Court No. - 79

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 19060 of 2022

Applicant :- Ashish Rajput
Opposite Party :- Union Of India And 2 Others
Counsel for Applicant :- Bijendra Kumar Mishra
Counsel for Opposite Party :- A.S.G.I.,Dhananjay Awasthi,G.A.,Parv Agarwal

Hon'ble Subhash Vidyarthi,J.

Heard Sri Bijendra Kumar Mishra, the learned counsel for the applicant, Sri Shashi Shekhar, the learned A.G.A. for the State and perused the record.

The present bail application has been filed by the applicant in Case Crime No. 1 of 2021, under Sections 132(1)(b), 132(1)(c), 132(1) (i) of Central Goods and Services Tax Act, 2017 at Directorate General of GST Intelligence (DGGI), Dehradun Zonal Unit, with the prayer to enlarge him on bail.

In the affidavit filed in support of the bail application it has been specifically stated that the opposite party no.3 had issued summons to the applicant, in response to which he appeared before the opposite party no.3 and was arrested on 29-09-2021, however, in the counter affidavit it has been stated that the applicant appeared in the office of the opposite party no.3 on 29-09-2021, on which date his statement was recorded but it could not be concluded and the applicant was allowed to take rest and have its meal in the office of the opposite party no.3 and after a prolong interrogration he was arrested on 02-10-2021. Thereafter on 30-11-2021, the Senior Intelligence Officer, Directorate General of GST Intelligence (DGGI), Dehradun Zonal Unit filed a complaint in the court of Special Chief Judicial Magistrate, Meerut inter-alia alleging that the applicant Ashish Rajput and one Mayank Gautam used to get iron scrap from open market on which no GST was paid and in the said process they used to get the scrap dispatched directly from the godown of the Kabadi to the buyers' premises. In order to camouflage this non-GST paid goods, GST invoices were issued from bogus firms in the name of the buyers. The allegation in the complaint is that the applicant and Mayank Gautam had issued invoices from their bogus firms without any supply of bills and they availed and utilized fraudulent input tax credit without any receipt of the goods.

In the affidavit filed in support of the bail application it has categorically been stated that the applicant was taken into on 02-10-2021 and in the intervening period his confessional statement has been recorded and his signatures have been taken on various papers illegally. It has further been stated in the affidavit that the applicant is not the beneficiary of tax and he is innocent person. All the documents have already been filed in the court concerned and, therefore, the applicant is not in a position to tamper with or destroy any evidence. The learned counsel for the applicant has further submitted that the co-accused Mayank Gautam has already been granted bail by a Co-ordinate Bench of this Court by means of an order dated 06-06-2022 passed in Criminal Misc. Bail Application No. 9305 of 2022.

It has been averred in the affidavit filed in support of the bail application that the applicant is an innocent person, he has been falsely implicated in the case, he is having no previous criminal history and he is in jail since 29.09.2021. It has also been stated in the affidavit that there is no possibility of the applicant tampering with any evidence and in such circumstances, the applicant is entitled for bail. It is also submitted that the applicant will never misuse the liberty of bail and shall fully cooperate in the investigation.

Per contra Shri Parv Agarwal, learned counsel for the opposite party no.3 has stated that the applicant is not entitled to be released on bail on the ground of parity as his role is different from that of Co-accused Mayank Gautam and the applicant is the main person who is behind the whole idea of creating the bogus firm in partnership with the co-accused Mayank Gautam.

Having given a thoughtful consideration to the aforesaid facts and circumstances of the case, I find merit in the submissions of the learned counsel for the applicant. The substantive allegations against the applicant and Co-accused Mayank Gautam are similar in nature and, therefore, the applicant is also entitled for being enlarged on bail pending conclusion of the trial.

Let the applicant - **Ashish Rajput** be released on bail in Case Crime No. 1 of 2021, under Sections 132(1)(b), 132(1) (c), 132(1) (i) of Central Goods and Services Tax Act, 2017 at Directorate General of GST Intelligence (DGGI), Dehradun Zonal Unit on his furnishing a personal bond and two reliable sureties each of the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant will not tamper with the evidence during the trial.

(ii) The applicant will not influence any witness.

(iii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

(iv) The applicant shall not directly or indirectly make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court to any police officer or tamper with the evidence.

In case of breach of any of the above condition, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 11.7.2022

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