

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION (FOR SUCCESSIVE REGULAR BAIL -  
AFTER CHARGESHEET) NO. 512 of 2024**

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HITESH PRABHUDAS LODHIYA  
Versus  
STATE OF GUJARAT

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## Appearance:

MR JAL SOLIN UNWALA, SENIOR ADVOCATE WITH  
MR. APURVA N MEHTA(7202) for the Applicant(s) No. 1  
MR NIKUNT K RAVAL(5558) for the Respondent(s) No. 2  
MR CHINTAN DAVE, APP for the Respondent(s) No. 1

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**CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY**

**Date : 25/01/2024**

**ORAL ORDER**

1. **RULE.** Learned APP waives service of rule for the respondent-State.
2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with **File No. DGGI/INT/INTL/1520/2023 – O/O AD-DGGI-RU-RAJKOT registered with Directorate General of GST Intelligence, Rajkot.**
3. Learned Senior Advocate appearing on behalf of the applicant submits that the applicant has been arrested in connection with the present offence on 12.10.2023 and since then the applicant is in custody. The applicant has cooperated with the investigation and has provided all the information which the applicant was having to the concerned authorities and



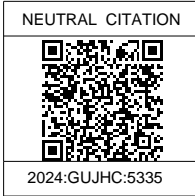
on the basis of the said information provided by the present applicant, the concerned authority has also lodged a complaint against the present applicant for the offences in question before the concerned Court.

3.1 Learned Senior Advocate appearing on behalf of the applicant submits that the punishment prescribed for the offence alleged against the present applicant is imprisonment for five years only. The offence triable by the Court of Magistrate. The trial of the offence is not likely to commence and conclude in the near future. He, therefore, submitted to allow the present application and enlarge the present applicant on bail subject to suitable conditions.

4. Learned advocate appearing on behalf of the respondent no.2 has opposed present application, inter alia, contending that the entire scam runs into Rs.1466/- crores.

4.1 Learned advocate appearing on behalf of the respondent no.2 has submitted that as per the settled proposition of law, the punishment prescribed for the offence in question would hardly have any bearing on the aspect of consideration of the bail application.

4.2 Learned advocate appearing on behalf of the respondent no.2 has submitted that the present applicant is the main perpetrator, who had availed the benefit of Input Tax Credit on the basis of forged and fictitious record to the tune of crores of rupees. The investigation qua other co-accused is still in progress and the authority in question is required to find entire



trail of money and is also required to book the other co-accused for the offence in question for which the presence of the present applicant in custody is necessary.

5. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers. In present case, the investigation is over and charge-sheet has been filed. The present applicant has been arrested in connection with the present offence on 12.10.2023. It is alleged against the present applicant that the applicant had availed the benefit of Input Tax Credit on the basis of forged and fictitious records. The applicant is alleged to have availed such benefit for purchase of certain goods, which were actually not purchased physically by the present applicant and has thus, availed the benefit worth crores of rupees under the guise of such fictitious purchase. The offence alleged against the present applicant is punishable with imprisonment for 5 years. The applicant is in custody since 12.10.2023. The trial of the offence is not likely to commence and conclude in the near future.

6. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of Sanjay Chandra v. Central Bureau of Investigation, reported in [2012]1 SCC 40.

7. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant in the FIR, without discussing the evidence in detail, *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.



8. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with file being **File No. DGGI/INT/INTL/1520/2023 – O/O AD-DGGI-RU-RAJKOT registered with Directorate General of GST Intelligence, Rajkot**, on executing a personal bond of Rs.10,000/- (Rupees Ten Thousand only) with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that he shall;

- (a) not take undue advantage of liberty or misuse liberty;
- (b) not act in a manner injurious to the interest of the prosecution & shall not obstruct or hamper the police investigation and shall not to play mischief with the evidence collected or yet to be collected by the police;
- (c) surrender passport, if any, to the Trial Court within a week;
- (d) not leave the State of Gujarat without prior permission of the Trial Court concerned;
- (e) mark presence before the **Directorate General of GST Intelligence, Rajkot** once in a month for a period of six months between 11.00 a.m. and 2.00 p.m.;
- (f) furnish the present address of his 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 Trial Court;

9. 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.

10. Bail bond to be executed before the 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.

11. At the trial, the 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.

12. Rule is made absolute to the aforesaid extent.

**Direct service** is permitted.

GIRISH

**(M. R. MENGDEY,J)**