

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-4080-2022 in/&
CRM-M-42233-2020 (O&M)
Date of Decision :09.02.2022

Rajesh Mittal

...Petitioner

Versus

State of Haryana

...Respondent

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Parminder Singh, Advocate for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

Harsimran Singh Sethi, J. (Oral)

**CRM-4080-2022 &
CRMs-3473, 631 & 7449-2021**

As prayed for, applications are allowed.

CRM-M-42233-2020

The present petition filed by the petitioner is for the grant of regular bail in complaint case No.215 dated 30.08.2019 registered under Section 132 of Haryana Goods and Service Tax Act, 2017 read with Section 20 of the Integrated Goods and Service Tax Act, 2017 pending in the Court of Additional Chief Judicial Magistrate, Panipat.

Learned counsel for the petitioner argues that the maximum

sentence, which can be imposed upon the petitioner, even if the petitioner is convicted of the offence, is maximum of five years, whereas, the petitioner is behind the bars for the last 02 years and 08 months, which is more than the half of the maximum sentence, which could be awarded to the petitioner, if, he is convicted. Learned counsel for the petitioner submits that as the allegations alleged against the petitioner are yet to be proved during the course of trial, the petitioner may kindly be extended the concession of regular bail by imposing any terms and conditions so as to ensure that petitioner does not flee the trial.

Learned State counsel submits that the allegations alleged against the petitioner are very serious in nature and the petitioner is a habitual offender as he has involved in another FIR also though, on the similar allegations. Learned State counsel concedes the factum that the allegation alleged against the petitioner is of evading goods and service tax and the petitioner is behind the bars for the last 02 years and 08 months.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The Hon'ble Supreme Court of India in a recent judgment passed in Crl. Appeal No.164-165/2022 titled as **Paresh Nathalal Chauhan vs. The State of Gujarat and another** on 01.02.2022 in a case relating to the evasion of GST, has held that the accused cannot be indefinitely detained in a custody and granted the concession of regular bail, where the accused had undergone custody for a period of 25 months. Relevant paragraphs of the judgment are as under:-

“On conspectus of the aforesaid matter, we are of the view that the appellant cannot be

indefinitely detained in custody more so having already undergone a period of 25 months of custody when he can be sent behind bars for maximum five years. It is almost 50% of the sentence. Complaint has been filed.

x x x x x

In view of the aforesaid facts and circumstances, we are inclined to grant bail to the appellant on terms and conditions to the satisfaction of the trial Court. We have put to learned counsel for the appellant that the appellant must be careful not to indulge in any such activities in the future.”

The allegations alleged against the petitioner are yet to be proved and in case, those allegations are proved, the petitioner can be sentenced to under go imprisonment for a maximum period of five years. As of now, during the course of trial itself, the petitioner has undergone custody for the last 02 years and 08 months.

Keeping in view the facts and circumstances recorded hereinbefore, and the fact that in the present case, the custody period of the petitioner is more than the accused, who was before the Hon'ble Supreme Court of India, especially, in view of the fact that the assertions of the petitioner is that the entire wrongful tax credit amount stands discharged by the recipient tax payer firm and there is no loss, as of now, to the State exchequer, coupled with the fact that the trial is likely to take some time before it concludes as the Courts are working in a restrictive manner due to the pandemic of Covid-19, the petitioner has made out a case for the grant of regular bail especially, when learned counsel for the petitioner has undertaken before this Court that the petitioner will not obstruct the trial or influence the witnesses, whose statements are yet to be recorded in any manner. In case of default of the above undertaking, the State will be at liberty to approach this Court for passing appropriate orders.

Without commenting upon the merits of the case, trial Court/Duty Magistrate concerned is directed to put appropriate conditions upon the petitioner so as to ensure that petitioner does not flee the trial.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

February 09, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No