IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.862/2025

TATYASAHEB VINAYAK DHERE ...APPLICANT
VS
THE STATE OF MAHARASHTRA ...RESPONDENT

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Adv. Ashok Mundargi, Senior Counsel i/b Varun Thokal for the Applicant.
Adv. Anand Shalgaonkar APP for the Respondent State.
PI Rupali Pol, ACB Thane.

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CORAM : RAJESH S. PATIL, J.
DATED : MARCH 28, 2025

P.C.:

1. This is an application for anticipatory bail under section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with C.R.No. 226 of 2025, registered with Sahar Police Station, (ACB, Thane) Mumbai for offences punishable under sections 7, 7(a) and 12 of the Prevention of Corruption Act,1988.

2. As per complaint lodged, an FIR has been filed. It is the case of the prosecution that, the informant Mr. Ramsanjivan Dube faced GST issue on non payment of dues from his suppliers. He was advised to file an appeal which required a pre-deposit of 10% of the dues. The present applicant who is a Deputy Commissioner of Sales Tax, demanded a bribe of Rs. 13 lakhs in cash and threatened to seal the

informant’s business premises and residence premises if the demand is not met. Through the accused no. 2, the deal was to be finalized as the accused no. 2, a Tax Consultant was supposed to file an appeal before the GST Appellate Authority. Subsequently, the informant approached the Anti Corruption Bureau. A trap was led. On the day of the trap, the present applicant was also present in a hotel. After the present applicant left the hotel, the raid was executed and the accused no. 2 was caught red handed. Thereafter, the present FIR has been lodged. The accused no. 2 was arrested and he was 4 days in custody and was subsequently granted regular bail. The present applicant being the Deputy Commissioner of Sales Tax, apprehending arrest, filed an pre-arrest bail application before the Court of Sessions. The Sessions Judge by his order dated 20 March 2025, after hearing the applicant, rejected the pre-arrest bail application. Therefore, the present anticipatory bail application has bee filed.

3. Mr. Mundargi, Senior counsel for the applicant submitted that the present applicant is a government servant. There was amnesty scheme introduced by government for payment of GST taxes. The informant had not availed the amnesty scheme for the GST taxes. Therefore, in order to recover the said GST amount, the present applicant had few times telephonically called up the first informant. The whole purpose of calling and even meeting with the first informant

was to help him and also to take steps so that the GST dues are recovered. On 9 March 2025, the applicant was not present when the raid was conducted. The applicant has not collected any cash amount from the first informant. The applicant is ready to co-operate with tine investigation team. Therefore, the custody of the present applicant is not at all necessary.

4. The learned APP submits that there is a telephonically communication between the present applicant and the informant which has been recorded on a digital voice recorder. He submits that on 9 March 2025 the applicant admittedly had been to meet the informant along with accused no. 2. He submits that there was no purpose for a government official meeting, the first informant in a public place in a hotel, not once, but at least twice. He submits that the investigating officer needs to interrogate the applicant to find out whether the cash demanded by the applicant was to be only kept with a present applicant or it was to be distributed to certain other officers. Apart from the present first informant, whether the present applicant had demanded amount for settlement, from other persons who had not paid their GST is to be found out. The GST amount is an amount which is due to the government. Therefore, the offence committed is not only against the first informant but it is an offence which is committed against the State Government. Therefore, for the purpose of inquiry and to complete the

investigation, the interrogation of the present applicant would be needed.

5. I have heard the counsel for both the sides and I have gone through the documents on record, including the transcript shown to me by the APP from his file, which was a recording of voice conversation between the applicant and the first informant. The said transcript clearly notes that the present applicant has demanded an amount of Rs. 15 lakhs from the first informant in order to settle the issue about the GST payable by the first informant.

6. So also the APP has shown to me from his file that calls were made by the present applicant/Deputy Commissioner of Sales Tax to the first informant. I am not able to understand how a person who holds a high ranking post of Deputy Commissioner of Sales Tax make calls to individual tax payer for GST recovery.

7. Apart from that admittedly at least for two times, the present applicant-Deputy Commissioner of Sales Tax, has met the first informant along with accused no. 2 in a public place-hotel. Therefore, it also has to be ascertain whether the present applicant Deputy Commissioner of Sales Tax has met any other individual tax payer, who have not paid the GST amount in the same hotel or any other public place. The physical presence of the applicant for interrogation is

necessary for completion of investigation. Moreover, there is a possibility of the applicant pressurizing and threatening the first informant and the witnesses and further he is likely to tamper with evidence.

8. The Supreme Court in case of *Sumitha Pradeep vs. Arun Kumar C.K. and another* [1] in paragraph 12 has held as under :-

> "12………. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. <u>There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail</u>. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. <u>However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail</u>."
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> (Emphasis supplied)

9. A similar view has been taken by the Supreme Court in the case of *the C.B.I. vs. Anil Sharma*[2], in paragraph 4 which reads as under:-

> "4. <u>We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than</u>

1 2022 SCC Online SC 1529
2 AIR OnLine 1997 SC 797

> questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible Police Officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring would not conduct themselves as offenders."
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> (Emphasis supplied)

10. Considering the allegations as made in the FIR, the transcript which was shown to me by the APP which is the conversation recorded on the digital voice recorder between the applicant and the first informant and the fact that the applicant-Deputy Commissioner of Sales Tax is meeting individuals in a public place-hotel, and also considering the law as laid down by the Supreme Court in above judgments, I am of the view, at this stage, no case is made out to grant protection to the present applicant. **The anticipatory bail application stands rejected and disposed of accordingly**.

(RAJESH S. PATIL, J.)