

2020 (12) TMI 940 - DELHI HIGH COURT**SH RAGHAV AGARWAL VERSUS COMMISSIONER OF CENTRAL TAX AND GST DELHI NORTH**

BAIL APPLN. 4019/2020

Dated: - 21 December 2020

Grant of Interim Bail - respondents have not been able to specify the offence committed by the applicant - HELD THAT:- Plainly, the issues involved in the present application require examination - A status report and the supplementary status report has been filed. Mr Gupta, learned senior counsel seeks time to examine the same and file response, if necessary.

The applicant is directed to be released on interim bail on his furnishing a Personal Bond in the sum of ₹1 lakh with two sureties of the like amount to the satisfaction of the trial court/duty magistrate - List for hearing on 19.01.2021.

Judgment / Order**HON'BLE MR. JUSTICE VIBHU BAKHRU**

For the Petitioner : Mr Ramesh Gupta, Sr. Advocate with Ms Vibhooti Malhotra and Mr Bharat Sharma, Advocates

For the Respondent : Mr Satish Aggarwala, SPP along with Ms Jasneet Jolly, Advocate. Mr Harpreet Singh, Advocate

ORDER

[Hearing held through videoconferencing]

CRL.M.A. 17383/2020

1. Allowed, subject to all just exceptions.

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2. The applicant was arrested by an Arrest Memo dated 18.11.2020, issued by the Superintendent (Anti-Evasion), Commissioner Central Tax, GST Delhi

3. Mr Gupta, learned senior counsel appearing for the applicant has referred to the Arrest Memo, which indicates that the respondents have not been able to specify the offence committed by the applicant. The Arrest Memo alleges that the applicant has committed "an offence specified in clause (a) or clause (b) or clause (c) or clause (d) of sub section (1) of section 132 of the Central Goods and Service Tax, 2017, which is punishable under clause (i) or (ii) of sub-section (1) or sub-section (2) of the said section."

4. He has further pointed out that the respondent has issued a letter dated 11.06.2020 alleging that M/s Dreamz International had availed of fraudulent/inadmissible ITC amounting to ₹ 2,60,44,887/- and the applicant was requested to deposit the said amount in DRC-03 challans and submit the same via e-mail. Concededly, the said letter was not issued under any of the provisions of the GST Act.

5. Mr Aggarwala, learned counsel appearing for the respondent states that the said figure has now swelled to ₹ 10,84,00,000/-.
6. It is also conceded that no show cause notice has been issued to the applicant as yet and no proceedings for assessing the exact amount has been initiated. Although, the applicant has been arrested and the respondent proposes to launch prosecution without show cause notice or initiation of any assessment proceedings. According to the respondent it is not necessary to undertake any proceedings for determination of the tax due for launching prosecution for evasion of tax.
7. Plainly, the issues involved in the present application require examination.
8. A status report and the supplementary status report has been filed. Mr Gupta, learned senior counsel seeks time to examine the same and file response, if necessary.
9. The parties are also at liberty to file written submissions on the issues involved.
10. List for hearing on 19.01.2021.
11. In the meanwhile, the applicant is directed to be released on interim bail on his furnishing a Personal Bond in the sum of ₹1 lakh with two sureties of the like amount to the satisfaction of the trial court/duty magistrate. This is also subject to the following further conditions:-
 - a) the applicant would join the investigation and cooperate with the respondent. The applicant shall appear before the concerned officer as and when required;
 - b) the applicant shall not leave the National Capital Territory of Delhi except to travel to Lucknow (as this court is informed that the applicant's family resides in Lucknow) with prior permission of the concerned investigating officer; and
 - c) the applicant will surrender his passport to the concerned trial court/Duty Magistrate;