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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ BAIL APPLN. 3771/2021 & CRL.M.A. 16552/2021(interim relief)
TARUN JAIN Appellant

Through: Dr. G.K. Sarkar, Adv.

versus

DIRECTORATE INTELLIGENCE OF GST INTELLIGENCE DGGI
..... Respondent

Through: Mr. Harpreet Singh, Sr, SPP

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

% **12.10.2021**

CRL.M.A.16553/2021(Exemption)

Allowed, subject to all just exceptions.
Accordingly, application is disposed of.

BAIL APPLN. 3771/2021

1. The instant application u/s 438 Cr.P.C. seeking anticipatory bail for offence punishable u/s 132 of CGST Act, 2017 in respect of file no. DZU/IMV/A/GST/894/2021.
2. The learned counsel appearing on behalf of petitioner/applicant submitted that the applicant is one of the directors of M/s Jetibai Grandsons Pvt. Ltd. The applicant's company was initially engaged in supply of services and later on the applicant got engaged in manufacturing and supply of solar inverters, solar power generating unit etc. It is submitted that in April, 2021, the applicant stopped the manufacturing activity due to Covid-19 pandemic and informed the department regarding the same and amended certificate issued.
3. Learned counsel appearing on behalf of applicant submitted that since

registration with GST department has been complied with all the procedures and norms as prescribed.

4. Learned counsel appearing on behalf of applicant submitted that on 21.07.2021, summon was issued on applicant to appear before the concerned authority. The applicant could not attend the same due to medical condition of his mother who also happens to be one of the directors in the company of the applicant. Another summon was issued on 27.07.2021 directing respondent to appear and produce certain documents as mentioned therein.

5. The applicant has submitted the said required documents vide letter dated 05.08.2021 and also stated his difficulty in appearing in person.

6. Three other summons dated 07.08.2021, 18.08.2021 and 01.09.2021 respectively, were issued to the applicant for appearing before the authority concerned.

7. Learned counsel appearing on behalf of applicant submitted that since the entire evidence present in the case is based on documents and therefore, his custodial interrogation is not required. It is also submitted that the other co-accused has already been enlarged on the bail vide order dated 30.09.2021 by the Coordinate Bench of this Court.

8. On instructions, learned counsel appearing on behalf of applicant also undertakes that the applicant shall appear before the concerned authority whenever it is required. He also undertakes that the applicant shall abide by any condition imposed by this Court while granting anticipatory bail.

9. Several judgment of the Hon'ble Supreme Court i.e. *Siddharam Satlingappa Mhetre vs State Of Maharashtra And Ors*, 2011 (1) SCC 694 and *Gurbaksh Singh Sibbia Etc. vs. State of Punjab & Ors.*, 1980, 2 SCC 565 have been relied by the learned counsel appearing on behalf of the

petitioner in support of his argument.

10. Learned counsel appearing on behalf of applicant submitted that the offence under GST are compoundable as per the provisions of Section 138 of CGST Act, 2017 which shows that the offences are not serious in nature and he has relied on the judgment passed by this Court in the case of “Sitaram Aggarwal vs. Customs”, 2005 79 DRJ 554.

11. In view of the above facts and circumstances, learned counsel appearing on behalf of applicant also contended that since the applicant undertakes to appear before the concerned authority and participate in investigation, be granted anticipatory bail.

12. *Per contra*, learned counsel appearing on behalf of respondent vehemently opposed the bail application and submitted that in spite of the assurance given before the Division Bench of this Court, the applicant has chosen not to appear before the concerned authority. He has brought the attention of this Court on the order dated 24.09.2021 passed by the Division Bench, in which the applicant/petitioner states given undertaking before the Division Bench that he shall appear before the investigating authority, Mr. Deepak Pandey, I.O DGGI New Delhi, Zonal Unit R.k.Puram on 08.10.2021 at 11.00 A.M.

13. Learned counsel appearing on behalf of respondent further submits that there are several records available on record to show that the applicant is trying to influence the witness. The same facts were also recorded by the Court below while rejecting the anticipatory bail that the applicant is trying to influence the witnesses.

14. Taking into consideration of the aforesaid facts and also the conduct of applicant that in spite of assurance to appear before the Division Bench,

he has chosen not to appear before the concerned authority/investigating agency. He is not entitled for the anticipatory bail and therefore the said application is devoid of any merit and is to be dismissed.

15. Heard learned counsels for the parties and perused the record.

16. I have perused the order dated 24.09.2021 passed by the Division Bench which is appended in Annexure 7. It is admitted fact that the applicant has given the undertaking to appear before the investigating authority on 08.10.2021.

17. Mr. Sarkar in revert, has pointed out that the counsel who has appeared on the said date before the Division Bench has given the undertaking without instruction of the applicant and he has drawn the attention of this Court on the contentions made in Para 2.10 of the bail application and submitted that he has taken the specific pleading in the instant application that undertaking which has been given by the counsel before the Division Bench without instruction of the applicant.

18. Having considering the arguments advanced by the counsels for the parties and perused the records and as the respondent has submitted that as some other facts are also to be taken on the record and therefore, he has prayed for filing a status report.

19. Let the same be filed within seven days.

20. List on 25.10.2021.

CHANDRA DHARI SINGH, J

OCTOBER 12, 2021/dy