

Rajasthan HC allows bail application of a CA upon furnishing of personal bond

The Hon'ble HC, Rajasthan in ***Paridhi Jain v. State [S.B. Criminal Miscellaneous Bail Application No. 742/2020, 48/2020 dated January 20, 2020]*** after considering the fact that fact that the Petitioner being a practising Chartered Accountant and a lady of 27 years is facing incarceration for last more than one month, allowed bail application on furnishing of a personal bond of Rs. 10,00,000/- each with two sureties of ₹ 10,00,000/- each with the stipulation to appear before that Court on all dates of hearing. Further, to deposit her passport before the Investigating Authority and not leave the country without the prior permission of the concerned Court.

Facts:

Paridhi Jain ("**the Petitioner**"), a Chartered Accountant filed a bail application under Section 439 of the Code of Criminal Procedure, 1973 ("**Cr.P.C.**") who is in custody in connection with F.I.R. No. 205/2019, P.S. Udaimandir, District Jodhpur and FIR No.44/2019, P.S. GST Department, District Jodhpur, for the offences under Sections 420, 467, 468, 471, 120-B of the Indian Penal Code, 1860 ("**IPC**") and Section 132(1)(i) of Rajasthan Goods and Services Tax Act, 2017 ("**RGST**").

Petitioner's contentions:

- The Petitioner has been facing incarceration for more than one month and she was only getting the firms registered at the behest of her clients after collecting requisite documents from them. It was the duty of the competent authority of the department to get the details furnished by the present Petitioner verified as per Know Your Customer ("**KYC**").
- As per Section 132 (1)(i) of the Central Goods and Services Tax Act, 2017 ("**CGST Act**") if an amount of ₹ 3 crores is wrongly received by a person as an input tax credit, then the person is liable to undergo punishment of three years and if this amount exceeds to ₹ 3 crores and over ₹ 5 crores, then he has to undergo punishment of five years and the amount of wrongly availed input tax credit is yet to be ascertained by the authorities.
- Submitted that the Petitioner undertakes to cooperate with the investigating authority as and when called for and any violation in providing any information or document asked for by the departmental authorities may result into the cancellation of liberty of bail granted by the Court.

Issue:

Whether bail application can be granted in such cases?

Held:

The Hon'ble HC, Rajasthan in ***S.B. Criminal Miscellaneous Bail Application No. 742/2020, 48/2020 dated January 20, 2020*** held as under:

- Having regard to the facts and circumstances of the case and upon a consideration of the arguments advanced and the fact that the Petitioner being a practising Chartered Accountant and a lady of 27 years is facing incarceration for last more than one month and in view of the undertaking submitted by the Petitioner to fully cooperate with the investigating agency and provide the information/documents asked for by the investigating agency, the bail applications filed by the Petitioner deserve to be accepted.
- Ordered that the Petitioner shall be released on bail provided she furnishes a personal bond of ₹ 10,00,000/- each with two sureties of ₹ 10,00,000/- (Out of which one of the surety will be of a close family member) each to the satisfaction of the learned trial court with the stipulation to appear before that Court on all dates of hearing and as and when called upon to do so. Also, to deposit her passport before the Investigating Authority and not leave the country without the prior permission of the concerned Court.

Relevant provisions:

Section 132(1)(i) of the CGST Act:

"132. Punishment for certain offences.

(1) Whoever commits any of the following offences, namely: -

(i) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;"

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