

## **Madhav Gopaldas Shah Vs State Of Gujarat-HC**

GST - Hitendra Shah, Prakashsinh Udavat and Madhav Shah in collusion with other persons set up firms in the name of economically backward persons, obtained GST number, misused the said numbers and obtained Input credit illegally for invoices of stock worth crores of rupees without actual physical transaction and caused huge loss to government revenue - apart from the firms Om Enterprise, Avi Enterprise and Shivay Enterprise, accused Madhav Shah has admitted that he has also committed billing scam in Parshvanath Engineering and S.K.Enterprise - accused Madhav Shah has also stated detailed facts about commission received by him in lieu of billing scam - bogus bills amounting to Rs.106.40 crores have been issued till July 2018 in one case and in another, turnover of sale is shown as Rs.173.58 crores in which tax amount due is Rs.21.12 crores - Application filed by Madhav Shah under section 439 of the Code of Criminal Procedure, 1973 for regular bail on the ground that he is in custody since 30.12.2018; is a young person pursuing studies in Chartered Accountancy and was employed by the co-accused Hitendra Shah; that he was acting under the instructions of Hitendra Shah and had not derived any financial gain.

Held: Role of applicant appears to be restricted to a limited extent as compared to that of the co-accused - considering the period of incarceration and the maximum sentence that can be imposed and the Public Prosecutor being unable to bring on record any special circumstances against the applicant and in view of the law laid down by the apex court in the case of Sanjay Chandra vs. CBI [2012] 1 SCC 40, prima facie , Court is of the opinion that it is a fit case to exercise the discretion and enlarge the applicant on a regular bail - application is, therefore, allowed and the applicant is ordered to be released on regular bail on executing personal bond of Rs.10,000/- with one surety of like amount and subject to conditions that he shall not take undue advantage of liberty or misuse liberty; not act in a manner injurious to the interest of the prosecution; surrender passport to the lower court within one week; not leave the State of Gujarat without prior permission of the Sessions Judge concerned; mark presence before the police station concerned once every English calendar month for a period of six months; furnish present address of his residence to the investigating officer and also to the Court and not change the residence without prior permission of the High Court - in case of breach of any of the conditions, the Sessions Judge would be free to issue warrant or take appropriate action in the matter - Application allowed: High Court [para 5, 6, 7, 8, 11]

- Application allowed: GUJARAT HIGH COURT

