

PMB

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.2644 OF 2022

NEHA AGRAWAL AND ANR. ..APPLICANTS

VS.

THE SUPERINTENDENT, ANTI-EVASION,
CGST MUMBAI CENTRAL AND ANR. ..RESPONDENTS

Mr. Rashil Nichani a/w Mr. Aansh Desai i/b. Pythagoras for the applicants.

Mr. N. B. Patil, APP for State.

Mr. Rahul Sarda i/b. Ms. Neelam Jadhav for respondent No.1.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 7, 2022.

P.C. :

1. Heard learned counsel for the applicants, learned APP for the State and learned counsel for respondent No.1.

2. The Goods and Service Tax Department alleges that the applicants have availed of input tax credits completely in breach of the provisions of Section 132(1)(b) and (c) of the Central Goods and Services Tax Act, 2017 (hereafter "the CGST Act", for short). This is an offence in terms of sub-section 5 of Section 132 of the CGST Act. This is a

cognizable offence punishable with imprisonment of 5 years and with fine.

3. Learned counsel for the applicants submitted that they have all the receipts to demonstrate that there has been no fraudulent avilment of input tax credit.

4. Learned counsel for the department submitted that the matter is still at the stage of investigation as the authorities concerned are in the process of satisfying themselves as to whether the applicants are to be proceeded against with or not.

5. Learned counsel submits that the applicants are not even co-operating with the authorised officer and placing materials on record when called upon to do so. Learned counsel for the applicants, on instructions, submits that the applicants are willing to render all possible co-operation and submits that whatever invoices/materials which are in their possession will be produced. The applicants, however, apprehend arrest.

6. In my opinion, considering that the matter is still under preliminary investigation and as the opinion has not

been formed yet by the authorised officer whether to arrest the applicants or not, interest of justice would be subserved if a direction is issued to the applicants to co-operate.

7. In case, if the Investigating Officer wants to effect the arrest if he feels that arrest is imperative in the wake of the reasons recorded by him, he may effect the arrest after giving 72 hours notice in advance to the applicants in the peculiar facts of this case.

8. Learned counsel for the applicants, on instructions, undertakes that they will appear in the first instance on 12th and 13th December, 2022 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called.

9. The Anticipatory Bail Application is disposed of with a direction to the applicants to co-operate.

(M. S. KARNIK, J.)