

2023 LiveLaw (SC) 61

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
KRISHNA MURARI; J., B.V. NAGARATHNA; J.
20th JANUARY, 2023

CRIMINAL APPEAL NO. 186 /2023 (@ SLP (CRL.) NO. 6640/2022)

SUBHASH CHOUHAN *versus* UNION OF INDIA & ANR.

Supreme Court overturned a bail condition imposed by the High Court that a person accused of illegally claiming Input Tax Credit must deposit Rs. 70 lakhs, the alleged amount of improperly claimed ITC - Centre conceded that such a condition is unsustainable when final assessment has not taken place.

(Arising out of impugned final judgment and order dated 21-06-2022 in MCRC No. 900/2022 passed by the High Court of Chhatisgarh at Bilaspur)

For Petitioner(s) Mr. Himanshu Tyagi, AOR Mrs. Poonam Sharma., Adv. Mr. Moksh Tyagi, Adv.

For Respondent(s) Mr. K.M. Nataraj, A.S.G. Mr. Mukesh Kumar Maroria, AOR Mr. Sharath Nambiar, Adv. Mr. Vinayak Sharma, Adv. Mr. Bhuvan Kapoor, Adv. Mr. Sumeer Sodhi, AOR Mr. Devashish Tiwari, Adv. Ms. Tanya Verma, Adv.

ORDER

Leave granted.

Heard learned counsel for the parties.

The challenge in this appeal has been made to the Order dated 21.06.2022 passed by the High Court of Chhattisgarh granting bail to the appellant subject to conditions. One of the conditions was that the appellant shall deposit a sum of Rs.70 Lakhs under protest, in favour of the Principal Commissioner, CGST, Raipur within a period of 45 days from the date of his release. It is this condition, which is under challenge before us.

Learned counsel appearing for the appellant submits that the condition to deposit Rs.70 Lakhs within 45 days from the date of the release as a pre-requisite condition for the bail is not sustainable inasmuch as the First Information Report was in respect of wrongfully availing the Input Tax Credit of Rs.6,95,32,472/.

It is further submitted that there is no final assessment in this regard under the GST Act. Hence it cannot be presumed that the appellant is under a legal liability to pay the said amount.

As an officer of this Court, Mr. K.M. Nataraj, learned ASG appearing for the Union of India/State has fairly stated that such a condition cannot be imposed while granting bail.

Considering the above facts and circumstances, in our considered opinion, the condition directing the appellant to deposit a sum of Rs.70 Lakhs is not liable to be sustained and is hereby set aside.

The rest of the conditions in the impugned order are sustained.

The appeal accordingly, stand allowed to that extent. Pending application(s), if any, shall stand disposed of.