

Neutral Citation No. - 2025:AHC:35508

Court No. - 83

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45965 of 2024

Applicant :- Gourav Jain

Opposite Party :- Union Of India And Another

Counsel for Applicant :- Anil Kumar, Prateek Kumar Srivastava

Counsel for Opposite Party :- Parv Agarwal

Hon'ble Ms. Nand Prabha Shukla, J.

1. Heard Sri V.P. Srivastava, learned Senior Advocate assisted by Sri Anil Kumar, learned counsel for the applicant, Sri Parv Agarwal, learned counsel for the opposite parties and perused the record.
2. The present Criminal Misc. Bail Application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed with a prayer to release the applicant on bail in Case No.1101/2024, under Sections 132(1)(b), 132(1)(c) & 132(1)(i) of Central Goods and Services Tax Act, 2017, DGGI, Ghaziabad during the pendency of trial in the Court below.
3. At the very outset, learned counsel for the applicant states the bail application of the applicant Gourav Jain is at the similar footing with the case of the co-accused, namely, Vikrant Singhal and Sachin Singhal, who have already been granted bail by the co-ordinate Bench of this Court passed in Criminal Misc. Bail Application No. 45540 of 2024 (Vikarant Singhal and another vs. Union of India) vide order dated 25.02.2025. The applicant is languishing in jail since 17.10.2024, having no criminal history.
4. Learned counsel for the opposite party could not dispute the aforesaid fact.
5. The order dated 25.02.2025 is quoted herein-below:

“1. Applicants–Vikrant Singhal and Sachin Singhal have filed this application under Section 483 Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail, during the pendency of trial in Case No. 1101 of 2024, titled Union of India Vs. Vikrant Singhal and others, under Sections 132(1)(b), 132(1)(c), 132(1)(i) Central Goods and Services Tax Act, 2017, DGGI Ghaziabad. The applicants are in custody since their arrest on 17.10.2024.

2. Briefly, the facts of the case are that the Director General of GST Intelligence, Ghaziabad (in short ‘DGGI Ghaziabad’) Regional Unit instituted a complaint dated 13.12.2024 against nine accused persons, wherein it is alleged that an intelligence input regarding indulgence of

the accused persons in passing on of fraudulent Input Tax Credit (ITC) was received, and according to it, the accused were issuing fake invoices without supplying underlying goods. Upon this information, a search operation at the relevant places of accused was conducted on 9.10.2024 and 10.10.2024. The three accused persons namely, Vikrant Singhal, Sachin Singhal and Gourav Jain managed to escape from their residence because of the hindrances created by their family members and the summons dated 12.10.2024 and 14.10.2024 issued for their appearance failed to evoke their response. Later, on 16.10.2024 they were associated in the investigation and their statements were recorded under Section 70 Central Goods and Services Tax Act, 2017 on 16.10.2024 and 17.10.2024, wherein they admitted their engagement in issuance of invoices without supply of material. According to Sachin Singhal and Vikrant Singhal, who are directors of M/s Siwon Enterprises Pvt. Ltd. and M/s MS Singhal Trading India Pvt. Ltd., they had availed Rs 24.12 crores Input Tax Credit and passed on Input Tax Credit of Rs.23.89 crores by issuing invoices without supply of goods. Similarly, the statement of accused Gourav Jain was recorded, who admitted that he had availed fraudulent Input Tax Credit of Rs.67.47 crores and passed on Input Tax Credit of Rs.63.57 crores through his five firms/companies without supply of relevant goods. The complaint also reproduces the statements of the accused persons. Further, it is averred in the complaint that the data of these fraudulent transactions is contained in a google drive, maintained by an employee Ram Gopal @ Deepanshu, who in his statement, admitted that the accused persons have been preparing false invoices for availing/ passing on Input Tax Credit. As per the allegations, the accused are mastermind of running a racket of fake invoicing and had availed and passed on fraudulent Input Tax Credit and committed the offences under Section 132(1)(b) & (c) Central Goods and Services Tax Act, 2017. The complaint further contains the details of the arrest of the accused, and their physical custody with the complainant for five days, and also discloses that in all fake Input Tax Credit of Rs. 885 crores was arranged from 143 firms, without supply of underlying goods. The complaint also contains the existence verification of fake firms, their data analysis, financial analysis and concludes that the accused have contravened various provisions of Central Goods and Services Tax Act, 2017 and prays for taking cognizance of above mentioned offences for the purpose of their prosecution and punishment. A copy of the complaint/ charge sheet dated 13.12.2024 is appended as Annexure SA-1 with supplementary affidavit filed by applicants.

3. The accused-applicants had applied for grant of regular bail before the Special Chief Judicial Magistrate and District and Sessions Judge, Meerut, but the said concession was declined vide respective orders dated 25.10.2024 and 26.10.2024. Hence, this application.

4. Pursuant to the advance notice, Mr. Parv Agrawal, learned counsel for Union of India-opposite party had appeared and filed his counter affidavit dated 16.1.2025 and additional counter affidavit dated 10.2.2025.

5. Learned counsel for applicants has argued that the applicants are directors of firms namely, M/s Siwon Enterprises Pvt. Ltd. and M/s MS Singhal Trading India Pvt. Ltd., who were engaged in the business of trading TMT bar, iron rod and steel and the said companies were registered under the GST Act with the respective GST Nos. 07AAXCS0492A1Z7 and 07AAPCM4702K1Z7, but because of the breakout of pandemic Covid-19, the applicants had applied for cancellation of GST registration in respect of M/s Siwon Enterprises Pvt. Ltd. and the same was cancelled vide order dated 2.6.2023 (Annexure No.4). Learned counsel for applicants has further argued that the GST deposits in respect of these firms were made by the applicants' firms in accordance with law, and during investigation, it was informed by the applicants that the firms M/s Siwon Enterprises Pvt. Ltd. and M/s MS Singhal Trading India Pvt. Ltd. had availed Input Tax Credit of Rs.21.70 crores and Rs.2.24 crores respectively, and had passed on Input Tax Credit of Rs.21.48 crores and Rs.2.41 crores, respectively. Learned counsel has drawn the attention of the Court to the statements of applicants recorded on 16.10.2024 and submitted that the details of suppliers and recipients of the firms were provided to the prosecution, and the allegations regarding involvement of the applicants through other fake firms is not supported with any evidence.

6. Learned counsel further argued that the transactions in respect of ineligible Input Tax Credit through the other firms cannot be linked with the applicants and the allegations of receiving commission by the applicants is not supported with any evidence, except the admission/confession of the accused suffered in custody. According to learned counsel, the applicants are confined in prison since their arrest on 17.10.2024, and the trial has not yet commenced, which is likely to consume considerable time, therefore, he prays for bail.

7. In support of his submissions, learned counsel for applicants has relied upon the decision of the Hon'ble Supreme Court in **Rajiv Jindal Vs. State of U.P.**, passed in **Petition(s) for Special Leave to Appeal (Crl.) Nos.13548-13550 of 2024** and the decisions of this Court in **Gurmeet Singh Batra @ Sahil Vs. Union of India** passed in **Criminal Misc. Bail Application No. 20538 of 2024** and **Qamar Ahmed Kazmi Vs. State of U.P.** passed in **Criminal Misc. Bail Application No.2329 of 2024**.

8. The prayer is vehemently opposed by Mr. Parv Agrawal, learned counsel for Union of India-opposite party, who has argued that the accused-applicants are masterminds, who were engaged in arranging the invoices without supply of underlying goods through

the fake firms and derived commissions. According to learned counsel, during investigation, the accused have suffered confession relating to their involvement in the commission of crime, and further, incriminating evidence collected has been relied upon in the complaint/charge sheet dated 13.12.2024. Learned counsel submits that total amount of fraudulent Input Tax Credit comes to Rs.885 crores, wherein 143 firms were involved, which were created by the accused persons. Learned counsel for Union of India has further referred to the complaint dated 13.12.2024 and contended that the existence verification of these firms was conducted and many firms were found to be non existent.

*9. Mr. Parv Agrawal, learned counsel for Union of India has drawn the attention of the Court to the additional counter affidavit dated 10.2.2025 and pointed out that by way of fraudulent Input Tax Credit, Rs. 885 crores was passed on to 1267 beneficiaries firms and the recovery of tax proceedings against the said firms have been initiated, and an amount of Rs.25.17 crores of tax, interest and penalty already stands recovered. According to him, the investigation in the case is in-progress and will take considerable time to conclude as the number of persons involved in the commission of crime is increasing day by day. Learned counsel submits that the alleged offences against the applicants are economic offences and in such cases, the concession of regular bail cannot be extended. In support of his arguments, he has relied upon the decision of the Hon'ble Supreme Court in **Tarun Kumar Vs. Assistant Director Directorate of Enforcement passed in Criminal Appeal No. of 2023 (@ SLP (Crl.) No.9431 of 2023** and the decision of this Court in **Mukesh Kumar Jha Vs. Union of India, (2024) 19 Centax 331 (All.)**. He prays that the application be dismissed.*

10. After hearing the learned counsel for the parties and considering their submissions, this Court finds that as per the prosecution, the accused-applicants are directors of M/s Siwon Enterprises Pvt. Ltd. and M/s MS Singhal Trading India Pvt. Ltd., who were allegedly involved in arranging fake invoices for various buyers or end-users in order to pass on fake Input Tax Credit to them, and they also arranged availment of fake Input Tax Credit in the fake firms, and in return the accused-applicants had been receiving commission in cash. A perusal of the complaint/charge sheet dated 13.12.2024 would show that the applicants were associated in investigation on 16.10.2024 and their statements under Section 70 Central Goods and Services Act, 2017 were recorded, and as per these statements the accused had given the separate lists of suppliers and recipients of their above noticed two firms. The figures of availment of Input Tax Credit and passed on Input Tax Credit in respect of the two firms is Rs.24.12 crores and Rs. 23.89 crores, respectively, and this information was already furnished by the applicants while filing the tax returns. Further, the financial analysis disclosed in the complaint/ charge sheet dated

13.12.2024 shows that the statements of accounts in respect of 121 firms were received from the banks for their analysis, but during the course of hearing, nothing has been shown that any evidence linking the applicants with the said accounts of 121 firms has been collected.

11. The complaint/ charge sheet dated 13.12.2024 though is silent about number of the beneficiaries, but according to the additional counter affidavit dated 10.2.2025, total 1267 persons received the benefit of fraudulent Input Tax Credit, however neither their particulars have been given in the additional counter affidavit nor the amount of commission received by the applicants has been disclosed. The sole piece of evidence relied upon by prosecution regarding involvement of accused-applicants with fake firms is the confession of the applicants recorded under Section 70 Central Goods and Services Tax Act, 2017, but the truthfulness of the same would be tested during trial, which is yet to commence.

12. Concededly, after the detention of the applicants, their physical custody was granted to the prosecution for 120 hours, and thereafter, on 26.10.2024 the applicants were sent in judicial custody. To a pointed query, it is fairly stated by the learned counsel for Union of India that the alleged fraudulent Input Tax Credit relates to the transactions for the financial year 2021-22 and 2022-23, and the proceedings for recovery of tax has not been initiated against the applicants, as even the notices for assessment of tax contemplated by Section 74 GST Act have not been issued.

13. No doubt, the judicial pronouncements relied upon by the learned counsel for Union of India have laid down that the economic offences constitute a class apart and need to be visited with different approach, for the purposes of bail, but while granting bail, the Court has to also keep in view the nature of accusations, evidence relied upon by prosecution and the punishment likely to be imposed for the alleged offences, in the event of conviction of the accused.

*14. By now, it is well settled law that the grant of bail is a rule, and denial is an exception, and this principle has been reiterated by the Hon'ble Supreme Court in the case of **Sanjay Chandra Vs. CBI (2012) 1 SCC 40**, and the relevant portion of the decision reads as under :-*

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment

begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.

23. Apart from the question of prevention being the object of refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson.”

15. Admittedly, the alleged offences are triable by magistrate and carry a maximum punishment of five years. As far as the investigation relating to the applicants is concerned, the same has been completed, as the complaint/ charge sheet dated 13.12.2024 has been filed against the applicants and their firms, whereupon the cognizance order dated 13.12.2024 has also been passed. However, the charges against the accused-applicants have not been framed and trial is yet to start. The pendency of the investigation relating to other accused persons would not be a valid ground to deny the concession of regular bail to the applicants. Most importantly, the entire case of the prosecution either hinges upon the documentary evidence or the admission/confession of the accused, and majority of the prosecution witnesses are official witnesses, and at present there does not seem to be any possibility of their being won over. Thus, keeping in view the nature of the trial, period of more than five months undergone by the applicants as an undertrial as well as the fact that there is no likelihood of conclusion of trial in near future, this Court deems it appropriate to extend the concession of regular bail to the applicants, as their further detention behind the bars would not serve any useful purpose.

16. Resultantly, without meaning any expression of opinion on the merits of the case, the bail application is allowed and it is ordered that the applicants–Vikrant Singhal and Sachin Singhal be released

on regular bail in the above case subject to their furnishing the requisite bail bonds and surety bonds to the satisfaction of the trial court. It is further directed that the accused-applicants shall also abide by the terms and conditions of bail, which shall be imposed by the trial court at the time of acceptance of their bail bonds and surety bonds.

6. Considering the facts and circumstances of the case, without expressing any opinion on the merits of the case and considering the ground of parity of the applicant with the co-accused Vikrant Singhal and Sachin Singhal, the bail application is **allowed** on the same terms as of the order of the co-accused passed in Criminal Misc Bail Application No.45540 of 2024 (*Vikrant Singhal and Another vs. Union of India*) on 25.02.2025.

7. Let the applicant **Gourav Jain** be released on regular bail in the above case crime subject to his furnishing the requisite bail bonds and surety to the satisfaction of the trial Court. It is further directed that the accused-applicant shall also abide by terms and conditions of the bail, which shall be imposed by the trial Court at the time of acceptance of his bail bonds and surety.

Order Date :- 11.3.2025

Monika/Nisha