



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2022

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.OP.No.14840 of 2022

Manuel Anand David

... Petitioner

Vs.

The Senior Intelligence officer,
DGGI, Chennai Zonal Unit,
No.16, BSNL Buildings, Tower-II,
5th & 6th Floors, Greams Road,
Chennai-34.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in R.R.No.11/2022 in F.No.DGGI/INV/GST/2021/DD-IV pending on the file of the respondent police.

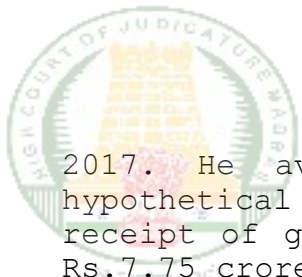
For Petitioner : Mr.M.Velmurugan

For Respondent : Mr.N.P.Kumar
Special Public Prosecutor for GST

ORDER

The petitioner, who was arrested and remanded to judicial custody on 04.05.2022 for the offence under Section 132 of the Central Goods and Services Tax Act, 2017, (herein after called as "CGST Act") in R.R.No.11/2022 in F.No.DGGI/INV/GST/2021/DD-IV, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner is the Managing Director of M/s. Servocraft HR Solutions Private Limited and the company is engaged in the business of supply of manpower services to various business entities. It is alleged that the petitioner has indulged in activity of availing excess Input Tax Credit (herein after called as "ITC") fraudulently without any invoice or bill to set off the General Service Tax (herein after called as "GST") liability, which has been collected but not paid to the Government exchequer. The petitioner has deliberately availed excess ITC fraudulently whereby GST of Rs.7.75 crores has not been paid to the Government despite its receipt from his customers, in violation of provisions of the Central Goods and Services Tax Act,



2017. He availed and utilized ineligible excess ITC based on hypothetical invoices without any invoice or bill and without any receipt of goods or service that the ineligible ITC to the tune of Rs.7.75 crores has been availed in excess to offset the GST liability in respect of M/s. Servocraft HR Solutions Private Limited. Therefore, the petitioner has committed the offence under Section 132 (1) of the CGST Act and he was arrested and remanded to judicial custody on 04.05.2022.

3. The learned counsel appearing for the petitioner submitted that the company called M/s. Servocraft HR Solutions Private Limited is engaged in supply of manpower services to the various business entities, there is no allegations that whether there is contravention of GST that has resulted in wrongful availment or utilization of ITC. There is absolutely no wrongful availment of ITC by the company M/s. Servocraft HR Solutions Private Limited or any other firm dealt with the petitioner's firm. So far, the petitioner paid a sum of Rs.1,19,63,178/- towards the liability of the alleged due to ITC. The learned counsel appearing for the petitioner also submitted that though there is no material to show that on what way the petitioner availed ITC and on what way he evaded the payment of GST, the petitioner is ready and willing to deposit the amount as imposed by this Court without prejudice to his right of defence. He further submitted that the petitioner was arrested and remanded to judicial custody on 04.05.2022 and hence, he prayed to grant bail to the petitioner.

4.The learned Special Public Prosecutor (GST cases) appearing for respondent filed counter and submitted that in the voluntary statement recorded from the petitioner, he admitted that M/s. Servocraft HR Solutions Private Limited do not have any major input cost and they availed excess ineligible ITC without any documentation under the CGST Act. Thus the petitioner has committed the offence of availing excess ineligible ITC without any documents. He further admitted that he has collected GST amount under service invoices from all their clients, but failed to pay the GST to the Government on time. He also availed suo-motu ITC credit in GSTR-38 and discharged GST liability based on such su-moto availed ITC and failed to discharge GST payment on time. Hence he vehemently opposed to grant bail to the petitioner.

5.It is seen that the petitioner's wife and other directors are also arrayed as accused in this case and they were granted anticipatory bail by this Court by an order dated 20.06.2022, in Crl.O.P.No.12539 of 2022, on condition that they shall deposit the original title deed to the tune of Rs.3 crores. Considering the facts and circumstances of the case and also considering the submission made by the learned counsel appearing for the petitioner and the period of incarceration by the petitioner from the date of his arrest



viz., 04.05.2022, this Court is inclined to grant bail to the petitioner on certain conditions.

6. Accordingly, petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two blood related sureties, each for a like sum to the satisfaction of the learned Additional Chief Metropolitan Magistrate (EO-II), Chennai, and on further conditions that :-

[a] 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 petitioner shall deposit a sum of Rs. **25,00,000/- (Rupees twenty five lakhs only)** to the credit of R.R.No.11/2022 in F.No.DGGI/INV/GST/2021/DD-IV on the file of the respondent police, within **a period of four weeks** from the date of his release, failing which, the bail granted to the petitioner shall automatically stand canceled and the respondent shall secure the petitioner in accordance with law.

[c] the petitioner shall report before the respondent police daily twice at 10.30 a.m., and 5.30 p.m., for a period of four weeks and thereafter as and when required for interrogation.

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

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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].

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

-sd/-

30/06/2022

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 CHIEF METROPOLITAN MAGISTRATE (EO-II),
CHENNAI,

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI. [FOR INFORMATION]

3 THE SPECIAL PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SENIOR INTELLIGENCE OFFICER,
DGGI, CHENNAI ZONAL UNIT,
NO.16, BSNL BUILDINGS, TOWER-II,
TH AND 6TH FLOOR, GREAMS ROAD,
CHENNAI-24

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI-66.

+1 CC to M/S M.VELMURUGAN Advocate on payment of necessary
charges SR.NO.10426

CRL OP.14840/2022

Date :30/06/2022

TA-30/06/2022