

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Criminal Miscellaneous 5th Bail Application No. 11595/2020

Aditya Gupta S/o Shri Arjun Gupta, Aged About 38 Years, R/o D-595 Govindpuram PS Kavi Nagar Ghaziabad U.P. (Presently Lodged At Central Jail Jaipur)

----Petitioner

Versus

Union Of India, Through Senior Intelligence Officer Directorate General Of Good And Service Tax Intelligence, Jaipur Zonal Unit, Jaipur.

----Respondent

For Petitioner(s)	:	Mr. Sudhir Jain, Advocate through video conferencing
For Respondent(s)	:	Mr. Siddharth Ranka, Advocate through video conferencing

HON'BLE MRS. JUSTICE SABINA

Order

04/12/2020

Petitioner has filed this petition under Section 439 Code of Criminal Procedure, 1973 seeking regular bail in File No. DGGI/JZU/INU/GST/02/18-19 filed by the Directorate General of GST Intelligence, Jaipur Zonal Unit for offences under Sections 132(1), (b), (c), (f), (h), (j) and (k) read with Section 132(1)(i) of Central Goods and Services Tax Act, 2017.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 20.6.2018. Maximum punishment that can be awarded is sentence of five years. Hence, the petitioner was entitled to be released on bail. Case is listed for pre-charge evidence before the trial court and statements of

fifteen witnesses out of forty-five prosecution witnesses have been recorded so far. There is no possibility of conclusion of trial at an early date. In support of his arguments, learned counsel has placed reliance on judgment of the Hon'ble Supreme Court in ***Sanjay Chandra Vs. Central Bureau of Investigation, (2012)***

1 SCC 40, wherein it was held as under:

40. The grant or refusal to grant bail lies within the discretion of the court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the court, whether before or after conviction, to assure that he will submit to the jurisdiction of the court and be in attendance thereon whenever his presence is required.

46. We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardise the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge-sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to allay the apprehension expressed by CBI.

47. In the view we have taken, it may not be necessary to refer and discuss other issues canvassed by the learned counsel for the parties and the case laws relied on in support of their respective contentions. We clarify that we have not expressed any opinion regarding the other legal issues canvassed by the learned counsel for the parties.

48. In the result, we order that the appellants be released on bail on their executing a bond with two solvent sureties, each in a sum of Rs 5 lakhs to the satisfaction of the Special Judge, CBI, New Delhi on the following conditions :-

(a) The appellants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him to disclose such facts to the Court or to any other authority.

(b) They shall remain present before the court on the dates fixed for hearing of the case. If they want to remain absent, then they shall take prior permission of the court and in case of unavoidable circumstances for remaining absent, they shall immediately give intimation to the appropriate court and also to the Superintendent, CBI and request that they may be permitted to be present through the counsel.

(c) They will not dispute their identity as the accused in the case.

(d) They shall surrender their passport, if any (if not already surrendered), and in case, they are not a holder of the same, they shall swear to an affidavit. If they have already surrendered before the learned Special Judge, CBI, that fact should also be supported by an affidavit.

(e) We reserve liberty to CBI to make an appropriate application for modification/recalling the order passed by us, if for any reason, the appellants violate any of the conditions imposed by this Court."

Learned counsel for the respondent has opposed the petition and has submitted that allegations levelled against the petitioner were serious in nature. After thorough investigation of the case it transpired that accused had committed fraud to the tune of Rs. 22 Crores by creating fictitious firms and had claimed tax input credit.

Although in the present case allegations levelled against the petitioner are serious in nature but the fact remains that the petitioner is in custody for the last more than two years and admittedly maximum punishment to be imposed on the accused, if convicted, is five years. Now the case is listed before

the trial court for recording of pre-charge evidence and the trial may not be concluded at an early date.

Considering the custody period of the petitioner, but without commenting on the merits of the case, it would be just and expedient to order release of the petitioner on bail.

Accordingly, petition is allowed. Petitioner be admitted to bail subject to furnishing bail bond in the sum of Rs. 10,00,000/- (Rupees Ten Lacs) with one surety in the like amount to the satisfaction of the Trial Court. Petitioner shall not leave the country without prior permission of the Court.

Anil Makwana /14

(SABINA),J



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