

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

225

CRM-M-47585-2022 (O&M)
Date of decision: 01.03.2023

DURGA MADHAB PANDA

....Petitioner(s)

Versus

COMMISSIONER OF CGST, GURUGRAM

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Gaurav Tyagi, Advocate for the petitioner

Mr. Sourabh Goel Sr. Standing counsel for the respondent.

AMAN CHAUDHARY. J.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of Complaint No.85/2022 dated 10.03.2022, under Sections 132(i) (c) & (e) read with Section 16(2) of CGST Act, 2017, District Gurugram, Haryana.

Learned counsel contends that the petitioner is in custody since 07.05.2022. It is his submission that the sentence for offence alleged against the petitioner is 5 years and is triable by a Magistrate. The firm of the petitioner was found existing at the additional place of business as per the notes prepared during the visits conducted on the premises which is reflected in the complaint itself. Challan was presented on 06.07.2022, however, charges are yet to be framed. In all there are 20 witnesses.

Learned Senior Standing counsel for the respondent opposes the bail on the ground that it is a case of fraudulent input tax credit and even the other proprietor of the firm are not responding to the summons. The office of the petitioner was investigated by the CGST Delhi South, wherein also the petitioner is suspected to have committed an offence. He is however unable to controvert the

submissions made by learned counsel for the petitioner with regard to custody and stage of the trial.

Heard.

It is apposite to refer to the judgment of Hon'ble The Supreme Court of India in the case of **Sanjay Chandra v. CBI** 2011(4) RCR (CrI.) 898, wherein it was held that, "We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardize the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to allay the apprehension expressed by CBI."

Keeping in view the facts of present case and the judgment referred to above in the case of **Sanjay Chandra** (supra) and in particular that the petitioner is in custody since 07.05.2022; challan was presented on 06.07.2022, however, charges are yet to be framed; in all there are 20 witnesses; the trial is likely to take a considerable time, his further detention behind bars would not serve any useful purpose, thus the present petition for grant of regular bail deserves to be allowed.

As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to him not being required in any other case. The petitioner shall abide by the following conditions:-

- 1. The petitioner will not tamper with the evidence during the trial.
- 2. The petitioner shall surrender his passport and will not leave the country without the permission of the Trial Court.
- 3. The petitioner will not change his residence without prior intimation to the Department and the trial Court.
- 4. The petitioner will not pressurise/intimidate the prosecution witnesses.
- 5. The petitioner will furnishing an undertaking by way of his affidavit before the trial Court that he will appear on each and every date fixed, unless his presence is exempted by a specific order of the Court.
- 6. The petitioner shall not commit an offence similar to the one involved in this, which he is accused of, or for commission of which he is suspected of.
- 7. The petitioner shall not directly or indirectly coerce, inducement, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
- 8. The petitioner shall not in any manner misuse his liberty.
- 9. Any infraction shall entail in withdrawal of the benefit granted by this Court.

The Trial Court is at liberty to impose any other condition that it may deem appropriate.

It is further clarified that if the petitioner does not abide by the aforesaid conditions or violate the same, the respondent-Department would be at liberty to seek cancellation of his bail.

Nothing stated hereinabove be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations above, which have only been made for the purpose of adjudication of the present petition for grant of regular bail.

(AMAN CHAUDHARY)
JUDGE

March 01, 2023

S.Sharma(syr)

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