

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

ANT. BAIL APPLICATION NO.1055 OF 2022

Attaaulha Mohammad Naim Chaudhari ... Applicant
Vs
The State of Maharashtra ... Respondent
...

Mr. Tushar Chavan with Ms. Babita Pandey for the Applicant.
Mr. P.H.Gaikwad-Patil, APP for the State.
Mr. Jitendra Mishra with Ms. Sangeeta Yadav for R.No.2.

CORAM : SANDEEP K. SHINDE J.
RESERVED ON : 7th JUNE, 2022.
PRONOUNCED ON: 10th JUNE, 2022.

P.C. :

Apprehending arrest in connection with the Summons dated 28th February, 2022 and 15th March, 2022 issued under Section 70 of the Central Goods and Services Tax Act, 2017 ('C.G.S.T. Act' for short), applicant had preferred Anticipatory Bail Application before the Sessions Court at Nashik, with Ajjimullah Naim Choudhary and Hafijullah Ajjimullah Choudhary. Their application was rejected on 5th April, 2022.

Co-applicants, Ajjimullah Naim Choudhary and Hafijullah Ajjimullah Choudhary had approached this Court in Anticipatory Bail Application No.1087 of 2022. This Court rejected the said application on 21st April, 2022.

2 Superintendent (Preventive) CGST & CX, Nashik, Commissionerate, Nashik found, that M/s. Maharashtra Steel Traders (Prop. Ajimullah Naim Chaudhary) and M/s. Hira Steel (Prop. Hafijullah Ajimullah Choudhary) availed wrong Input Tax Credit ('ITC' for short) on the invoices issued by M/s. Sahjanand Enterprises, M/s. Chandan Enterprises, M/s. Tej Steel, M/s. Gajanan Enterprises, M/s. Gauri Ispat and M/s. Falcon Trading. Thus, summons, were issued to M/s. Maharashtra Steel Traders and M/s. Hira Steel. Proprietor of both the firms responded to the summons but did not produce documents in support of the claim of ITC. However, in the statement, they disclosed that applicant herein manages the business of both the firms and he would be in a position to substantiate the claim of the ITC. In

view of the statements, summons was issued to the applicant on 21st October, 2021 to appear on 27th October, 2021 for giving oral evidence. However, applicant did not appear. It is respondent's case that proprietors of these two firms, Ajjimullah Naim Choudhary and Hafijullah Ajjimullah Choudhary vide their letters dated 17th November, 2021 informed them that applicant was arrested by MGST Officers of Mumbai for fraudulently availing ITC. It was further informed that M/s. Hira Steel has reversed an ITC of Rs.9,99,61,194/- against fake ITC availed on the invoices issued by M/s. Gauri Ispat, M/s. Chandan Enterprises and M/s. Sahjanand Enterprises. Similarly, Shri Ajimullah vide letters dated 6th December, 2021 and 17th January, 2022 informed that they have reversed an ITC of Rs.4,06,00,417/- against the fake ITC availed on the invoice issued by M/s. Gauri Ispat. It is respondent's case that during verification, it was found that 19 major suppliers have passed total ITC of Rs.15,87,88,831/- during the month of September, 2021 to December, 2021 to M/s. Hira Steel out of which Goods

and Services Tax Identification Number (GSTIN) 10 suppliers were either suspended or suo-motu cancelled. Similarly, other 23 suppliers have passed total ITC of Rs.10,43,92,824/- during the months of September, 2021 to December, 2021 to M/s. Maharashtra Steel Traders out of which GSTIN of 12 suppliers were either suspended or suo-moto cancelled. During the investigation, genuineness of one of the suppliers namely M/s. Anu Enterprises, who had supplied the goods to both the firms was verified. In the course of which, Mr. Akash Kisan Limbole, proprietor of M/s. Anu Enterprises in his statement dated 24th March, 2022 stated that he was unaware of any firms namely, M/s. Anu Enterprises and all matters related to purchase, sales and bank transactions were being managed and looked after by Mr. Ataullah Naim Choudhari (Applicant herein).

3 Thus, complicity of the applicant in circular trading by floating bogus companies in availing ITC fraudulently is apparent. It is also, apparent from the record that applicant is

the master-mind in fraudulently availing ITC, by floating bogus entities through his near relatives. It is so evident from the statements of Ajjimullah Naim Choudhary , Hafijullah Ajjimullah Choudhary and Mr. Akash Kisan Limbole. Proprietor of M/s. Maharashtra Steel Traders and M/s. Hira Steel have been arrested.

4 In consideration of the facts of the case and the amount of the ITC, fraudulently availed by the applicant through the bogus entities, without there being movement of goods, I am not inclined to grant pre-arrest protection to the applicant. At a time, a fact cannot be ignored that the applicant was arrested vide Arrest Authorisation File B-421 dated 12th November, 2021 in Remand Application No.1711 of 2021 moved by Assistant Commissioner of State Tax, MUM-INV-D-015, Investigation-B, Mumbai. For all these reasons, application is rejected.

5 It is made clear that observations made here-in-above be construed as expression of opinion for the purpose of bail only and the same shall not in any way influence the trial in other proceedings.

(SANDEEP K. SHINDE, J.)