

GIB/UP/GOVIND/30-05-2019/HC-87

High Court Category : Others

State : Uttar Pradesh

Order No.: GIB/UP/GOVIND/30-05-2019/HC-87

Name of Entry :
Govind Enterprises

Date : 30-05-2019

Breif Issue :

Facts & Issue of the case

The petitioner Govind Enterprises applied for registration under the U.P. Goods and Services Tax Act, 2017 (for short U.P. Act) to conduct business in packing material, by showing its place of business on the First Floor, N.H.-2, in front of Gate No.1, Anaj Mandi, Kosi Kalan, District Mathura. Upon which, on 09.03.2018, GST No.09CBIPA0305H1Z7 was provided to it.

The allegations made in the impugned FIR is that the dealer fraudulently, with a dishonest intention, by submitting false documents, with an intention to evade taxes, obtained registration, thereafter, took inward supply and passed on the goods to end users, without generating outward supply bills, received money in cash and deposited the same in bank account which was not declared at the time of seeking registration.

The contention of the petitioner is that has been emphasized by the learned counsel for the applicant is because no proper notice has been served upon the applicant demanding outstanding amount of GST, therefore, there was no necessity of the accused being arrested.

Decision of Advance Ruling Authority :

Decision:

It was held/decided that:

This is not a fit case in which indulgence of granting anticipatory bail should be exercised because it has come on record that the applicant's firm was found indulging in running business from bogus address and a huge transaction is shown to have been done without there is any such big transaction reflected from the account of the firm.

The argument of the learned counsel for the applicant that notice is required to be issued to the accused before lodging FIR also does not sound to be a reasonable view because there are offence alleged to have been committed under sections 420, 467, 468, 471, 34 and 120B IPC also regarding which no such notice is required to be sent. It is found to be a case of economic fraud in which normal course

adopted by the Courts should be not to grant stay against arrest because investigation might require custodial interrogation as well. This court is not to be guided only by the fact that apart from IPC, offence under U.P. Act is also said to have been committed which requires notice to be issued to the accused and in totality of the matter this Court finds that there is no genuine ground to grant relief of anticipatory bail to the accused-applicant in this matter.

Looking to the aforesaid fact, taking into consideration the gravity of accusation, and there being possibility of his fleeing from justice, without expressing any opinion on the merits of the case, this Court does not find good ground for enlarging the applicant on anticipatory bail in this case. Hence, the anticipatory bail application is rejected.

The two-judge bench comprising Justices Manoj Misra and Suresh Kumar Gupta held that the contention of the petitioner that no first information report can be lodged against the petitioner under the provisions of the Code of Criminal Procedure for offences punishable under the Indian Penal Code, as proceeding could only be drawn against him under the U.P. Goods and Services Tax Act, 2017, is liable to be rejected.

The petition is, therefore, dismissed. There is no order as to costs.