NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.3769 of 2019

Pankaj Agrawal, aged about 41 years, son of Pramod Agrawal, resident of A-107-C, Shristi Plaza, Avanti Vihar, Police Station, Telibandha, Raipur, Chhattisgarh

---- Applicant

versus

Union of India through the Senior Intelligence Officer, Director General of G.S.T. Intelligence, Jamshedpur

---- Respondent

For Applicant	:	Shri Nitin Pasari, Shri Goutam Khetrapal and Shri Kapil Maini, Advocates
For Respondent	:	Shri Manish Sharma and Shri Bhupendra Singh, Advocates

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

24.6.2019

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the Applicant, who has been arrested in connection with DGGI/F. No.157/DGGI/JRU/ITC/Gr-B./2018 registered at Kendriya Utpad Shulk Asuchna Mahanideshalaya Kshetriya Ikai, Jamshedpur for offence punishable under Sections 132(1)(b), 132(1)(c), 132(1)(k), 132(1)(i) and Section 16 of the Central Goods and Services Tax Act, 2017 (henceforth 'the Act of 2017').

2. Case of the prosecution, in brief, is that the present Applicant is the Director/Proprietor of the firms M/s Mangal Commercial Private Limited, Raipur and M/s S.K.T. and Sons, Bilaspur. On 5.5.2019, a search was conducted by the officers of Kendriya Utpad Shulk Asuchna Mahanideshalaya Kshetriya Ikai, Jamshedpur in the house of the Applicant situated at Avanti Vihar, Raipur and recovered books of accounts, registers and certain fake invoices. It is alleged that M/s Hind Infra Buildcon (HIB) is a bogus entity created for the purpose of originating irregular and inadmissible ITC to pass on to its beneficiaries. The recipients of M/s HIB were created as an additional layer to create a web of such transactions to misguide the authorities and to shift the burden and responsibility to some pseudo-characters fabricated by master minds of such rackets. Allegedly, the firms which are major beneficiaries of aforesaid transactions are being created, owned, operated, controlled and managed by the present Applicant. It is further alleged that total quantum of circular/semi-circular transactions made through the aforesaid bogus entities is to the tune of more than Rs.500 Crores which deprived the Government Exchequer of more than Rs.100 Crores of GST by way of creating and utilising irregular and inadmissible ITC by the Applicant. On the said background of facts, the Applicant has been arrested by the competent authority and he is in jail since 7.5.2019.

3. Learned Counsel appearing for the Applicant submits that the Applicant is innocent and has been falsely implicated in the case. Without any authority, he has been arrested and detained in jail. At present, no complaint is filed against him at any Court nor is any offence registered against him at any place. It is further submitted that entire transactions of the Applicant have been through bank transactions and as such it cannot be suggested that the Applicant has received any money in his pocket. The Commissioner or the authorised officer does not have any authority or jurisdiction to arrest an assessee under Section 69 of the Act of 2017 even prior to the determination of tax evaded under Chapter 15 thereof. The concerned authorised officer wrongly exercised his power under Section 69(3) of the Act of 2017. The Applicant is in custody since 7.5.2019. He is a permanent resident of Raipur. There is no likelihood of his absconding or tampering the prosecution evidence. Therefore, he may be granted benefit of bail.

4. Learned Counsel appearing for the Respondent submits that there is sufficient evidence available to connect the Applicant with the offence in question. He has been arrested by the authorised officers as provided under Section 69 of the Act of 2017. The Applicant has deprived the Government Exchequer of more than Rs.100 Crores of GST.

5. I have heard Learned Counsel appearing for the parties and perused the case diary with due care.

6. Considering the facts and circumstances of the case, the allegations made against the Applicant, the evidence collected by the prosecution, the submissions put-forth on behalf of the parties and further considering the seriousness of the offence and involvement of the money in the offence, I am not inclined to release the Applicant on bail.

7. Accordingly, the bail application is rejected.

Sd/-
(Arvind Singh Chandel)
JUDGE

Gopal