

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION NO. 19387 of 2022**

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HITESH GAURISHANKAR PATEL

Versus

STATE OF GUJARAT

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Appearance:

MR ASIM PANDYA, LD. SENIOR COUNSEL ASSISTED BY MR GAURAV VYAS(9855) for the Applicant(s) No. 1

MR SHYAM M SHAH(11348) for the Applicant(s) No. 1

MR DEVANG VYAS, LD. ASG ASSISTED BY PRIYANK P LODHA(7852) for the Respondent(s) No. 2

MS MONALI BHATT, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE SAMIR J. DAVE**Date : 14/11/2022****ORAL ORDER**

1. This application is filed under Section 439 of the Code of Criminal Procedure for regular bail in connection with **Arrest Memo No.CBIC-DIN-20220764WU000000DE16 dated 19/07/2022 by the Inspector (A.E.), CGST, Gandhingar** for the offence punishable under Section 132(1)(a), 132(1)(i) read with Section 137 of the Central Goods and Service Tax Act, 2017 (for short "the CGST Act").
2. Mr. Asim Pandya, learned Senior Counsel assisted by Mr. Gaurav Vyas, Learned advocate for the applicant submits that the present arrest is counterblast to Special Civil Application No.9060 of 2022 preferred by the applicant whereby the action of respondent no.2 of

issuing 24 summons, and inspection under Section 67 of the CGST Act and proceedings initiated thereto. He also submits that looking to the facts of the case, alleged offence under Section 132(1)(a) of the CGST Act is not made out as it does not appear that there is any intention to evade tax or adopt any fraudulent practice. He further submits that this is not a case of sale without invoice and therefore also no case is made out under Section 132(1)(a) of the CGST Act. He, therefore, prays that considering the nature of offence and role attributed to the applicant, the applicant may be enlarged on regular bail by imposing suitable conditions.

3. The learned APP for the respondent no.1-State opposes the grant of bail looking to the nature and gravity of offence.
4. Mr. Devang Vyas, learned Assistant Solicitor General assisted by Mr. Priyank P. Lodha, learned advocate for respondent no.2 has filed reply along with list of relevant documents. The same is taken on record.
5. Learned advocates appearing on behalf of the respective parties do not press for further reasoned order.
6. I have heard learned advocates appearing for the parties and perused the averments made in the application as well as documents produced on record by both the sides.

7. In the facts and circumstances of the case and considering the nature of allegations made in the FIR and without discussing the evidence in details as well as without going into details, prima-facie, this Court is of the opinion that this is a fit case to exercise the discretion to enlarge the applicant on bail. Hence, the application is allowed and the applicant is ordered to be released on bail in connection with **Arrest Memo No.CBIC-DIN-20220764WU000000DE16 dated 19/07/2022 by the Inspector (A.E.), CGST, Gandhingar**, on executing a 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 Sessions Judge concerned;
 - [e] furnish the present address of residence to the I.O. and also to the Court at the time of execution of the bond and shall not change the residence without prior permission of this Court;
8. 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. At the trial, the trial court shall not be influenced by the observations of preliminary nature, qua the evidence at this stage, made by this Court while enlarging the applicant on bail.

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

(SAMIR J. DAVE,J)

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