

IN THE HIGH COURT OF JHARKHAND AT RANCHI

B.A. No. 5472 of 2024

Amit Gupta ... Petitioner
Versus
Union of India ... Opposite Party

Coram: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Petitioner : Mr. Nitin Kumar Pasari, Advocate
For the UOI : Mr. Parth S.A. Swaroop Pati, Sr. S.C., CGST
Mr. Anurag Vijay, Jr. S.C., CGST

Order No.05/Dated- 18.07.2024

Heard learned counsel for the parties.

2. The petitioner has been made accused in connection with Complaint Case No. 1281 of 2024, registered under Sections 132 (1)(b) and 132 (1)(c) and 132 (5) of the Central Goods and Service Tax Act, 2017, pending before the learned Additional Chief Judicial Magistrate, Special Court, Economic Offences, Jamshedpur.

3. As per F.I.R., allegation against the petitioner is that the petitioner, being an individual, is involved in creating fake companies / firms and appointing Directors / Partners / Proprietors, which is further involved in fraudulently availing fake Input Tax Credit and further passing on the inadmissible Input Tax Credit and further passing on to the various fake firms leading to loss of more than Rs. 522.91 Crores to the Government Exchequer without actual supply of goods.

4. Learned counsel for the petitioner has submitted that petitioner has been falsely implicated in this case. It is further submitted that cognizance of the offences punishable under section 132 (1)(i) to (iv) read with 132(4) and (5) of CGST Act, 2017 as well as offences under Section 201, 204, 420, 465, 467, 468 and 471 of the I.P.C. has been taken, but no offence under the I.P.C. is made out and the maximum punishment for the alleged offence under CGST Act is of five years. Reliance has been placed upon the decision of the Hon'ble Apex

Court passed in the case of *Ratnambar Kaushik Vs. Union of India* reported in [(2023) 2 SCC 621]. It is further submitted that the material evidences are electronic evidence. Petitioner has no criminal antecedent. Petitioner is in judicial custody since 09.04.2024. Petitioner undertakes to co-operate with the trial of the case and to remain physically present on each and every date till the conclusion of the trial and shall not indulge in tampering with the prosecution evidence or influence the witnesses or gain over them. Hence the petitioner may be enlarged on bail.

5. Learned Addl. P.P. has opposed the prayer for bail of the petitioner and has submitted that there is direct allegation against the petitioner that he is involved in creating fake companies / firms and appointing Directors / Partners / Proprietors, who were involved in passing on the inadmissible Input Tax Credit. Petitioner himself is Director of nine companies and has also created more than hundred fake firms and companies.

6. It appears that petitioner is in judicial custody since 09.04.2024, investigation has been completed and charge sheet has been submitted. Trial has yet to commence which shall consume considerable time. The relevant evidence of the case pertains to electronic evidence, which cannot be tampered by petitioner and other witnesses are official witnesses.

7. Considering the facts and circumstances of this case, the nature of allegation against petitioner coupled with materials available on record and period of custody of the petitioner, I am inclined to release the above-named petitioner, on bail. Accordingly, the petitioner named above, is directed to be released on bail on furnishing bail bond of Rs.1,00,000/- (Rupees One Lakh) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Special Court, Economic Offences, Jamshedpur in connection with Complaint Case No. 1281 of 2024, subject to the conditions:

(1) Petitioner shall remain physically present before the trial court on each and every date till the conclusion of the trial of this case unless prevented from sufficient cause to the satisfaction of the Learned Trial Court.

(2) Petitioner shall not indulge in any or other similar offence till the conclusion of the trial.

(3) Petitioner shall not indulge in influencing the prosecution witnesses.

8. In case of violation of the any conditions, the bail of the petitioner shall be cancelled and shall be taken into custody by the Learned Trial Court itself.

9. Accordingly, the instant bail application is allowed.

(Pradeep Kumar Srivastava, J.)

Sunil/-