

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

202

CRM-M-26085-2023
Date of decision: 04.09.2023

Yash Pal Mehta

..Petitioner

Versus

Superintendent (Anti Evasion), Central Goods
& Services Tax ..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

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

Mr. Sourabh Goel, Advocate and
Mr. Tej Bahadur, Advocate for the respondent.

AMAN CHAUDHARY, J.

1. On 22.05.2023, this Court had passed the following order:-

“Instant petition has been filed under Section 438 Cr.P.C. praying for grant of anticipatory bail to the petitioner in case COMA/15650/2021 dated 29.11.2021 (Annexure P-1) titled as Superintendent versus Gurbax Lal & others under Section 132 of the Central Goods & Services Tax Act 2017 read with Section 20 of the Integrated Goods & Services Tax Act, 2017.

It has been contended by counsel for the petitioner that allegations against the petitioner are totally false and frivolous. He has submitted that ITC, as per the complaint, has been shown to be Rs.9,37,83,105/- but the same has not been calculated excluding the value of export, and hence it comes to Rs.4,01,73,282/-. He submits that as per statutory provisions if ITC is less than Rs.5.00 crores, then offence is bailable. He submits that co-accused, i.e. son of the petitioner, was arrested and he is on bail now. It has been further submitted that investigation is already over and the complaint has already been filed before the Court and now the petitioner has been summoned by the trial Court. He submits that in the facts and circumstances, no case for custodial interrogation is made out, however, petitioner is ready to appear before the Court and abide by the terms and conditions imposed by it.

Issue notice of motion.

On asking of the Court, Mr.Sourabh Goel, Sr.Standing counsel, who is present in Court, accepts notice on behalf of the respondent/CBIC.

Adjourned to 04.09.2023.

However, in the meanwhile, petitioner is directed to appear before the concerned Court within a period of seven days from today and if he so appears and files an application for bail, the Court concerned is directed to grant him interim bail subject to its satisfaction and on his complying with the conditions as envisaged under Section 438(2) Cr.P.C.”

2. Learned counsel for the petitioner submits that in terms of directions passed by this Court vide order dated 22.05.2023, the petitioner has appeared before the trial Court and furnished his bail bonds on 25.05.2023 and has been enlarged on interim bail subject to conditions. Copy of the said order has been produced. He refers to an order dated 27.02.2023, Annexure P10, passed by the Co-ordinate Bench in case of co-accused wherein also the interim bail was affirmed.

3. Learned counsel for the respondent has affirmed that the petitioner has appeared before the trial Court in pursuance to the interim direction passed by this Court, however, has opposed the bail on the ground that he has wrongly availed Input Tax Credit (ITC) to the tune of more than Rs.9.37 crores and had submitted before this Court that as per statutory provisions of ITC, in case, the amount involved is upto Rs.5 crores then the offence is bailable. However, in the present case in view of the aforesaid fact the offence is non-bailable. The petitioner had been summoned on various occasions, however, he had not appeared.

4. Heard.

5. The order dated 25.05.2023, passed by the trial Court reads thus:-

“An application for accepting the bail bonds of applicant/accused Yash Pal Mehta in view of order dated 22.05.2023 passed by the Hon'ble Punjab & Haryana High Court in CRM-M-26085-2023 has been filed, which is as follows:-

“However, in the meanwhile, petitioner is directed to appear before the concerned Court within a period of seven days from today and if he so appears and files an application for bail, the Court concerned is directed to grant him interim bail subject to its satisfaction and on his complying with the conditions as envisaged under Section 438(2) Cr. PC.”

The order is got confirmed through the Reader of this court. In view of the order of the Hon'ble High Court, applicant/accused Yash Pal Mehta is enlarged on interim bail on his furnishing bail bonds in the sum of Rs. Ten Lacs (Rs.10,00,000/-) with two sureties in the like amount and subject to the conditions mentioned below:-

1. Accused shall come present on each and every date of hearing for appearance in the Court and for trial of the case.
2. Accused shall not leave this Country without permission of the Court. He shall surrender his passport in the court if he possesses the same and in case he does not hold any passport, his undertaking in form of an affidavit be taken to the effect that he will not get any passport issued in his name without permission of the court.
3. Accused shall not commit any offence of like nature or any other offence punishable under law.
4. Accused shall not try to influence the witnesses of the prosecution or tamper with the evidence.
5. Accused shall not change his appearance during the course of trial.
6. Accused shall not change his address without prior intimation to this Court.
7. Accused shall not induce, threat or promise any witness to refrain him/her from deposing in the case during the investigation or trial. Accused shall make available himself before I.O./Authority holding investigation to assist the investigating machinery as and when called upon to appear before the authority concerned till final investigation or as and when directed by the Court and accused will cooperate with the investigation even during his release on bail.

Requisite bail bonds and surety bonds have not been furnished.”

6. In view of the above, this Court at this stage is refraining from going into the aspect of the amount involved being less or more than than Rs.5 crores, it being a subject matter of trial which would be decided

on the basis of the evidence led by the respective parties, and even in case of co-accused this Court confirmed the anticipatory bail, as such the present petition is allowed and the order dated 22.05.2023 granting interim bail to the petitioner, is hereby made absolute, subject to compliance of conditions as specified under Section 438(2) Cr. P.C.

7. However, it is made clear that if the petitioner fails to join and cooperate with the investigating agency as and when required, the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to him.

04.09.2023
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No