IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN BENCH AT JAIPUR

S.B. CRIMINAL MISC. BAIL APPLICATION NO. 1238/2019

Mukat Behari Sharma S/o Late Shri P.r. Sharma, Aged About 56 Years, R/o 477 Sector 10A Gurgaon Haryana, Director Of M/s Leel Electrical Ltd. A-146 (B And C) Industrial Area Bhiwadi-301019 (Presently Confined In Central Jail Jaipur)

----Petitioner

Versus

Union Of India, Through Commissionerate Of Central Goods And Service Department, Alwar.

----Respondent

For Petitioner	:	Mr. R.K. Mathur Sr. Adv. with Mr. Vijay Choudhary
For Respondent	:	Mr. Siddharth Ranka

HON'BLE MRS. JUSTICE SABINA

<u>Judgment</u>

<u>25/02/2019</u>

Petitioner has filed this petition under Section 439 Code of Criminal Procedure, 1973 seeking regular bail in Case No.IV(6)78/AE/ALWAR/2019 for the offence under Section 132(1)(B), (C) & (D) of Central Goods and Services Tax (CGST) Act, 2017 (hereinafter referred to as the 'Act').

Learned counsel for the petitioner has submitted that the petitioner is in custody since 19.01.2019. Presently, petitioner is in judicial custody and is not required for further investigation. Company has already deposited an amount of Rs.6.95 crores with the concerned authority. In addition to the said amount, company has further deposited Rs.4 crores with the concerned authority. Petitioner was summoned in terms of Section 70 of the Act. Petitioner appeared and was duly interrogated and his statement was recorded and thereafter, he was arrested. Under the Act show cause notice is to be served to the company with regard to the amount due. However, in the present case, no such notice has been issued to the company. The amount required to be paid by the company has not been determined so far. Company has a remedy to file an appeal against the determined amount. Company has already deposited Rs.4 crores with the concerned authority which would have been required to be paid by the company in case of filing of appeal against the assessment order. In-fact, no further amount is required to be deposited by the company with the concerned authority in the present case. Offence under the Act is compoundable. Petitioner is merely an employee of the company.

Learned counsel for the Union of India has opposed the petition and has submitted that the offence committed by the accused is serious in nature. In-fact, the accused had issued bogus invoices without actual movement of goods which led to involvement of fraudulent input taxes amounting to Rs.40.58 crores. Admittedly, company has deposited Rs.6.95 crores with the concerned authority towards non-payment of G.S.T. Case is still under investigation.

Keeping in view the seriousness of the allegations levelled against the petitioner, no ground for grant of bail to him is made out.

Dismissed.

(SABINA)J.

Mohita/8