

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Miscellaneous Bail Application No. 5830/2022

Ritik Arora S/o Anil Kumar Arora, Aged About 20 Years, R/o House No. 148, Sector 3-A, Nr. New Post Office, Govindgarh Mandi, District Fatehgarh Saheb, Punjab.

-----Petitioner

Versus

Union Of India Through Department Of Gst, Through Department Of Gst.

-----Respondent

For Petitioner(s)	:	Mr. Vikas Balia, Sr. Advocate assisted by Mr. Dinesh Kumar Godara Mr. Mayank Taparia Mr. Priyansh Arora
For Respondent(s)	:	Mr. Rajvendra Saraswat, Sr. Standing Counsel for UOI

HON'BLE MR. JUSTICE MANOJ KUMAR GARG

Order

Order Reserved on : 14/09/2022

Date of pronouncement: 20/09/2022

This anticipatory bail applications under Section 438 Cr.P.C. has been filed by the petitioner apprehending his arrest in connection with Complaint No. V(15)273/AE/UDR/2020-21 under Section 132(1)(a) (f)(h)(j) & (k) r/w Section 132 (1)(I)(i) of Central Goods and Service Tax Act, 2017 and Section 20 of Integrated Goods and Service Tax Act.

Learned counsel for the petitioner submits that the present petitioner is being sought to be implicated in a false case only because he is son of the co-accused Anil Kumar and there is no

other evidence against the petitioner to connect him with the alleged crime. Learned counsel further argued that petitioner is a young boy who is pursuing his studies and no prima facie case whatsoever is made out against him. It is submitted that neither any assessment order has been passed nor any demand has been raised against the petitioner. Learned counsel referred to Section 122 of the Central Goods and Service Tax Act and submits that even if there is any evasion of tax, the section provides for penalty as a consequence, apart from the requirement to pay the tax and applicable interest. It is further submitted by the counsel for the petitioner that the petitioner is ready and willing to cooperate in the investigation but despite that the department is harassing the petitioner with the sole objective of arresting him but no purpose would be served by sending the petitioner in custody. He relied upon decision of Hon'ble Apex Court in the case of Meghraj Moolchand Burad Vs. Directorate General of GST Intelligence, Pune & Anr. reported in 2019(1) TMI 1563, decision of Allahabad High Court in Nitin verma Vs. State of UP & Anr. reported in 2021 (1) TMI 217, decision of Kerala High Court in the case of Abdul Shaji Vs. Commissioner of Central Tax and Central Excise reported in 2021(4) TMI 979, decision of Hon'ble Apex Court in Directorate General of GST Intelligence Vs. Lupita Saluja, reported in 2021 (11) Tmi 273 , decision of Delhi High Court in the case of Tarun Jain Vs. Directorate General of GST Intelligence reported in 2021(12) Tmi 135 and decision of Hon'ble Apex Court in the case of Commissioner of Central Excise Vs. Sri Kumar Agencies (Civil Appeal No. 4872/2000).

Per contra, counsel for the UOI vehemently opposed the bail application and submits that the Anti Evasion Wing of respondent intercepted two vehicles carrying iron scrap. On interception, the drivers of the vehicles were asked to produce the documents. The drivers produced the invoices but did not produce any e-way bill for movement of goods. The goods were dispatched on the order of co-accused Anil Kumar Arora and petitioner Ritik Arora. Upon search of the premises, the bill uploaded during registration on GST portal was found to be fake. It is submitted that during course of investigation, it has been revealed that petitioner is active accomplice to his father and both evaded tax to the tune of Rs. 7.97 crores. It is further argued that the petitioner was called by the Superintendent, CGST Commissionerate, Udaipur by series of summons dated 26.07.21, 10.08.21, 22.11.21, 13.12.21, 03.01.22 and 25.03.22 but failed to turn up and thus not co-operating with the investigation. It is further submitted that as per Section 69 of the GST Act, where the Commissioner has reasons to believe that a person has committed any offence specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) of section 132 which is punishable under clause (i) or (ii) of sub-section (1), or sub-section (2) of the said section, he may, by order, authorise any officer of central tax to arrest such person, therefore, the bail application may be rejected. Learned counsel for the respondent relied upon decision of co-ordinate bench of this Court in S.B. Crl. Misc. Bail application No. 13042/21 decided on 07.09.21, S.B. Crl. Misc. Bail application No. 15193/21 decided on 28.10.21, S.B. Crl. Misc. II Bail application

No. 15140/21 decided on 27.10.21, S.B. CrI. Misc. Bail application No. 18243/21 decided on 07.12.21.

Heard learned counsel for the parties and perused the material available on record.

On perusal of the complaint, it is revealed that the main allegation with regard to tax evasion is against the father of the petitioner i.e. Anil Kumar Arora who allegedly cleared goods without issuance of e-way bill and payment of GST and evaded crores of tax. The only allegation against the present petitioner is that he is an active accomplice to his father accused Anil Kumar Arora, however no prima facie case is made out against the present petitioner with regard to tax evasion. So far as the orders passed by co-ordinate Bench of this Court relied upon by counsel for the respondent are concerned, the accused were directly involved in tax evasion.

It is well settled that the power exercisable under Section 438 Cr.P.C. is somewhat extraordinary in character and it can be invoked in cases where there are reasonable grounds for holding that a person accused of an offence is not likely to abscond, or otherwise misuse his liberty while on bail.

Having regard to the facts and circumstances of the case and upon a consideration of the arguments advanced at the bar so also considering the fact the petitioner is a young man pursuing his studies, this Court is of the opinion that it is a fit case for grant of anticipatory bail to the petitioner under Section 438 Cr.P.C. However, it is expected from him to observe and follow the fundamental duties of a good citizen as enshrined in Article 51-A of the Constitution of India.

Accordingly, the bail application is allowed and it is directed that in the event of arrest of petitioner Ritik Arora S/o Anil Kumar Arora in connection with Complaint No. V(15)273/AE/UDR/2020-21, the petitioner shall be released on bail; provided he furnishes a personal bond in the sum of Rs.2,00,000/- along with two sureties of Rs. 1,00,000/- each to the satisfaction of the concerned Investigating Officer on the following conditions :-

- (i). that the petitioner shall make himself available for interrogation by the officer as and when required;
- (ii). that the petitioner 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 from disclosing such facts to the court or any police officer; and
- (iii). that the petitioner shall not leave India without previous permission of the court.

सत्यमेव जयते

(MANOJ KUMAR GARG),J