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CORAM :- HON'BLE SHRI JUSTICE S.PUJAHARI

BLAPL NO.10089 OF 2019

Narayan Kumar Khaitan. …….. Petitioner

-Versus-

Union of India …….. Opp.party

O R D E R

08. 4.11.2020 In the wake of the Pandemic Covid-19, the case was taken up through Video Conferencing.

2. The petitioner being in custody in 2(C).C.C. No.170 of 2018, pending in the Court of the learned S.D.J.M., Panposh, Rourkela, has filed this petition for his release on bail. The offences alleged against him are punishable under Sections 132(1)(b) and 132(1)(l) of the Central Goods and Services Tax Act, 2017.

3. I have heard learned counsel for the petitioner and Mr. Tushar Kanta Satapathy, learned Senior Standing counsel appearing for the opposite party.

4. As it appears, the petitioner happens to be the Director and Authorized Signatory of M/s. Shri

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Ganapati Ores & Ispat Pvt. Ltd. and M/s. Kshipra Consumer Marketing Pvt. Ltd. which are trading Companies having G.S.T. registration. The opposite party on receipt of reliable information that the aforesaid companies have issued invoices indicating the sales of goods / raw materials used by different manufacturing units of Steel and Aluminium which are located in different locations of Odisha as well as outside the State of Odisha, but without actual movement of goods. Pursuant to such invoices, which appears to be stage managed invoices, input tax credit, have been claimed by different companies, to whom the aforesaid Firms stated to have supplied goods / raw materials for manufacturing purpose under the Goods and Service Tax Act. On receipt of such information, search was conducted in different places and ultimately it was found that there was no movement of the goods pursuant to such invoices issued by the aforesaid companies, of which the petitioner is the Director, along with one Sanjeev Kumar Singh and others. To hoodwink the Revenue

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Authority that there was no movement of goods pursuant to the invoices, they have also shown the movement of goods in different vehicles with the help of one of the co-accused and some of which are not at all transport vehicles and received payments through Bank from such companies and which was ultimately siphoned back to the source. The same was found during the search and raid conducted, pursuant to which the petitioner, Sanjeev Kumar Singh and others were indicted in the aforesaid case and prosecution was launched against him and others. The petitioner was taken to custody and inquiry was conducted by the opposite party-Revenue Authority and ultimately prosecution report has also been furnished against the petitioner. In this way, the petitioner using the name of the aforesaid two companies has caused huge loss to the revenue, by claim of input tax credit without foundation inasmuch as the alleged invoices of goods are stage managed. The loss of revenue was Rs.19 Crores.

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It appears that this Court taking note of the nature and gravity of the offence had earlier rejected the prayer for bail of the petitioner on merit vide order dated 08.02.2019 passed in BLAPL No.7008 of 2018. Thereafter, the petitioner also moved this Court for his release on interim bail in BLAPL No.1917 of 2019 which was also rejected by this Court vide order dated 07.03.2019. The petitioner is continuing in custody since then. The prosecution report in this case has already been filed. However, the petitioner has again come to this Court seeking his release on bail in this present bail application as his prayer for bail was rejected by the trial Court and also made a prayer for interim release on bail.

5. It is strenuously urged by the learned counsel for the petitioner that the petitioner was entitled to the benefit of default bail, inasmuch as no final prosecution report in this case was filed against the petitioner. However, the petitioner could not avail of the same. But, the petitioner being continuing in custody for about two years in an offence punishable

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for imprisonment of five years, the petitioner be released on bail as there is bleak chance of the trial being concluded in near future due to spread of Pandemic Covid-19 which has seriously impacted the trial.

6. On the other hand, Mr. Tushar Kanta Satapathy, learned Senior Standing counsel appearing for the opposite party submitted that the petitioner being indicted in a heinous and serious economic offence or revenue defalcation and his prayer for bail having been rejected on merit once by this Court taking into consideration of the same and also the law in this regard, even if the petitioner has remained in custody for some time more, this Court should not release the petitioner on bail on that ground alone, more so when the prosecution in this case cannot be said to have contributed in any manner for delay in disposal of the case.

7. After hearing the learned counsel for the parties and going through the materials available on record, especially the fact that the petitioner has

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been indicted in a heinous and serious offence, i.e., economic offence causing loss of Rs.19 crores revenue to the Government Exchequer, as revealed from the materials produced and also his such alleged overt act contributed to frustrate the avowed object of bringing reform tax law brought by the Union of India in the shape of G.S.T. and Rourkela is stated to be an epicentre of such fraudulent activities in India which has spreaded to other parts of the Country, this Court is not inclined to review its earlier order rejecting the prayer for bail of the petitioner only on the ground that the petitioner remained in custody for some times more. But, considering the fact that the petitioner is languishing in custody for more than two years and also the fact that due to spread of Pandemic Covid-19 hardly any chance of the trial being concluded in near future, this Court directs the Court in seisin over the matter to release the petitioner on interim bail in the aforesaid case for a period of sixty days with the condition that he shall surrender to the custody of

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the Court concerned on 61st day of his release from custody. The Court in seisin over the matter before release of the petitioner shall put such other terms and conditions as deemed just and proper to ensure his return to custody. Notwithstanding such interim release of the petitioner, the Court shall do well to take all effective steps to conclude the trial within six month hence and the complainant shall also take all such steps as desired by the court concerned for conclusion of the same within the time stipulated.

8. With the aforesaid order, this BLAPL stands disposed of.

Parties may utilize this order as per High Court's Notice No.4587 dated 25.03.2020.

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S.Pujahari, J.

MRS

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