

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Criminal Miscellaneous Bail Application No. 5882/2021

Bhagwan Sahay Gupta S/o Sh. Ramkaran Gupta, Aged About 41 Years, Resident Of Plot No. G-13, East Part, Madhuban Colony, Tonk Phatak, Jaipur At Present In Judicial Custody At Central Jail, Jaipur.

----Petitioner

Versus

Union Of India, Office Of Sr. Intelligence Officer, Goods And Service Tax Intelligence Directorate, Jaipur Region Unit, Jaipur), Through Special Public Prosecutor.

----Respondent

For Petitioner(s) : Mr. Shiv Charan Gupta through V.C.
For U.O.I. : Mr. Siddharth Ranka through V.C.

HON'BLE MR. JUSTICE PANKAJ BHANDARI

Order

04/05/2021

1. Petitioner has filed this bail application under Section 439 of Cr.P.C.
2. Complaint No. CISNo.463/2021 F.No.DGGI/INT/INTL104/2021-Gr. F-O/o ADG-DGGI-ZU-JAIPUR for offence under Section 132(1)(i) (iv) read with Sub-Section (5) of Central Goods & Service Tax Act, 2017.
3. It is contended by counsel for the petitioner that petitioner is a Chartered Accountant who created the firms on the basis of documents provided by the co-accused. His statement was recorded by the Authorities but was retracted, later as he was subjected to beating, for which a complaint was made by the Department. As per the complaint filed by the Department,

petitioner instead of charging Rs.1500/- per GST return, charged around Rs.3,500/- per GST return. However, there is no allegation in the complaint that he has received any amount or any percentage with regard to the wrong input tax credit. It is also contended that with the complaint, statement of Vishnu Garg is attached who has mentioned that petitioner has created the firms on the basis of documents provided by Vishnu Garg.

4. It is further contended that petitioner is in custody from 23.01.2021. The maximum sentence provided for the offence with which petitioner is charged is six months. It is contended that as per the charge-sheet, petitioner has only received Rs.75,000/- for filing GST returns and Rs.5,000/- per firm for the registration. Offence is triable by First Class Magistrate.

5. Counsel for the Union of India has opposed the bail application. It is contended that petitioner was instrumental in registration of 11 fake firms and these firms have availed input tax credit to the tune of Rs.146 crores. It is also contended that petitioner was aware as he was filing GST returns of non-existent firms.

6. It is contended that petitioner is charged for offence for which sentence is provided as five years. In similar type of cases pertaining to Chartered Accountant, bail application was rejected by Co-ordinate Bench of this Court.

7. I have considered the contentions.

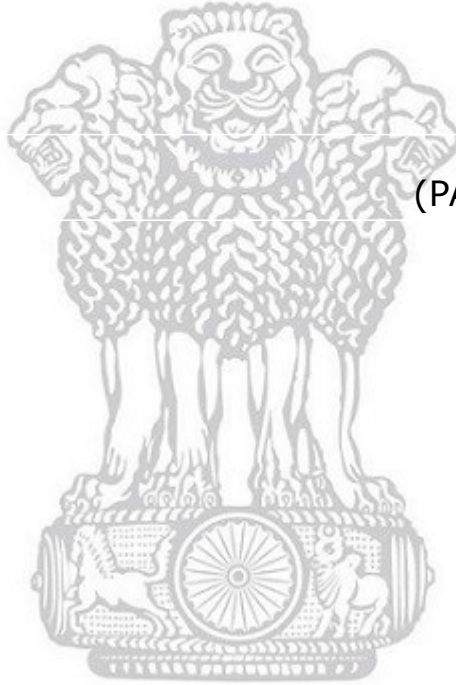
8. Taking note of the fact that Chartered Accountant has remained in custody for a period of one year and five months and

that petitioner is also having a child and also considering the contentions put forth by counsel for the petitioner, I deem it proper to allow the bail application.

9. This bail application is accordingly allowed and it is directed that accused petitioner shall be released on bail 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 learned trial court with the stipulation that he shall appear before that Court and any court to which the matter is transferred, on all subsequent dates of hearing and as and when called upon to do so.

(PANKAJ BHANDARI),J

AMIT KUMAR /18



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