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HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.7060 of 2020

- Shubham Singhal S/o Shri Navin Kumar Agrawal Aged About 33 Years Partner At M/s Adhiraj Cements, Office Situated At 39, Magneto Offizio, P.S. Telibandha, Tehsil And District Raipur Chhattisgarh

---- Petitioner

Versus

- Union Of India Through The Superintendent, (Preventive) Central Goods And Service Tax Department, Raipur, Chhattisgarh

---- Respondent

For Petitioner	:	Mr. Vivek Tankha, Senior Advocate with Mr. Himanshu Sinha, Advocate.
For Respondent	:	Mr. Maneesh Sharma, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

03-11-2020

1. Heard on the application filed under Section 439 of the Cr.P.C. The applicants have been arrested on 12.09.2020, in connection with Crime No.20/GST/2020-21, F.No.IV(06)Enq/85/Adhiraj/2020-21/p, registered at Police Station- Central Good and Services Tax, Raipur, C.G. for offence punishable under Sections 132(1)(C) of C.G.S.T. Act, 2017.

2. It is submitted by Mr. Vivek Tankha, learned Senior Advocate for the applicant, that applicant is a partner in M/s. Adhiraj Cements, which is in business of trading and manufacturing of cement. The applicant has been arrested on 12.09.2020 by Goods and Services Tax Department. It is further submitted that Director General of G.S.T. Intelligence took cognizance in the matter, against the concern of this applicant and a raid was conducted in the premises of the applicants' concern on 10.08.2020. All the relevant documents present in the premises were seized. Another Agency, which is a preventive authority under C.G.S.T.

stationed at Raipur, conducted another raid, in the intervening night of 11.09.2020, no documents were found for the purpose of seizure, however, the applicant was arrested and sent in detention. The prayer for bail made by the applicant before the Special Court was dismissed, thereafter, the applicant has been enlarged on temporary bail by this Court.

3. It is further submitted that all the relevant documents are present with D.G.G.I. and the assessment is going on. The applicant is fully cooperating with the investigation and he has no intention to abscond. The offence registered against the applicant is compoundable under Section 138 of the Central Goods and Services Tax Act, 2017 and the applicant has intention to opt for compounding the offences registered against him.

4. It is submitted that in the case of ***Prakash Bihari Lal Dadhichi Vs. Union of India*** in ***M.Cr.C. No.1578/2020*** and another case cited at the stage of application for interim bail, it is found clearly held that the prosecution can be started only after the assessment is complete and at present, the assessment is going on, in which the applicant is not making any interference. Therefore, the intentions of the applicant are clear, hence, it is prayed that interim bail granted to the applicant may be confirmed as regular bail.

5. On behalf of the respondent, it is submitted by the learned counsel for the respondent that it is for the assessee to make an honest assessment and make disclosure of the same for the purpose of making payment of the tax. It has been found in the investigation that the applicant's concern had been dealing with the company styled as M/s United Ispat, which was found to be a fake organization, therefore, all the transactions with respect to that fake concern are also false for the purpose of evading tax. The respondent has authority to make

investigation which is separate as compared to the investigation which is going on, on the basis of the raid conducted by D.G.G.I.

6. Although, it is submitted by the applicant side that the case is compoundable but so far the applicant side has not made any offer for compounding the offences. It is a case in which there is allegation that the applicant has evaded tax of about Rs.12 crores, it is a loss of public money, therefore, the offence committed is serious and affecting the economy of the State. According to the ratio laid down in the case of ***P.V. Ramana Reddy Vs. Union of India & Ors.*** In ***S.L.P.(Cri.) No.4430 of 2019,*** the applicant is not entitled for grant of bail. Hence, it is prayed that the application may be rejected.

7. In reply, it is submitted by the learned senior counsel appearing for the applicant that this Court has taken notice of the cases cited by the respondent side. The judgment in ***P.V. Ramana Reddy*** (Supra) places no bar on grant of bail in such case, therefore, it is prayed that the applicant may be granted relief.

8. Heard both the parties and perused the documents present.

9. According to the prosecution case, M/s Adhiraj Cements is in the business of cement trading and manufacturing. The applicant is one of its partners. Information was received, that the applicants concern was making use of invoices and bills of one company styled as M/s United Ispat and on that basis had availed Input Tax Credit in a fraudulent manner. Physical verification was made by the department and it was found that the applicant has taken benefit of Input Tax Credit of Rs.12.53 crores by playing fraud on the department.

10. Considered on the submissions and the facts of the case. It is a case of tax evasion and the offences registered against the applicant is compoundable and that the applicant has made his intention clear that

he is willing to compound the offences against him in future. Hence, for these reasons, I feel inclined to allow this application. The application is allowed and thus the interim bail granted to the applicant is confirmed as regular bail.

11. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.5,00,000/- with one surety in the like sum to the satisfaction of the concerned Court, for his appearance as and when directed, on conditions as imposed by the concerned Court.

12. Accordingly, the petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Monika