

Court No. - 38

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S
438 CR.P.C. No. - 6952 of 2021

Applicant :- Neeraj Kasyap

Opposite Party :- Union Of India And Another

Counsel for Applicant :- Namit Srivastava

Counsel for Opposite Party :- A.S.G.I.

Hon'ble Saumitra Dayal Singh,J.

1. Heard Shri Namit Srivastava, learned counsel for the applicant and the learned AGA for the State.
2. This anticipatory bail application has been filed on behalf of the applicant - **Neeraj Kasyap**, seeking anticipatory bail against the summons issued under Section 70 of the Central Goods and Services Tax Act, 2017 by Superintendent of CGST Commissionerate, Gaum Budh Nagar, Greater Noida.
3. Submission of learned counsel for the applicant is that the applicant had only made purchases of certain goods from M/s. G.K. Traders against regular invoices. The purchases were wholly valid and genuine. Yet, the applicant has been summoned under Section under Section 70 of the Central Goods and Services Tax Act, 2017 and is being threatened with arrest. He has relied on a decision of this Court dated 05.01.2021 in Criminal Misc. Anticipatory Bail Application No. 4116 of 2020.
4. Having heard learned counsel for the applicant and having perused the record, at present, there is no denial of the fact that inquiry is pending against M/s. G.K. Traders with respect to forged/false invoices prepared and issued by it. The applicant has been summoned only to establish the genuineness or otherwise of the invoices relied upon by the present applicant as may have been issued to him by the said M/s. G.K. Traders. Though, there is a power to arrest vested in the GST authorities, at present, there is no material basis for the apprehension of arrest claimed by the applicant. Participation in an ongoing inquiry against M/s. G.K. Traders may not automatically entail arrest of the applicant. The applicant's presence has been required to lead evidence and to produce purchase orders, sales and purchase registers, stock register, bank statements, balance sheet and statutory returns or any other material that may be relevant to the inquiry.
5. Even if certain invoices issued by M/s. G.K. Traders are found to be bogus, it may not necessarily lead to either any

accusation being made against the applicant or his arrest. Before any accusation is made against the applicant or his arrest is sought in the proceedings against M/s. G.K. Traders, it would have to be the case of the revenue authorities that the applicant had taken benefit of any such fake or bogus invoice, e-way bill etc. issued by M/s. G.K. Traders or he had acted in collusion with M/s. G.K. Traders.

6. Perusal of the anticipatory bail application does not bring out any material or reason to believe that any such inference is being drawn or is being sought to be drawn by the revenue authorities against the applicant, presently. Merely because the applicant has been called upon to participate in the inquiry against M/s. G.K. Traders, does not involve an automatic accusation against the applicant and it also does not involve the risk of his arrest. At present, the applicant claims that he had made genuine purchases from the said M/s. G.K. Traders for which he had made payments and had thereafter sold the goods to third parties. In view of such facts, the ratio of the order of this Court dated 05.01.2021 in Criminal Misc. Anticipatory Bail Application No. 4116 of 2020 is found inapplicable.

7. Accordingly, leaving it open to the applicant to lead such evidence before the revenue authorities, at present, no real apprehension is found to exist of the applicant being arrested. The applicant is **rejected**, at this stage.

Order Date :- 30.4.2021

AHA