205 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-23804-2022
Date of decision : 27.02.2023

Pankaj Mehta

..... Petitioner

versus

Superintendent (Anti Evasion) Central Goods and Service Tax

.....Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

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Present :- Mr. Deepak Gupta, Advocate for the petitioner.

Mr. Saurabh Goel, Advocate with Mr. Shivam Sahni, Advocate and Mr. Tej Bahadur, Advocate for the respondent.

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RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in complaint No.COMA/15650/2021 dated 29.11.2021 titled as Superintendent (Anti Evasion) Central Goods & Services Tax Commissionerate Vs. Gurbax Lal and 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.

Vide order dated 27.05.2022, while granting interim protection, the petitioner was directed to appear before the trial Court.

Learned counsel for the petitioner has submitted that in pursuance to order dated 27.05.2022, petitioner has duly appeared before learned Chief Judicial Magistrate and submitted his bail bonds. He submits that the petitioner is continuously appearing before the Court and attending the proceedings by adhering to the terms and conditions of interim bail granted. He further submits that as per the case filed by the respondent-Central Goods & Services Tax, the allegations against the petitioner are that he has wrongly availed the ITC of about Rs.7.00 crores. He submits that though as per the calculations, the amount is less than Rs.5.00 crores but there are specific allegations against the petitioner of having wrongly availed the ITC of Rs.7.00 crores and thus, he has right to avail anticipatory bail as the offence becomes non-bailable if the amount availed is more than Rs.5.00 crores as per Section 132 of the Punjab Goods & Services Tax Act, 2017.

Learned counsel for the respondent has though affirmed that the petitioner has appeared before the trial Court in pursuance to interim bail granted by this Court, however, he has opposed the interim bail granted to him. He submits that the petitioner is required in other enquiries initiated against him and till date, he has not appeared in those enquiries. However, he has candidly acknowledged that those are the independent cause of action. He has vehemently submitted that the ITC availed by the petitioner amounts to Rs.7.22 crores. He has also submitted that the arrest authorization has not been issued against the petitioner and hence, there is no apprehension of his arrest.

After hearing counsel for the parties and perusing the record, it is apparent that the petitioner was granted interim bail by this Court vide order dated 27.05.2022 and he has appeared before learned trial Court in pursuance to the same. However, both the counsel have disputed the amount of ITC involved in the present case. The specific stand of the respondent-complainant is that the amount involved is about Rs.7.22

crores and once the amount is more than Rs.5.00 crores, offence is non-bailable. This Court while dealing with the anticipatory bail filed by the petitioner would refrain itself from commenting anything on the merits of the case specifically regarding the amount alleged to have been wrongly availed as the same lies within the domain of the trial Court to decide on the basis of the evidence to be led by the respective parties. However, confining itself to the prayer made for anticipatory bail, interim order dated 27.05.2022 is made absolute subject to his complying with the conditions as envisaged under Section 438 Cr.P.C. Petition stands allowed. However, petitioner would keep on appearing before the trial Court as per its direction.

(RAJESH BHARDWAJ)
JUDGE

27.02.2023
m.sharma

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No