7] The Proprietor of ABC Enterprises has specifically named the Applicant alongwith co-accused Arif as the beneficiary of the aforesaid illegal tax benefit. As far as aforesaid Firms viz ABC Enterprises and Balaji Enterprises are concerned, the owner of ABC Enterprises in investigation was noticed to be the employee of Thaver Forex Pvt. Ltd

and that of Balaji Enterprises was a Safai Kamgar. The amount of Rs. 46,60,280/- and Rs 75,10,916/- were transferred to the Account of the present Applicant from ABC Enterprises and Balaji Enterprises. The registration of the Firm viz Iqbal Auto Parts was obtained by giving forged documents viz leave and license agreement, energy bill used in getting registration. In investigation, said documents were found to be bogus, with the help of which Applicant had drawn undeserving benefit. As such, there is sufficient material on record to infer prima facie involvement of the Applicant in economic offence.

8] As such,` no case for grant of bail is made out. Application stands rejected.

(NITIN W. SAMBRE, J.)