

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION NO. 16087 of 2019

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SANDEEP MAGANBHAI CHANIYARA

Versus

COMMISSIONER, CENTRAL EXCISE AND CGST, RAJKOT

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Appearance:

MR MR ND NANA VATY, SR. ADVOCATE with VIJAY H PATEL(7361) with MR APURVA N MEHTA(7202) for the Applicant(s) No. 1

MR ANKIT SHAH(6371) for the Respondent(s) No. 1,2

MS KRINA CALLA, ADDL.PUBLIC PROSECUTOR(2) for Respondent(s) No. 3

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CORAM: HONOURABLE MR.JUSTICE A.J.DESAI

Date : 13/09/2019

ORAL ORDER

RULE. Learned advocate Mr. Ankit Shah waives service of notice of Rule on behalf of the respondent Nos.1 & 2 and learned Additional Public Prosecutor waives service of notice of Rule on behalf of the respondent No.3. With the consent of learned advocates appearing for respective parties, application is taken up for final hearing today.

1. This application is filed under Section 439 of the Code of Criminal Procedure, 1973 for regular bail in connection with an offence being **F.No.: IV/06-50/CEP/2018-19** registered with **Commissioner, CGST & Central Excise, Rajkot** for the offences under Sections 132(1)(b) and 132(1)(c) of the Central Goods & Service Tax Act, 2017.

2. Learned advocate appearing on behalf of the applicant submits that considering the nature of offence, the applicant may be enlarged on regular bail by imposing suitable conditions.

3. Learned Additional Public Prosecutor appearing on behalf of the

respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence.

4. Learned advocates appearing on behalf of the respective parties do not press for further reasoned order.

5. I have heard learned advocates appearing on behalf of the respective parties and perused the papers of investigation and considered the allegations levelled against the applicant and the role played by the applicant.

6. In the facts and circumstances of the case and considering the nature of allegations made against the applicant in the FIR and considering the admitted position that the applicant is arrested on 08.07.2019 and the fact that till date even after passage of 60 days, neither any complaint nor charge-sheet is filed and therefore, the applicant would be entitled for default bail, without going into detail at this stage, *prima facie*, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail. Hence, the present application is allowed and the applicant is ordered to be released on **regular bail** in connection with an offence being **F.No.: IV/06-50/CEP/2018-19** registered with **Commissioner, CGST & Central Excise, Rajkot**, on executing a personal bond of **Rs.25,000/- (Rupees Twenty-five Thousand Only)** with one local surety of the like amount to the satisfaction of the learned Trial Court and subject to the conditions that the applicant shall;

- [a] not take undue advantage of liberty or misuse liberty;
- [b] not act in a manner injurious to the interest of the prosecution;
- [c] surrender passport, if any, to the lower court within a week;

- [d] not leave the State of Gujarat without prior permission of the Sessions Judge concerned;
- [e] mark presence before the concerned Authority on any day of 1<sup>st</sup> week of each English Calendar Month for a period of six months and thereafter on any day of 1<sup>st</sup> week of every three English Calendar Months till the trial is over;
- [f] furnish latest address of residence to the Investigating Officer and also to the Court at the time of execution of the bond and shall not change the residence without prior permission of this Court;

7. The Authorities will release the applicant only if he is not required in connection with any other offence for the time being. If breach of any of the above conditions is committed, the Sessions Judge concerned will be free to issue warrant or take appropriate action in the matter. Bail bond to be executed before the learned Lower Court having jurisdiction to try the case. It will be open for the concerned Court to delete, modify and/or relax any of the above conditions, in accordance with law. At the trial, learned Trial Court shall not be influenced by the observations of preliminary nature, *qua* the evidence at this stage, made by this Court while enlarging the applicant on bail. Rule is made absolute to the aforesaid extent.

Direct service is permitted.

(A.J. DESAI, J.)

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