

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Sr. No.218

CRM-M-29682-2020

Date of decision: 17.12.2020

Inder Partap Singh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

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

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

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DEEPAK SIBAL, J. (Oral)

Case taken up through video conferencing.

The petitioner being the sole proprietor of M/s Shri Balaji Wooltex is sought to be prosecuted by the State under Sections 419, 420, 467, 468, 471, 259 and 120-B IPC on account of his firm having wrongly adjudged input tax credit resulting in loss of tax to the Government exchequer to the extent of Rs.2.24 crores (approximately).

After his arrest in the afore-referred matter, the petitioner filed an application before the Trial Court seeking regular bail which was allowed by the Trial Court. However, the same was subject to several conditions including furnishing of bail bonds in the sum of Rs.50 lakhs with one surety in the like amount to the satisfaction of the Illaqa Magistrate/Duty Magistrate as also payment of the entire outstanding GST liability alongwith interest etc.

Through the present petition filed under Section 482 Cr.P.C., the petitioner assails the aforesaid order of the Trial Court granting him bail to the extent of it imposing on the petitioner the condition to pay to the State the entire out-standing GST liability alongwith interest etc. and furnishing of bail bonds in the sum of Rs.50 lakhs with one surety in the like amount as

according to the petitioner the same violates the provisions of Goods & Services Tax Act, 2017 and is in direct conflict with the law laid down by this Court in CRM-M-14856-2020 – Ranjit Singh vs. State of Haryana, decided on 21.08.2020.

Learned counsel for the petitioner submitted that the impugned conditions contained in the order of the Trial Court granting regular bail to the petitioner are unsustainable as they run contrary to the law laid down by this Court in Ranjit Singh's case (supra) wherein on identical facts it has been held that such conditions suffered from the vice of unreasonability and cannot pass the test of judicial scrutiny.

Learned State counsel very fairly submitted that the afore-referred judgment of this Court in Ranjit Singh's case (supra) fully covers the case of the petitioner in his favour and that, till date, no challenge to the same has been made by the State before the Supreme Court.

Relevant extracts from the judgment of this Court in Ranjit Singh's case (supra) are as follows:-

“Thus, keeping in view the above factors, this Court is of the opinion that since the maximum punishment which can be awarded is upto 5 years and the petitioner has almost undergone a period of one year having been arrested on 06.09.2019. The onerous conditions would thus violate Article 21 of the Constitution of India as the liberty of the petitioner is being deprived. It is settled principle that bail is the rule and jail is the exception and mere seriousness of the charge is not a factor to be taken into account while denying the valuable right of liberty. The basic principle being the man is innocent till he is found guilty. The factum of the investigation being complete and enquiry having been completed and the relevant documents being in possession of the prosecution, the petitioner thus cannot be detained during the trial only on account of the fact that a bail order in the form of a recovery proceedings has been passed against him to pay the outstanding worth almost Rs.2 crores along with interest.

The Apex Court in Sanjay Chandra Vs. CBI 2012 (1) SCC 40, whereby the accused was charged under Section 120B, 468 and Section 13(i)(d) of the Prevention of Corruption Act, wherein the case was pertaining to 3G Scam, held that bail is a rule and refusal of bail is restriction of personal liberty under Article 21 of the Constitution of India. Since there would be a delay in trial, bail was granted since investigation was already complete and the charge-sheet had already been filed before the Special Judge, CBI. It was noticed that the punishment could go upto 7 years and therefore, the order of the Special Judge and the Delhi High Court refusing bail, was modified, subject to various conditions.”

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The Learned Additional Sessions Judge though came to a finding that the offence would be for liability of M/s Maa Karni Yarns for Rs.1,94,78,017/- which would thus make the offence bailable under Section 69(3) and Section 132(4) but in spite of that imposed the onerous condition which has led to the petitioner continuing to be in incarceration. The said condition thus suffers from the vice of unreasonableness and cannot stand the test of judicial scrutiny in view of the law discussed above.

Accordingly, the present petition is accepted. The condition of payment of Rs.1,94,78,017/- along with interest is set aside. The bail bonds of Rs.50 lakhs with one surety are reduced to Rs.25 lakhs which shall be in the form of immovable property, to the satisfaction of the Illaqa/Duty Magistrate, Panipat. The order of the Addl.Sessions Judge dated 08.04.2020 (Annexure P-2) is, accordingly, modified, whereas the other conditions shall remain intact.”

The afore reproduced extracts from the judgment of this Court in **Ranjit Singh's case (supra)** squarely covers the case of the petitioner in his favour and since learned State counsel also does not dispute this fact and rather submits that the judgment passed by this Court in **Ranjit Singh's case (supra)**, till date, has not been challenged by the State before the Supreme Court, this Court has no hesitation in allowing the present petition in the same terms and it is so ordered. Resultantly, the condition in the impugned order with regard to the payment of Rs.2,24,46,239/- alongwith interest is set aside and the bail bonds of Rs.50 lakhs with one surety in the like amount are reduced to Rs.25 lakhs which may be in the form of immovable property to the satisfaction of the Illaqa Magistrate/Duty Magistrate, Panipat. The impugned order passed by the Additional Sessions Judge, Panipat dated 11.12.2019 is modified only to the extent above and the other conditions therein are ordered to remain intact.

No costs.

(DEEPAK SIBAL)
JUDGE

December 17, 2020

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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No