

GIB/KL/ABDUL SHAJI/22.04.2021/HC-178

High Court Category : ANTICIPATORY BAIL

State : Kerala

Order No.: GIB/KL/ABDUL SHAJI/22.04.2021/HC-178

Name of Entry :
ABDUL SHAJI

Date : 22-04-2021

Breif Issue :

FACTS AND ISSUE OF THE CASE:

The applicant apprehends arrest for an offence of alleged non-payment of GST to the tune of Rs 17.53 Crores and non -filing of GSTR 3B returns for the period from October onwards. In this case the proprietor of the M/s A.R. Agencies Shri. Rajoob P.A, and his primary colluder, Shri. Abdul Saleem were proceeded against and their business and residential premises searched. Both of them were arrested and remanded to judicial custody. Abdul Saleem stated that he had shared the GST login credentials of M/s A.R. Agencies with the applicant.

It was also contended that the applicant had prepared GST invoices valued at ? 348.7 crores using the credentials of the Agency Certain blank cheques and documents which were incriminating were recovered from his house. He was not present. But his father was present, and was informed. Consequent to that, a summons was sent to him under Section 70 of the CGST Act, directing him to appear before the Superintendent of Central Tax and Central Excise with the relevant documents. The applicant states that he is innocent and has nothing to do with M/s A.R Agencies, and does not even know its proprietor.

Decision of Advance Ruling Authority :

DECISION:

After all finding and discussion the applicant has not yet been made an accused. On the basis of the alleged statement given by Abdul Saleem, the applicant has allegedly dealt with the filing of returns of the Agency. He had allegedly made false invoices. But as of now, no concrete evidence sufficient either to implicate him as an accused or proceed against him has been collected. Admittedly, A.R Agencies is a proprietorship belonging to Rajoob. He alone is to answer for anything done by the agency. Applicant has nothing to do with the Agency and has not gained any income from that business. His Bank accounts are available for scrutiny, and the applicant is willing to cooperate by producing those documents. His

custodial interrogation may not be necessary under the circumstances. The CGST officials had sufficient power to implicate the applicant in case they had the required materials with them. The fact that they have not arraigned him as an accused indicates lack of material. The applicant's apprehension of arrest is reasonable, because Abdul Saleem, who is also not a proprietor, has been arrested.

It is settled position that the applicant apprehending arrest need not be made an accused in a crime to seek the relief of anticipatory bail. It is sufficient in case he succeeds in establishing that his apprehension of arrest is reasonable - the applicant is entitled to the relief of anticipatory bail.

The bail application is allowed and the applicant is directed to appear before the investigating officer within three weeks.