IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-35708-2018
Date of Decision:01.12.2018

Karan Sharma

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Amandeep Singh Talwar, Advocate,
for the petitioner.

Ms. Monika Jalota, DAG, Punjab.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.106 dated 05.07.2018, registered at Police Station Gobindgarh Mandi, District Fatehgarh Sahib, under Sections 420 and 120-B of the Indian Penal Code.

Notice of motion was issued in this case. Learned State counsel has put in appearance on behalf of the respondent-State and contested this petition.

I have heard learned counsel for the petitioner as well as learned State counsel and gone through the record.

From the record, I find that FIR, in the present case, has been registered on the basis of a letter written by the Assistant Excise & Taxation officer, Fatehgarh Sahib. As per the prosecution version, the FIR was registered against the firms for causing loss of revenue to the government by committing fake sale/purchase to the tune of crores of rupees by getting registration number under the G.S.T. Act, 2017 on the basis of wrong/fake documents. It is also mentioned in the FIR that the Government has allowed businessmen for getting registration number by uploading documents on G.S.T. Online portal. Moreover, the firms, which are already registered in VAT before implementation of G.S.T., they can migrate after 01.07.2017 by logging in G.S.T. Portal. On examining G.S.T. R 3-B and G.S.T. R-1 uploaded by M/s Sri Pawan Enterprises, it revealed that the said firm has given detailed particulars of sale purchase from July, 2017 till December, 2017. Since heavy tax was involved, therefore, a notice was issued for verification of the firms, on which the firms submitted their sale purchase account and some bills and sought some period. However, thereafter, the said firms did not extend any cooperation in verification. It reveals from verification of the documents that the said firm made purchase worth about ₹80 crores from two firms from Delhi namely M/s Pingansik Enterprises and M/s Shree Radha Group of Industries and submitted I.T.C. Claim for ₹14.30 crores. During the course of verification, the business person submitted just a few bills. It revealed from verification of the said bills that the vehicle used by the said firm for transportation of goods is Honda Activa bearing Registration No.PB1-GB-3835. In the FIR, so many illegalities have been pointed out.

At the time of arguments, learned State counsel argued that there are serious allegations against the present petitioner and scrutiny of returns filed by M/s Pawan Enterprises, M/s Shree Maa Chintpurni Alloys and M/s Vardhman International had revealed that the firms made purchase amounting to ₹29.66 crores from various other firms, which were found indulging in fake input tax credits amounting to ₹5.33 crores. The firm M/s G.B.Steel Industry while obtaining registration under G.S.T. furnished a particular e-mail I.D. which found to be e-mail address of M/s Dhiman PK Associates, one whose partner was Sammy Dhiman. There is also allegation that Sammy Dhiman resorted to bogus bills for evasion of taxes. It has also come in the knowledge that the firm M/s G.B.Steel Industry floated for the purpose of fraudulent distribution input tax credits with Karan Kumar at the forefront while the transactions have been made by the promoters by M/s Dhiman PK Industry. The transactions amounting to ₹17.15 crores have been shown to be made between Pawan Enterprises and M/s G.B.Steel Industries but as per the bank statement of the said firms, there are nominal bank transactions which shows that there was only flow of bill without any casual movement of goods. Learned State counsel further submitted that so many fake firms have been formed to evade the payment of G.S.T.

On the other hand, learned counsel for the petitioner submitted that the main offence is under the G.S.T. Act and the FIR cannot be registered under Sections 420 and 120-B of IPC.

Learned State counsel submitted that as under the G.S.T. Act, only the matter regarding goods and service tax can be dealt with, but in the present case so many fake firms have been formed and there are forgery of documents etc. Therefore, FIR in the present case can be registered under Sections 420 and 120-B of IPC also.

After hearing learned counsel for the petitioner as well as learned State counsel and going through the record, however, without discussing the facts of the case in minute details and without expressing any opinion on the merits of the case, I find that there are serious allegations levelled against the present petitioner and the petitioner is required for custodial interrogation.

Therefore, finding no merit in the present petition, the same is dismissed.

01.12.2018 **(INDERJIT SINGH)**
parveen kumar **JUDGE**

Note: Whether speaking/reasoned : Yes
Whether reportable : No