

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1483 OF 2019

HAMBURG SUD INDIA PRIVATE LIMITED)...PETITIONER

V/s.

AJAY JAUNJALE AND OTHERS)...RESPONDENTS

Mr.Ashok Mundargi a/w. Mr.K.S.Bapat a/w. Mr.Jayesh Desai i/b.

M/s.Desai and Desai, Advocate for the Petitioner.

Mr.A.R.Kapadnis, APP for the Respondent – State.

CORAM : A. M. BADAR, J.

DATE : 13th JANUARY 2020

P.C. :

1 Heard the learned senior counsel appearing for the petitioner/accused. The learned senior counsel argued that petitioner no.2 is the Director of petitioner no.1 Company and allegations in the complaint are to the effect that provident fund of the petitioner no.2 is not deposited by him as well as petitioner no.1 Company by making monthly payment to the Employees Provident Fund Organization. The learned senior counsel further

argued that up to 30th June 2014 petitioner no.2 was international detached worker covered by Clause 83 of the Employees Provident Fund Scheme, 1952 and thereafter, he became a regular employee. In submission of the learned senior counsel, provident fund of petitioner no.2 – international worker was paid in lumpsum on 6th March 2018 by depositing an amount of Rs.1,26,94,421/- and subsequently, it is being paid monthly by depositing it in the scheme. However, petitioner no.2 is sought to be prosecuted for non-payment of his own provident fund in monthly installment. In submission of the learned senior counsel nothing towards Employees Provident Fund is due and payable from petitioner no.1 Company, but still, the Provident Fund Organization has chosen to prosecute the petitioner no.1 Company as well as the petitioner no.2 international worker. It is further submitted that even for the period from 30th June 2014 till December social security amount of the international worker was paid to the authorities in the State of Germany.

2 Considering the submissions so advanced, issue notice to respondents, returnable on **24th February 2020**.

3 The the learned Additional Public Prosecutor waives notice for respondent no.3.

4 In the meanwhile, interim relief in terms of Prayer Clause (c).

(A. M. BADAR, J.)