HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous Bail Application No. 16341/2019

Bharat Raj Punj S/o Late Shri Brij Raj Punj, Aged About 44 Years, R/o B-20 Part 1 Greater Kailash New Delhi (At Present Confined In Central Jail Jaipur)

----Petitioner

Versus

Central Goods And Service Tax Commissionerate, Alwar Through Its Inspector (Anti Evasion)

----Respondent

For Petitioner(s)	:	Mr. P.P. Choudhary, Sr. Counsel with Mr. Sanjay Jhanwar, Mr. Kunal Jaiman, Mr. Sandeep Kapoor, Ms. Apoorva Pandey, Mr. G.G. Kashyap, Mr. R.P. Khurana, Mr. Rahul Lakhwani, Mr. Atul Saxena
For Respondent(s)	:	Mr. Siddharth Ranka

HON'BLE MR. JUSTICE ABHAY CHATURVEDI

<u>Order</u>

06/12/2019

The present Misc bail application under section 439 Cr.P.C. is preferred by the Accused/petitioner in the matter of Complaint Case No. IV(6)78/AE/Alwar/2019/Part-II dated 22.10.2019 registered at Central Goods and Services Tax Commissionerate, Alwar (Raj.) for the offences under Sections 132 (1)(b)(c) & (d) of the Central Goods Services Tax Act, 2017 (hereinafter referred to as ‘Act of 2017’).

Heard learned counsel for the parties.

Learned counsel for the petitioner submitted that the accused petitioner has been falsely implicated in this case as no offence under Section 132(1)(b)(c) & (d) of the Act, 2017, is made out. It is further submitted that the Department has invoked the provision of Section 132 of the Act of 2017, without first determining the tax liability and thereby concluded that the petitioner has committed the alleged offence. No show cause notice was issued to the petitioner. The allegations made against the accused petitioner goes to show that bailable offence is made out as provided under Section 132(4) read with Section 132(5) of the Act. In this connection, learned counsel for the petitioner drawn the attention of the Court to the arrest memo. It was submitted that in the arrest memo, the word 'fraudulently' has been mentioned which shows that the offence alleged to have been committed by the accused petitioner is bailable offence. It was further submitted that the period under investigation for the alleged offence is from July, 2017 to March, 2018 when the petitioner was not Managing Director of the Company. The petitioner was never involved in the day-to-day affairs of the Company and the same was managed by his father, Shri Brij Raj Punj. The petitioner was never aware of the commission of offence. There is no cogent evidence to connect the accused petitioner with the alleged offence. It was also submitted that out of the alleged demand by the department, the company already revised the credit by way of issuing Credit Note and as a result the position has become neutral. The Company has already paid an additional amount of Rs. 4 crore without there being any demand by the department. It was further submitted that the petitioner has no criminal antecedents and he is in custody for the last more than two months. He implored the Court to draw the bail application.

On the other hand, learned counsel for the respondent-Department has opposed the bail application and submitted that the petitioner-Company has availed GST Input Tax Credit of Rs.40.53 crores on the basis of invoices issued by the bogus company without receipt of any goods and wrongly availed inadmissible input tax credit of more than Rs. 40.53 Crores involved on supply of goods valued at Rs.225.19 crores without receiving the goods. It was further submitted that if the amount of input tax credit wrongly availed or utilized exceeded Rs.5 crores, such offences are punishable with imprisonment for a term which may extend to five years and with fine and such offences are cognizable and non-bailable. It was further submitted that the investigation in the case is in progress and still not completed. It was submitted that the petitioner being Deputy Managing Director of the Company at the relevant time is deemed to be involved in all activities of the Company. It was submitted that the bail applications of the co-accused persons were dismissed earlier. It was vehemently submitted that allegation made against the petitioner is of serious nature and affect overall economy of the country and in such matters court should not be lenient.

I have considered the submissions raised at the Bar and perused the material placed before the Court.

Looking to the over all facts and circumstances of the case, gravity of the offence specially the fact that there are serious allegations against the petitioner of wrong availment of input tax credit of more than Rs. 40.53 Crores involved on supply of goods, the matter is still at the stage of investigation and having regard to the seriousness of the offence and without expressing any opinion on the merits of the case, I am not inclined to grant benefit of bail to the accused-petitioner.

Consequently, the bail application filed under Section 439 Cr.P.C. is dismissed.

(ABHAY CHATURVEDI)J

BRIJ MOHAN GANDHI /77/92