IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-16871-2023 (O&M)
Date of Decision: 24.04.2023

KAWALJOT SINGH

....Petitioner(s)

Versus

SUPERINTENDENT PREVENTIVE CENTRAL GOODS AND SERVICE TAX

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

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

Ms. Shivani Sahni, Advocate, for the respondent.

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JASGURPREET SINGH PURI, J. (Oral)

1. 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 (Later on added offence under Section 132(1) (b,c & 1) of CGST Act, 2017 and Section (1) (i) of Section 132 of Central Goods and Services Tax Act, 2017 and corresponding provisions of Punjab State Goods and Service Tax Act, 2017 read with Section 20 of the Integrated Goods and Services Tax Act, 2017).

2. Learned counsel for the petitioner has submitted that the petitioner

is in custody for 1 year, 6 months and 16 days and the case is still at the summoning stage on the basis of the complaint filed by the GST authorities. He submitted that in fact there are number of accused in the present case and most of the accused have already been extended the benefit of regular bail including co-accused namely, Rohit Mehta and Gurbax Lal who have already been granted default bail. He submitted that the similarly situated co-accused who is at parity with the petitioner namely Harsimranjot Singh Bambhi has also been granted regular bail by this Court vide Annexure P-2 on 24.02.2023 since the subject matter qua him was less than Rs. 5 crores and so far as the present petitioner is concerned, the subject matter of the dispute qua the present petitioner was Rs. 3,81,00,000/- which is also less than Rs. 5 crores. He submitted that as per the provisons of Section 132 of GST Act, it would be a bailable offence. He submitted that considering the long custody of the petitioner and also the fact that the similar situated co-accused have been granted bail by this Court, he may also be considered for the grant of regular bail.

3. On the other hand, Ms. Shivani Sahni, Advocate appearing on behalf of the respondent has submitted that so far as the parity of the petitioner with the aforesaid co-accused namely Harsimranjot Singh Bambhi is concerned, the same is correct. She has however disputed that the allegations against the petitioner are only Rs. 3,81,00,000/- whereas in fact the total amount involved in the present case is Rs. 13 crores.

4. I have heard the learned counsel for the parties.

5. 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 1½ years. The complaint is still at the summoning stage. The other two accused have already been extended the benefit of default bail and one more co-accused namely Harsimranjot Singh Bambhi has been granted regular bail by this Court vide Annexure P-2 who is stated to be at parity with the present petitioner.

6. In view of the aforesaid facts and circumstances and also considering the total custody of the petitioner which is more than 1½ years, this Court deems it fit and proper to grant regular bail to the petitioner.

7. 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.

8. 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.

24.04.2023 **(JASGURPREET SINGH PURI)**
rakesh **JUDGE**

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