

Rajasthan High Court

Vikas Bajoria S/O Shri Suresh ... vs Union Of India on 6 January, 2023

Bench: Mahendar Kumar Goyal

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous Bail Application No. 17349/2022

Vikas Bajoria S/o Shri Suresh Kumar Bajoria, Aged About 47
Years, R/o H No. 51 Madrampura Lane 3 Civil Lines, Jaipur
(Presently Confined At Central Jail Jaipur)

----Accused-Petitioner

Versus

Union Of India, Through Director General Of GST Intelligence
(DGG), Jaipur Zonal Unit, C-62, Sarojni Marg, C-Scheme, Jaipur.

----Respondent

For Petitioner(s) : Mr. Swadeep Singh Hora with Mr. T.C. Sharma and Mr. Mukesh Kumar For Respondent(s) : Mr. Kinshuk Jain, Senior Standing Counsel for GST HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL Order 06/01/2023 The present bail application has been filed under Section 439 Cr.P.C. The petitioner has been arrested in connection with Case No. DGGI/INV/GST/2563/2022-Gr.-F-O/o ADG-DGGI-JZU-Jaipur registered at learned Special Court Additional Chief Metropolitan Judicial Magistrate (Economic Offence) Jaipur Metropolitan, Jaipur for the offence under Section(s) 132(1) of the Rajasthan Goods and Services Tax Act, 2017 (for brevity "the Act of 2017").

Learned counsel for the petitioner submits that he has falsely been implicated in this case. Inviting attention of this Court towards the contents of para 19 of the reply filed by the respondent to the memo of bail application, learned counsel submits that the entire amount of alleged tax evasion to the tune (2 of 5) [CRLMB-17349/2022] of Rs.43.93 crores, has already been deposited by the recipient(s). He submits that the petitioner is in custody since 08.11.2022, investigation is complete, charge sheet is going to be filed tomorrow, the offence is compoundable, the maximum sentence awardable is five years and prays for his release on bail. He, in support of his submissions, relied upon judgments of Hon'ble Supreme Court of India dated 05.12.2022 passed in Special Leave to Appeal (Crl.) No.10319/2022: Ratnambar Kaushik versus Union of India and dated 11.07.2022 passed in Misc. Application No.1849/2021 in Special Leave Petition (Crl.) No.5191/2021: Stender Kumar Antil vs. Central Bureau of Investigation & Anr.

Per contra, learned counsel for the respondent, opposing the prayer submits that deposition of the evaded tax is itself evident of the culpability of the petitioner.

Learned counsel submits that the economic offence constitutes a class in itself and the petitioner does not deserve indulgence of bail. He, however, admits that the charge sheet is going to be filed tomorrow being the last date permissible under the statute for the same. He, relying upon following judgments, prayed for dismissal of the bail application.

1. Nimmagadda Prasad vs. Central Bureau of Investigation: Criminal Appeal No.728/2013 (arising out of S.L.P. (Crl.) No.9706/2012, dated 09.05.2013,
2. Ram Narain Popli vs. Central Bureau of Investigation: Appeal (Crl.) No.1097/1999, dated 14.01.2003, (3 of 5) [CRLMB-17349/2022]
3. Serious Fraud Investigation Office vs. Nittin Johari & Anr.: Criminal Appeal No.1381/2019 (@ S.L.P. (Crl.) No.7437/2019, dated 12.09.2019,
4. P.V. Ramana Reddy vs. Union of India & Ors.: Petition for Special Leave to Appeal (Crl.) No.4430/2019, dated 27.05.2019 and
5. State of Gujarat vs. Mohanlal Jitamalji Porwal: AIR 1987 SC 1321.

Heard. Considered.

Recently, the Hon'ble Supreme Court of India has, in case of Ratnambar Kaushik (supra), held as under:-

"5. Though allegations and counter allegations are made, at this stage, it would not be necessary for us to advert to the details of the rival contentions, since the matter in any event is at large before the trial court and any observations on merits herein would prejudice the case of the parties, therein. However, for the limited purpose of answering the prayer for the grant of bail, the contentions are taken note of. It is no doubt true, that an allegation is made with regard to the transportation of unmanufactured tobacco and it is alleged that such procurement of unmanufactured tobacco is for clandestine manufacture and supply of zarda without payment of leviable duties and taxes. Though it is further contended that in the process of the investigation, the transportation of a larger quantity of unmanufactured tobacco weighing about 35,57,450 kgs. is detected, these are all matters to be established based on the evidence, in the trial.

6. In considering the application for bail, it is noted that the petitioner was arrested on 21.07.2022 and while in custody, the (4 of 5) [CRLMB-17349/2022] investigation has been completed and the charge sheet has been filed. Even if it is taken note that the alleged evasion of tax by the petitioner is to the extent as provided under Section 132(1)(l)(i), the punishment provided is, imprisonment which may extend to 5 years and fine. The petitioner has already undergone incarceration for more than four months and completion of trial, in any event, would take some time. Needless to mention that the petitioner if released on bail, is required to adhere to the conditions to be imposed and diligently participate in the trial. Further, in a case of the present nature, the evidence to be tendered by the respondent would essentially be documentary and electronic. The ocular evidence will be through official witnesses, due to which there can be no apprehension of tampering, intimidating or influencing. Therefore, keeping all these aspects in perspective, in the facts and circumstances of the present case, we find it proper to grant the prayer made by the petitioner.

7. Hence, it is directed that the petitioner be released on bail subject to the conditions to be imposed by the trial Court, which among others, shall also include the condition to direct the petitioner to deposit his passport. Further, such other conditions shall also be imposed by the trial Court to secure the presence of the petitioner to diligently participate in the trial. It is further directed that the petitioner be produced before the trial Court forthwith, to ensure compliance of this order."

(5 of 5)

In present case, the petitioner

08.11.2022, investigation as against him is complete, the amount of alleged tax evasion has already been deposited with the revenue by the recipient(s).

This Court is in respectful agreement with the law laid down in the cases relied upon by the learned counsel for the respondent; but, in the facts and circumstances of the case as enumerated hereinabove and in view of the law laid down recently by the Hon'ble Supreme Court India in the case of Ratnambar Kaushik (supra), this Court, without expressing any opinion on the merits of the case, deems it just and proper to enlarge the petitioner on bail.

Accordingly, the bail application is allowed and it is directed that accused-Vikas Bajoria S/o Shri Suresh Kumar Bajoria shall be released on bail under Section 439 Cr.P.C. in connection with afore-mentioned FIR registered at concerned Police Station, provided he furnishes a personal bond in the sum of Rs.1,00,000/- (Rupees One Lac only) together with two sureties in the sum of Rs.50,000/- (Rupees Fifty Thousand only) each to the satisfaction of the trial court with the stipulation that he shall comply with all the conditions laid down under Section 437(3) Cr.P.C.

The petitioner is further directed to deposit his passport, if any, with the learned trial Court and not to travel abroad without its prior permission.

(MAHENDAR KUMAR GOYAL),J MADAN/87 Powered by TCPDF (www.tcpdf.org)