IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.09.2020

CORAM :

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.14075 of 2020

John Livingston ... Petitioner

Vs.

The Superintendent of GST and Central Excise,
HQrs, Preventive Unit,
Chennai North GST and
Central Excise Commissionerate,
No.26/1, Uthamar Gandhi Salai,
Nungambakkam.
Chennai-600 034.
(R.R.No.15 of 2020) ... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in pertaining to R.R.No.15 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.R.Jayaprakash

For Respondent : Mr.Venkateshwaran
Special Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 03.08.2020 for the offences punishable under **Sections** 132(1) (b), 132 (1) (f) and 132 (1) (1) of CGST/SGST Act, 2017 in R.R.No.15 of 2020 seeks bail.

2. The case of the prosecution is that the petitioner along with the other accused involved in floating network of fake and fictitious companies and bank accounts and during the period between July 2017 to June 2020, engaged in bogus bill trading and had issued fake invoices without actual supply of goods. By doing so, the accused had issued bogus/fake invoices for Rs.182,32,31,886/- Crores including tax amount of Rs.32,78,36,923/-, availed fraudulent input tax credit and had cheated the Union of India. Hence, the complaint.

3. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has not committed

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any offence as alleged by the prosecution and a false case has been foisted against him. He would further submitted that even as per the statement recorded by the department, the allegation made against the petitioner is that he along with the other accused engaged in floating fictitious companies and involved in fictitious bill trading and by raising fake invoices, had gained an unlawful amount of Rs.32.78 Crores and thereby cheated the Government. He would further submit that the petitioner was arrested on 02.08.2020 and remanded to judicial custody on 03.08.2020 and had been suffering incarceration for more than 55 days. He would further submit that the major part of investigation is over and the entire case of the prosecution is borne out by documents. He would further submit that the petitioner has got a permanent residence and that without prejudice to his contention, the petitioner is prepared to deposit the original tittle deed of the immovable property worth about Rs.40,00,000/- to the credit of the R.R. number in order to show his bonafide. Hence, he prays for grant of bail to the petitioner.

4. The respondent has filed a counter.

5. Mr.Venkateshwaran, the learned Special Public Prosecutor would submit that the petitioner/accused along with other accused, floated 20 fictitious companies and engaged in bogus bill trading and by raising invoices without actual supply of goods, availed input tax credit on bogus invoices and cheated the Union of India. He further submitted that the petitioner has given a voluntary confession admitting his complicity and there is prima facie evidence that the petitioner along with the other accused have cheated the Union of India. He further submitted that the respondent has also got an information that the petitioner is also involved in several other cases of similar nature and the complicity of the petitioner in the other cases is yet to be ascertained. Hence, he vehemently opposed for grant of bail to the petitioner.

6. Heard the learned Counsels on both sides.

7. Taking into consideration of the facts and circumstances and the submissions made by the learned counsels and considering the period of incarceration and that he has offered to deposit title deed of immovable property worth about Rs.40,00,000/- (Rupees Forty Lakhs Only), this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is directed to deposit the original title deeds of immovable property worth Rs.40,00,000/- (Rupees Forty Lakhs Only) either belongs to him or his relatives or his friends, to the credit of R.R.No.15 of 2020 and on such deposit, the petitioner is ordered to be released on bail on

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condition to execute **two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each,** before the learned Additional Chief Metropolitan Magistrate, (E.O.-I), Egmore, Chennai, and on further conditions that;

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(c) the petitioner shall report before the respondent daily at 10.30 a.m. until further orders.

(d)the petitioner shall not commit any offences of similar nature;

(e)the petitioner shall not abscond either during investigation or trial;

(f)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g)On breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005)AIR SCW 5560];

(h)If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered.

-sd/-
25/09/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

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TO

1 THE ADDITIONAL CHIEF
METROPOLITAN MAGISTRATE,(E.O.-I),
EGMORE, CHENNAI

2 THE SUPERINTENDENT,
CENTRAL PRISON,PUZHAL

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT OF GST AND
CENTRAL EXCISE, HQRS.PREVENTIVE UNIT,
CHENNAI NORTH GST AND CENTRAL EXCISE
COMMISSIONERATE,NO. 26/1,UTHAMAR GANDHI SALAI,
NUNGAMBAKKAM,CHENNAI

+1 CC to M/S. R.JAYAPRAKASH Advocate on payment of necessary charges SR.NO.6469

CRL OP.14075/2020

Date :25/09/2020

GKS:28/09/2020

HIGH COURT OF JUDICATURE MADRAS
सत्यमेव जयते
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