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MHCC020172662022



**IN THE COURT OF SESSIONS FOR GREATER MUMBAI AT MUMBAI
ANTICIPATORY BAIL APPLICATION NO. 2834 OF 2022**

Mr. Vijay Anil Motiramani]
Age : 31 years,]
R/at : BK Numbaer: 554, Room No.10,]
Ground Floor, Khemani, Ulhasnagar-2,]
Thane – 421002.]...Applicant/accused

Vs.

Maharashtra Goods and Service Tax,]
(Through Asst. Commissioner of State Tax)] Respondent

Appearance :-

Mr. Sujit Sahoo, Ld. Advocate for the Applicant.
Mr. R. K. Pathak, Ld. SPP for the Respondent/GST.

**CORAM : H. H. THE ADDL. SESSIONS JUDGE,
SHRI A.A. KULKARNI (C.R. NO.24)**

DATED : 9TH JANUARY, 2023

(O R A L O R D E R)

(Dictated and pronounced in the open Court)

This is an application under Section 438 of Cr. P.C. for anticipatory bail. Heard Ld. Advocate for applicant and Ld. SPP for the State. Perused the application, say and documents on record.

2. The Ld. Advocate for applicant submitted that applicant is doing business of supply of cement and other raw material used for construction. Applicant is dealing in products of Birla White, Birla Gold,

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Ultra Tech Cement Ltd, Shree Cement Ltd. Applicant is having GST number. It is contention of applicant that officers of respondent alleged that applicant has committed offence under Section 132 of GST Act. Applicant has been summoned to appear on 20.12.2022. It is further contended that before appearing of applicant before respondent's officer, business premises and house premises of applicant was searched and documents were collected by officers of respondent. Applicant is having apprehension of his arrest at the hands of respondent. It is further contended that in the summon issued by respondent, there is no number of file or period. It is further contended that applicant has regularly submitted returns. Alleged offence is having maximum punishment of 5 years. There is no need of custodial interrogation of applicant. Applicant is permanent resident of Mumbai. He is ready to deposit any due amount within period of six months and therefore, prayed for grant of bail in the event of his arrest.

3. Respondent appeared and filed say. In brief it it their contention that in the given address by applicant, they have not found any business of applicant. Applicant has not amended address of his business. Stock of goods not found on the given place. No documents were found on given place. During search applicant given address of two different places about keeping record of his business but nothing found on given address. As per allegations against applicant, he availed input tax credit of amount of more than 12 crores on the basis of invoices issued by fake entities. In spite of issuance of summons applicant has not co-operated. Therefore, is not entitled for relief of pre-arrest bail. Hence, prayed for rejection of application.

4. In view of submissions from both sides and on perusal of

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application, say and documents on record, it is clear that on registered address of business of applicant, nothing was in existence. During search, no stock of goods was found nor documents found on given address about business activities. In spite of issuance of summons, applicant has not co-operated. In such circumstances, I am of the opinion that alleged offence against applicant is of avilment of input tax credit of more than 12 crores, which is non-bailable offence and having punishment of five years imprisonment. As applicant has not submitted documents about his business, therefore, in such circumstances, presence of applicant is necessary for the purpose of investigation to find out truth. Therefore, applicant is not entitled for relief of pre-arrest bail. Hence, I pass the following order :-

ORDER

Anticipatory Bail Application No.2834 of 2022 is rejected and disposed of accordingly.



Date : 9.01.2023

**[A.A. KULKARNI]
ADDITIONAL SESSIONS JUDGE
GREATER MUMBAI**

Dictated on : 9.01.2023

Transcribed on : 9.01.2023

HHJ signed on : 9.01.2023

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“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”		
Upload Date	Upload Time	Name of Stenographer
10.01.2023	5.00 p.m.	PRAJWALA V. PHODKAR
Name of the Judge (With Court Room No.)	HHJ SHRI. A.A. KULKARNI (CR 24)	
Date of Pronouncement of JUDGMENT /ORDER	9.01.2023	
JUDGMENT /ORDER signed by P.O. on	10.01.2023	
JUDGMENT /ORDER uploaded on	10.01.2023	