IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twentieth day of June Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice G.K. ILANTHIRAIYAN

CRIMINAL ORIGINAL PETITION No.12539 of 2022

1 MERCY MANUEL ANAND [PETITIONERS / ACCUSED]
2 J SAMUEL JESUDASAN

Vs

THE SENIOR INTELLIGENCE OFFICER, [RESPONDENT]
DGGI, CHENNAI ZONAL UNIT,
NO.16, BSNL BUILDINGS, TOWER-II,
5TH AND 6TH FLOOR, GREAMS ROAD,
CHENNAI - 34

For Petitioner : M/S. VIMAL B.CRIMSON Advocate

For Respondent : M/S N.P.KUMAR SPECIAL PUBLIC PROSECUTOR

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners who apprehend arrest at the hands of the respondent for the offences punishable under Section 132 of the Central General Services Tax Act, 2017, in R.R.No.11 of 2022 in F.No.DGGI/INV/GST/2021/DD-IV, seek anticipatory bail.

2. The case of the prosecution is that the petitioners are in the case of evasion of General Services Tax in the name and style of M/s Servocraft HR Solutions Pvt Ltd. The petitioners are arrayed as A2 and A3 and they are the Directors of M/s Servocraft HR Solutions Pvt Ltd, which is engaged in the activity of providing Manpower supply to various companies in Tamil Nadu. One David Manuel Anand is a Managing Director. He was already arrested and remanded to judicial custody. During the investigation found that the company has availed and utilized excess ineligible Input Tax Credit (ITC) without any documentation and without receipt of good/services by mentioning suo-moto Input Tax Credit in their GSTR-3B returns in order to set off GST liability, which was otherwise to be paid in cash. The Managing Director also availed ineligible Input Tax Credit to the tune of Rs.7.75 crores approximately in violation of the above said CGST Act, 2017. In fact, the Managing Director who was arrested made his voluntary statement on 04.05.2022 as contemplated under Section 70 of

the CGST Act, 2017 and admitted that their company did not have any major input cost, that he knows that availing and utilizing excess ineligible Input Tax Credit without any documentation is an offence under GST Act. Thereby, he has committed an offence as he has availed excess ineligible Input Tax Credit without any documents. The total ineligible suo-moto Input Tax Credit availed without any receipt of goods and utilized for payment of GST liability by the Company where the petitioners are the Directors, to the tune of Rs.7,75,52,414/-. As on date the GST liability is Rs.6,55,89,236/- in which they have made payment of Rs.92,63,178/-. Thereafter, during the course of investigation another payment of Rs.27 Lakhs were made that too after arrest of the said D.Manuel Anand who is the Managing Director of the company. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are not actively participated in the day-to-day affairs of the company and in fact as per the case of the prosecution, the husband of the first petitioner is alone running the company and he is actively involved in the business affairs with the M/s Servocraft HR Solutions Pvt Ltd. Though, the petitioners are Directors of the company, they are not liable to pay any tax as alleged by the prosecution. However, he submitted that they are ready and willing to deposit the original title deeds as security. Therefore, he prays to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that the petitioners had committed offence of tax evasion. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.

5. Considering the above facts and circumstances and also already the first petitioner's husband was arrested, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. Accordingly, the petitioners are directed to deposit original title deeds (stand in the name of the petitioners or in name of their friends or relatives) to the worth of Rs.3 Crores jointly along with the valuation certificate obtained from the authority concerned and on such deposit, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Additional Chief Metropolitan Magistrate (EO-II), Chennai on condition that each of the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties out of which one shall be a blood surety each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioners shall report before the respondent police daily Morning at 10.30 a.m., and Evening 05.00 p.m, for a period of three weeks and thereafter as and when required for interrogation.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

-sd/-
20/06/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE ADDITIONAL CHIEF
METROPOLITAN MAGISTRATE(EO-II)
CHENNAI

2 THE SENIOR INTELLIGENCE OFFI
CER, DGGI, CHENNAI ZONAL UNIT, NO.16, BSNL
BUILDINGS, TOWER-II, 5TH AND 6TH FLOOR,
GREAMS ROAD, CHENNAI - 34

3 THE SPECIAL PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

CC to M/S. VIMAL B.CRIMSON Advocate on payment of necessary charges Sr.9554

CRL OP.12539/2022

Date :20/06/2022

RVR 24/06/2022