

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2022

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.3370 of 2022

Mansoor Ali

...Petitioner / Accused

Vs.

The Superintendent of GST and Central Excise Hqr
Preventive Unit,
GST Chennai South Commissionerate,
692, M.H.U. Complex,
Nandanam,
Chennai-600 035.

...Respondent / Complainant

PRAYER: This Criminal Original Petition is filed under Section 482 Cr.p.c R/W 439(1)b prayed to modify the condition passed in Crl.M.P.No.11 of 2022 dated 07.02.2022 by the Learned Additional Chief Metropolitan Magistrate (E.O.I Court), Egmore, Chennai that petitioner shall execute a bond of Rs.50,00,000/- (Rupees Fifty Lakhs Only) by depositing documents for property worth Rs.50,00,000/- (Rupees Fifty Lakhs Only) with two sureties for a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) each and out of the sureties one of the surety to be a Government Employee and another blood surety.

For Petitioners : Mr.K.J.Saravanan

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor.

O R D E R

This petition has been filed under Section 482 of Cr.P.C, seeking to modify the conditional order passed in Crl.M.P.No.11 of 2022 dated 07.02.2022 by the learned Additional Chief Metropolitan Magistrate (E.O.I Court), Egmore, Chennai that the petitioner shall execute a bond of Rs.50,00,000/- by depositing documents of property worth Rs.50,00,000/- with two sureties for a sum of Rs.5,00,000/- each and out of the sureties, one of the surety to be a Government Employee and another blood surety.

2. The learned counsel for the petitioner submits that the petitioner was arrested by the respondent in connection with R.R.No.42 of 2021 dated 07.12.2021, pending on the file of the respondent/complainant for the offences under Sections 132(1) (b), 132(1)(c), 132(1)(I) (i) of the GST Act, 2017. It is submitted that the petitioner was remanded to judicial custody on the same day.

3. Since the respondent has not filed the final report during the statutory period of 60 days, the petitioner was granted bail under Section 167 (2) of Cr.P.C. on 07.02.2022.

4. The Trial Court, while granting bail, had imposed a condition directing the petitioner to deposit a cash security of Rs.5,00,000/- and also to execute a bond for Rs.50,00,000/- by depositing documents of property worth Rs.50,00,000/-, with two sureties for a likesum of Rs.5,00,000/- each and out of the sureties, one of the surety to be a Government Employee and another blood surety.

5. The learned counsel for the petitioner further submits that the petitioner is in custody for the past two months and therefore, he is unable to raise funds, as directed by this Court while imposing a condition on the petitioner to deposit a cash security of Rs.5,00,000/- and to furnish government surety, as the said condition has indirectly defeated the defeasible right of the petitioner and prevented him from coming out on bail.

6. Since the allegation against the petitioner is of great magnitude, the petitioner is unable to secure a government employee as his surety and thereby, the present petition has been filed seeking to modify the condition.

7. Per contra, the learned Additional Public Prosecutor appearing on behalf of the respondents submits that it is a case where the petitioner has cheated the Department to the tune of Rs.11.72 Crore by producing fake invoices and vehemently opposes the modification petition. He further submits that the investigation is still going on.

8. At this juncture, the learned counsel for the petitioner would submit that the petitioner is unable to secure any government surety and in the alternative, the petitioner is prepared to deposit a cash security of Rs.10,00,000/- and also ready to execute a bond for a sum of Rs.50,00,000/- and to deposit documents of property worth Rs.50,00,000/- either belonging to the petitioner's family members or friends and to deposit two blood sureties for Rs.5,00,000/- each, instead of

government sureties. He would also submit that the petitioner is prepared to abide by the other conditions imposed.

9. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor.

10. Taking into consideration that fact that the petitioner is in custody from 07.12.2021 and he is prepared to deposit a sum of Rs.10,00,000/- in cash and execute a bond for a sum of Rs.50,00,000/- by depositing documents for property worth Rs.50,00,000/-, the condition imposed by this court by order dated 07.02.2022 is set aside.

11. In view of the above, this petition stands allowed with the following conditions:

- i. The condition imposed in paragraph 5 of the order in Crl.M.P.No.11 of 2022 dated 07.02.2022 on the file of the learned Additional Chief Metropolitan Magistrate (E.O.I Court), Egmore, Chennai is modified to the effect that the petitioner/accused shall deposit a cash security of Rs.10,00,000/- and execute a bond for a sum of Rs.50,00,000/- by depositing documents of property worth Rs.50,00,000/- belonging to himself or his family members or his friends. The petitioner shall furnish two sureties for a sum of Rs.5,00,000/- each and the sureties shall be one blood surety and another relative surety;
- ii. The petitioner/accused is directed to appear before the respondent daily at 10.00 a.m until further orders; and
- iii. The petitioner/accused and the sureties shall affix their photograph and left thumb impression in the surety bond and also produce a copy of their Aadhar card or Bank Passbook to ensure their identity.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

rgm/mrn

To

1. The Additional Chief Metropolitan Magistrate
(E.O.I Court),
Egmore, Chennai.
2. The Superintendent of GST and Central Excise Hqr
Preventive Unit,
GST Chennai South Commissionerate,
692, M.H.U. Complex,
Nandanam,
Chennai-600 035.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.J.Saravanan, Advocate, S.R.No.10419

Cr1.O.P.No.3370 of 2022

NRJK[co]
NSK 18/02/2022