IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-48661-2019
Date of Decision: 10.01.2020

Vikas Goel ......Petitioner

Versus

Shankar Prasad Sarma, Deputy Director

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Jamohan Bansal, Advocate, for the petitioner.

Mr. Tejinder Kumar Joshi, Advocate, and
Mr. Ram Pal, Advocate, for the respondent.

Harnaresh Singh Gill, J.

This is a second petition under Section 439 Cr.P.C. for grant of regular bail in a complaint case No. COMA-137-2018 registered on 13.11.2018 (Annexure P.2) pending before the Additional Chief Judicial Magistrate, Gurugram under Section 132 of the Central Goods and Services Tax Act, 2017 read with Section 20 of the Integrated Goods and Services Tax Act, 2017.

In the present case, the complaint has been filed by the Deputy Director, Directorate General of Goods and Service Tax Intelligence with the averments that M/s MICA Industries with their more units had shown themselves to be engaged in the trading of various commodities and also manufacturer of GI wires and GI strip. The Officers of the agencies raided the premises of the manufacturing units and upon search being made, various documents were taken into possession. During investigation, it was found that the firms had been created to issue fake invoices with the intention of availing fraudulent ITC and from GSTR-3B, it was found that vide ITC, GST of Rs.68,42,30,780/- had been paid fraudulently on the basis of fake invoices.

I have heard the learned counsel for the petitioner and the learned counsel appearing for the respondent.

Learned counsel appearing for the petitioner has argued that the allegations against the petitioner are that invoices were moved in circular from one party to another party whereas goods did not move nor fake invoices were generated at any stage and even as per the respondent, the Companies of the petitioner availed ITC amounting to Rs.79.21 crore and paid output tax amounting to Rs.80 crore.

It is further argued that the petitioner made book entry of Input Tax Credit as well as payment of GST out of the Inpute Tax Credit and there is no loss of revenue and resultantly, the petitioner credited Rs.18.16 crore and paid Rs.18.37 crore i.e. Rs.21 lacs in excess. Learned counsel has relied upon a decision of the Division Bench of this Court in Akhil Krishan Maggu and another Vs. Deputy Director, Directorate General of GST Intelligence and others, CWP-24195-2019, decided on 15.11.2019.

It is further pointed out that the maximum sentence in the present case is 5 years and the petitioner has been in custody for the last 16 months and the challan has since been presented.

Learned counsel for the respondent has stated that it is a severe economic offence of huge magnitude and earlier bail application of the petitioner was dismissed on 24.07.2019.

Keeping in view the above assertions that the maximum sentence for the offence alleged is 5 years and the petitioner has been in custody for the last 16 months and the fact that it is a case of rotating the turn over for availing credit facility from the Banks and further the tax after adjustment of ITC was also paid, without commenting on the merits of the case, I deem it appropriate to grant regular bail to the petitioner. Ordered accordingly. Bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate Gurugram.

Allowed in the above terms.

(HARNARESH SINGH GILL)
JUDGE

10.01.2020
ds

Whether Speaking/ Reasoned: Yes/ No
Whether Reportable: Yes/ No