

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO. 1252 OF 2020

Gaurav s/o Ranjit Gupta, Raipur (Chhattisgarh)

Vs.

Union of India

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Shri Firdos Mirza, Advocate for the applicant.
Shri S.N. Bhattad, Advocate for the respondent.

CORAM : PUSHPA V. GANEDIWALA, J.

DATED : JANUARY 06, 2021.

Heard.

2. This is an application for grant of bail in case No. F. No. DGGSTI/NZU/12(4)52/GrD/2020-21 for the offence punishable under Section 132(1)(i) of the Central Goods and Services Tax Act, 2017 (for short "Act of 2017").

3. It is stated that the applicant is a Director of public limited company - 'M/s. Dee Vee Project Ltd., having GSTIN No. 27AAECD4619B1Z0. That its corporate office is situated at Korba, and head office at Raipur (C.G.).

4. The applicant came to be arrested on 25/11/2020 on the allegation that the permanent place of business, declared by the aforesaid entity, is found to be incorrect. It is further alleged that in the invoices and Eway bills prepared online, the address shown was not the functional address of the entity. It is further alleged that the

applicant has availed input tax credit of Rs.49.19 Crore, without having any physical presence in the State of Maharashtra. That he tried to establish his presence using fake and forged documents, and uploaded the same on the GST portal.

5. Shri Mirza, learned counsel for the applicant, strongly urge for bail mainly on the ground that unless and until there is adjudication with regard to illegal availability of input tax credit, as per the procedure prescribed in Section 74 of the Act of 2017, the liability to pay tax along with interest payable thereon and penalty does not arise. Learned counsel also pointed out certain documents, annexed with the application, in order to show that the address was correct.

6. Be that as it may. The facts remain that at this stage, even if it is presumed that *prima-facie* case for alleged offence is made out, is it necessary to keep the applicant behind bar, considering the nature of punishment for the alleged offence i.e. imprisonment, which may extend to five years and fine. The offence is triable by the Court of Magistrate. The applicant is ready to appear before the authority concerned as and when called for investigation purposes.

7. On a query being put to Shri Bhattad, learned counsel for the respondent, as to on what basis the applicant came to be arrested, he submits that the address, which the applicant had declared, found to be non-functional, and he

had wrongfully availed input tax credit. However, learned counsel does not argue with regard to apprehension that the applicant may tamper with the evidence or may not be available for trial.

8. Considering the punishment provided for the aforesaid alleged offence, so also considering the fact that the offence is triable by the Court of Magistrate, and that the applicant is in jail since more than one month, this Court is of the opinion that by imposing suitable conditions, he can be released on bail. Hence, the following order :-

ORDER

- i. The Criminal Application is allowed.
- ii. The applicant Gaurav s/o Ranjit Gupta, be released on bail on his furnishing PR bond in the sum of Rs.1,00,000/- (rupees one lakh) with one local surety in the like amount.
- iii. The applicant to deposit bank guarantee of Rs.50,00,000/- (rupees fifty lakh) with the authority concerned within a period of four weeks from today.
- iv. The applicant shall not leave India without prior permission of the concerned authority.
- v. The applicant to provide his address and mobile number, which should be available 24 X 7.

vi. The applicant shall make himself available to the authority as and when called, subject to 48 hours notice by the authority concerned.

vii. The applicant shall not tamper with the prosecution evidence.

9. The Criminal Application is disposed of accordingly.

10. The aforesaid observations are only for granting bail to the applicant, and the same shall not come in the way of the trial Court, during trial.

JUDGE

Sumit