

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION NO. 1463 of 2020**

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DARSHAN DINESH PATEL

Versus

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COMMISSIONER OF CENTRAL GOODS AND SERVICES TAX

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Appearance:

MR NIRUPAM NANAVALY, SENIOR ADVOCATE WITH MR ANAND

NAINAWATI(5970) for the Applicant(s) No. 1

MR DEVANG VYAS(2794) for the Respondent(s) No. 1

MR LB DABHI, APP for the Respondent(s) No. 2

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CORAM: **HONOURABLE MR.JUSTICE VIPUL M. PANCHOLI**

Date : 18/02/2020

ORAL ORDER

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with an offence registered vide **F.No.IV/16-25/PI/Zikshoo/Impex/2019-20/Gr.VI** issued by **Inspector of CGST & CE, Commissioner of Central Goods & Service Tax, Gandhinagar** for the offence punishable under Section 132(1)(b) of CGST Act, 2017.
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) applicant is in jail since 23.12.2019;
 - (b) the allegation against the applicant is that he has committed an offence punishable under Section 132(1)(b) of the Central Goods & Service Tax Act and he has wrongly availed input tax credit and also passed on to the concerned buyer;
 - (c) However, for the alleged transaction, it is always open for the respondent department to take departmental action for recovery of penalty against the applicant.
 - (d) Learned Senior Advocate Mr. Nanavaty appearing for the applicant, under the instructions, submitted that without prejudice to his rights and contentions, applicant is ready and willing to deposit Rs.25 lakh before the respondent No.2 within a period of 8 weeks from the date of his actual release. It is also submitted that applicant will cooperate with the respondent department during the course of further investigation.

Looking to the overall 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 an offence registered vide **F. No. IV / 16-25 / PI / Zikshoo / Impex / 2019-20/Gr.VI issued by Inspector of CGST & CE, Commissioner of Central Goods & Service Tax, Gandhinagar** on executing a personal bond of Rs.10,000/- (Rupees Ten 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 before the concerned Police Station between 1st to 10th day of every English calendar month for a period of six months between 11:00 a.m. and 2:00 p.m.;
 - [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 within a period of one week from his actual release to the effect that he will deposit Rs.25 lakh before respondent No.2 within a period of 8 weeks from the date of his actual release.

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.

(VIPUL M. PANCHOLI, J)

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