

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 3682 OF 2021****IN****WRIT PETITION (ST.) NO. 9767 OF 2021**

Krishna Murari Singh

... Applicant/Petitioner

Versus

Union of India & Ors.

... Respondents

Mr.Bharat Raichandani a/w. Mr. Rishabh Jain i/b. UBR Legal Advocates for Applicant/Petitioner.

Mr.J.B. Mishra a/w. Mr.D.B. Deshmukh and Ms.Sangeeta Yadav for Respondent No.2.

Mr.PP. Kakade, G.P. a/w. Ms.Kavita N. Solunke, A.G.P. for State.

**CORAM : R. D. DHANUKA &
S. M. MODAK, JJ.**

**DATE : 1st FEBRUARY 2022.
(Through Video Conference)**

PC. :-

. Considering the urgency we have heard Mr. Raichandani, learned Counsel appearing for the Applicant/Petitioner, Mr. Mishra, learned Counsel appearing for Respondent No.2 and Mr. Kakade, learned G.P. appearing for the State.

2 The Applicant is accused of an offence involving violation of the provisions of Section 76 (for not paying the amount of tax to the Government though collected) punishable under Section 132(1), (c), (d), (f) of Central

Goods and Service Tax Act, 2017 (“Act”). The maximum punishment prescribed is five years with fine. It depends upon the amount of tax not deposited. According to the department, the Petitioner has collected taxes from his customers to the tune of Rs.6.30 crores and has not deposited with the Government Exchequer. So also it was disclosed during investigation that ineligible input tax credit of Rs.160 crores was taken on the transaction of Rs.8.70 crores by way of fictitious transactions.

3 During investigation, it was also disclosed that fictitious invoices without receipt of goods/services to the tune of Rs.11 crores were prepared and input tax credit of Rs.2 crores was taken. The department has recorded various statements of the present Petitioner. He initially did not co-operate. In nutshell, according to the Respondents, the Petitioner has duped the department for an amount exceeding Rs.9.90 crores. The department arrested the Petitioner on 23 March 2021 under the provisions of Section 69 of the said Act found the custodial interrogation necessary and produced before the Court of Judicial First Class, Vashi, Navi Mumbai on 24 March 2021. The Court was pleased to reject the said application on 6 April 2021.

4 The Petitioner was released on bail as per the Order dated 6 May 2021 passed by this Court in Writ Petition (L) No.9767 of 2021. This Court has put certain conditions. One of them is to deposit the passport before the concerned Court of JMFC, Vashi.

5 By this Application, the Petitioner is seeking permission to travel abroad for business work and issuance of directions to Respondent to return the passport. During arguments, it was submitted that the Petitioner has already

deposited Rs.45 crores plus Rs.5 crores under protest. It is also submitted that till date final report is not submitted to the concerned court of Magistrate. In support of the prayer, the Petitioner has produced on record a copy of e-mail stating about the conference at Barcelona, Spain. The Petitioner is required to attend such conferences in other countries also. The Petitioner has also placed on record the details of his family members and the immovable properties owned by him through e-mail. But affidavit to that effect is required. The Petitioner undertakes to abide any conditions imposed by this Court. The prayer is opposed on behalf of Respondents on the ground that the offence is serious.

6 After going through the records, we find that the Petitioner may be required to visit foreign countries for attending the conferences as a part of his business curriculum. What the Court is required to ascertain is that whether he is likely to return to India or not ? Considering the property details and family details furnished by the Petitioner, the Petitioner is unlikely to stay out of India. So also conditions put by us will protect the interest of Respondents. So we are inclined to allow the application, subject to the following conditions :-

ORDER

- (a) The application is allowed;
- (b) The Court of JMFC, Vashi is directed to return the passport to the Petitioner (this direction is given with assumption that the passport is produced);

- (c) The Petitioner is directed to furnish the details of his immovable properties on affidavit within seven days from today in this Court;
- (d) The Petitioner is restrained from selling or transferring in any manner the property described in the e-mail;
- (e) The Petitioner is directed to intimate Respondent No.2 about his travel plans seven days prior to leaving India;
- (f) The Petitioner is directed to furnish the details of Cell Number to be used by him during his foreign visits and also to furnish his e-mail address to Respondent No.2 three days prior to leaving India;
- (g) The Petitioner is directed to return the passport to the Court of JMFC, Vashi within three days from the arrival in India;
- (h) After furnishing affidavit before Registrar (Judicial-II), the concerned Court be informed about return of passport;
- (i) The Interim Application is disposed of accordingly.

RAJESH
VASANT
CHITTEWAN

Digitally signed by
RAJESH VASANT
CHITTEWAN
Date: 2022.02.03
10:47:45 +0530

[S. M. MODAK, J.]

[R. D. DHANUKA, J.]