

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION NO. 24151 of 2019**

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AMIT CHANDRAKANT SHAH

Versus

STATE OF GUJARAT

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Appearance:

MR NIRUPAM NANAVALY, SR. ADVOCATE WITH MR SANDEEP R
LIMBANI(5977) for the Applicant(s) No. 1

MS MAITHALI MEHTA APP (2) for the Respondent(s) No. 1

RULE SERVED(64) for the Respondent(s) No. 2

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CORAM: **HONOURABLE MR.JUSTICE UMESH A. TRIVEDI****Date : 13/03/2020****ORAL ORDER**

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with **File No.ACST/Unit-6/AC-1/ARREST MEMORANDUM/2019-20/B.23** registered with Assistant Commissioner of State Tax-1, Unit-6, Ahmedabad, now converted into Criminal Case No.3226 of 2020 pending in the Court of Additional Chief Judicial Magistrate, **Vadodara**, for offence under Sections 132(1)(b),(c),(f), (k), (l) of the Gujarat Goods and Service Tax Act, 2017 and Central Goods and Services Act, 2017 read with Section 120-B of the Indian Penal Code.

2. Learned Advocate appearing on behalf of the applicant submits that considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions.

3. Learned APP appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence.

4. Learned Advocates appearing on behalf of the respective parties do not press for further reasoned order.

5. Having heard the learned advocates for the parties and perusing the material placed on record and taking into consideration the facts of the case, nature of allegations, gravity of offences, role attributed to the accused, without discussing the evidence in detail, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail.

6. This Court has considered following aspects:-

(a) The applicant is arrested on 6.12.2019 and almost 90 days are over.

(b) The applicant is facing charge under Section Sections 132(1)(b),(c),(f), (k), (l) of the Gujarat Goods and Service Tax Act, 2017 and Central Goods and Services Act, 2017 read with Section 120-B of the Indian Penal Code, which is punishable maximum for a period of 5 years. As in the present case, wrongful availment of the Input Tax Credit is beyond Rs.5 crores.

(c) Though the applicant was arrested by the Officer of the concerned Department, no remand was ever sought by

them.

In the facts and circumstances of the present case, I am inclined to consider the case of the applicant.

7. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra Vs. Central Bureau of Investigation**, reported in [2012] 1 SCC 40.

8. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with **File No.ACST/Unit-6/AC-1/ARREST MEMORANDUM/2019-20/B.23** registered with **Assistant Commissioner of State Tax-1, Unit-6, Ahmedabad**, now converted into Criminal Case No.3226 of 2020 pending in the Court of Additional Chief Judicial Magistrate, **Vadodara**, on executing a personal bond of Rs.25,000/ (Rupees Twenty Five Thousand only) with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that he shall;

[a] not take undue advantage of liberty or misuse liberty;

[b] not act in a manner injurious to the interest of the prosecution;

[c] surrender passport, if any, to the lower court within a week;

- [d] not leave the India without prior permission of the concerned trial court;
- [e] mark presence with the respondent No.2 on every Monday of each English Calender month for a period of two months between 11:00 a.m. and 2:00 p.m. and shall cooperate with investigation and shall remain present as and when he is summoned.;
- [f] furnish the present address of residence to the Investigating Officer and also to the Court at the time of execution of the bond and shall not change the residence without prior permission of the concerned trial court;
- (g) file an undertaking before this Court as well as with the Assistant Commissioner, GST Unit-6, on or before 22.3.2020 to the effect that he shall not transfer or alienate or in any manner create third party rights over those immovable properties which belong to him and shall also supply the details of all immovable properties belonging to him to the State GST Unit-6, Ahmedabad. He shall also state in the undertaking that the immovable properties referred to in the undertaking shall not be transferred or alienated in any manner to third party till the authority established under the Central Goods and Services Tax Act, 2017 ascertain the amount of Goods and Services Tax, if any, levied against the applicant.

9. The authorities will release the applicant only if he is not required in connection with any other offence for

the time being. If breach of any of the above conditions is committed, the Sessions Judge concerned will be free to issue warrant or take appropriate action in the matter. Bail bond to be executed before the lower Court having jurisdiction to try the case. It will be open for the concerned Court to delete, modify and/or relax any of the above conditions, in accordance with law.

10. At the trial, the Trial Court shall not be influenced by the *prima facie* observations made by this Court in the present order.

11. Rule is made absolute to the aforesaid extent. Direct service is permitted.

(UMESH A. TRIVEDI, J)

ASHISH M. GADHIYA

