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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-8844-2023 (O&M)
Date of Decision: 24.02.2023

Harsimranjot Singh Bambhi

....Petitioner(s)

Versus

Superintendent Preventive Central Goods & Services Tax

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr.Sandeep Kumar, Advocate, for the petitioner.

Mr. Sourabh Goel, Sr. Standing Counsel,
for the respondent-CBIC.

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JASGURPREET SINGH PURI, J. (Oral)

The present is a second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in complaint No.COMA/15650/2021 dated 29.11.2021, titled as Superintendent (Anti Evasion) Central Goods & Services Tax Versus Gurbax Lal @ Happy Nagpal & others, under Section 132 of the Central Goods & Services Tax Act, 2017 and Section 132 of the Punjab Goods & Services Tax Act, 2017 read with Section 20 of the Integrated Goods & Services Tax Act, 2017.

Learned counsel for the petitioner has submitted that the petitioner is in custody from 07.10.2021 which is more 1 year and 4 months and the case is still at the summoning stage on the basis of the complaint filed by the GST authorities. He submitted that there are number of accused in the present case and two co-accused namely, Rohit Mehta and Gurbax Lal have already been granted default bail. He further submitted that even under Section 132 of GST Act, the maximum sentence is five years irrespective of the total amount involved. He submitted that the allegations against the petitioner are pertaining to about Rs. 2, 67,00,000/- and even otherwise also it is less than Rs. 5 crores qua the petitioner and therefore it would be a bailable offence even as per Section 132 of GST Act. He submitted that be that as it may, the petitioner has already faced incarceration for more than 1 year and 4 months and the maxmium sentence otherwise even if it is more than Rs. 5 crores is five years. He submitted that the petitioner may be considered for the grant of regular bail and particularly in view of the fact that two co-accused have been granted default bail.

On the other hand, Mr. Sourabh Goel, learned Senior Standing Counsel for the respondent has submitted that it is correct that the petitioner is in custody for more than 1 year and 4 months. He has however disputed that the allegations against the petitioner are only of Rs. 2,67,00,000/- whereas in fact the total amount involved in the present case is Rs. 13 crores. So far as the maximum sentence as provided under GST Act is concerned, the same is only upto five years.

I have heard the learned counsel for the parties.

The quantum of amount which the petitioner is involved is yet to be decided at the time of trial. Under Section 132 of the GST Act even if the amount is more than Rs. 5 crores, the maximum sentence is five years as per the learned counsel for the parties. The petitioner has already faced incarceration for more than 1 year and 4 months. The complaint is still at the summoning stage. The other two accused have already been extended the benefit of bail. During the course of arguments, learned counsel for the respondent has stated that regarding recovery from the petitioner a separate show-cause notice is yet to be issued.

In view of the aforesaid facts and circumstances and also considering the total custody of the petitioner which is more than 1 year and 4 months, this Court deems it fit and proper to grant regular bail to the petitioner.

Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

24.02.2023 **(JASGURPREET SINGH PURI)**
rakesh **JUDGE**

Whether speaking : Yes/No
Whether reportable : Yes/No