**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-12257 of 2020
Date of Decision:-06.07.2020**

Dheeraj

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Amardeep Sheoran, Advocate for
Mr. J.P. Jangu, Advocate
for the petitioner.

Mr. Deepak Bhardwaj, Deputy Advocate General, Haryana.

JASGURPREET SINGH PURI J.(Oral)

Petitioner-Dheeraj has filed the present second (inadvertently written as first) petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No. 718 dated 31.07.2016, under Sections 420, 465, 467, 468 and 471 IPC (Sections 120-B of IPC and Section 10-A of Central Sales Tax Act added later on), registered at Police Station Gurugram City, District Gurugram.

The first bail application was filed before this Court vide CRM-M-55486 of 2019, which was dismissed as withdrawn on 23.01.2020.

The allegations, which have been contained in the FIR are that a complaint was received from the office of Excise and Taxation

Department against the petitioner that he has knowingly furnished false declaration “F” Forms. It is stated in the complaint that one M/s Kartikey Enterprises Holding TIN-06791939957 is a registered dealer in Gurugram (W) and the petitioner, namely, Dheeraj Kumar s/o Sohan Lal, r/o B-296, Sector 11, Vijay Nagar, Ghaziabad (UP) was the proprietor of the above said firm and that the assessment for the financial year 2012-13 was framed vide demand No.803 dated 18.11.2014 by the then assessing authority creating an additional demand of Rs.40,85,288/- under the CST Act, 1956. Further the assessing authority allowed the time for submission of forms 'C' and 'F” upto 31.03.2015. Thereafter, the dealer submitted six (6) 'F' forms of having value of Rs.7,78,15,020/- received from M/s Purvanchal Trading Agency, Itanagar, Arunachal Pradesh, for rectification of original assessment order. During the verification for genuineness of 'F' forms, an e-mail dated 08.02.2016 was sent. In response to the verification made, the information received from the office of the Superintendent of Tax and Excise (West) Siang District, Aalo, Arunachal Pradesh vide Letter No.Ws/VAT-01/13-14 (Vol-11)/1257 dated 09.02.2016 giving the information that these six 'F' forms were not issued by its office to M/s Purvanchal Trading (headquarter at Itanagar) and M/s Purvanchal Trading Agency, Ganga Market, Itanagar and that the aforesaid company is not registered in their office and that there is no such TIN-12171391184 is available in their office. On the basis of this information, the FIR No. 718 dated 31.07.2016 was registered under Sections 420, 465, 467, 468 and 471 IPC (Sections 120-B of IPC and Section 10-A of Central Sales Tax Act added later on) at Police Station Gurugram City, District Gurugram.

On the basis of the FIR, the petitioner was arrested on 24.07.2019 and since then he is in custody.

Learned counsel for the petitioner has submitted that in fact the present FIR was not based upon the correct facts and was false because the petitioner never had any knowledge with regard to furnishing of the false declaration. He has further submitted that in fact the main culprit in the present case is one Vijay Gulati, who used to manage the affairs of the company and was *de facto* proprietor of the company, although the name of the petitioner has been reflected in the documents at all places. He has submitted that the petitioner was innocent because the entire submission of the documents, if any, was done by said Vijay Gulati and not by the petitioner, who did not have any knowledge with regard to the submission of those documents.

He has further submitted that in the present case the challan has already been filed and charges have also been framed by the trial Court on 15.2.2020. However, no witness has been examined till date. He has further submitted that it is a case where the investigation has already completed and the entire case is based upon documents, which are already before the Court and were presented alongwith the challan. Therefore, it is a case where the petitioner may be considered for grant of bail as he is in custody for the last almost one year and there is likelihood that the trial may take long time in the present case. He has further submitted that earlier the petitioner had filed the bail application vide Criminal Misc. No. M-55486 of 2019, which he had withrdawn on 23.1.2020 on the basis of reply, which was filed by learned State counsel, in which it was stated that the matter was serious in nature. He has further submitted that after passing of the said order, charges were framed by the learned trial Court, however, no witness has been examined till date, which may due to the on-going epidemic in the country. Furthermore learned counsel has submitted that there is no other case against the petitioner.

On the other hand, learned State counsel has submitted that it is correct that the charges in the present case have been framed on 15.2.2020 and it is also correct that no witness has been examined till date. He also submitted that all the witnesses are official and based on records. However, he has opposed the bail application on the ground that the matter is serious in nature because the allegations against the petitioner that he had fabricated the form 'F' in order to derive undue benefit for getting the benefit of tax. However, the learned State counsel has not disputed the assertion of counsel for the petitioner that there is no other case against the petitioner.

I have heard learned counsel for the parties and gone through the records.

The custody period of the petitioner w.e.f. 24.7.2019 has not been disputed by learned State counsel and it is also not disputed by learned State counsel that after the withdrawal of the earlier petition, the charges have been framed by the trial Court on 15.2.2020, however, no witness has been examined till date. It is also not disputed by learned State counsel that all the witnesses are official in nature and the entire record has already been placed before the trial Court. The same would be a relevant factor for the purpose of considering grant of bail to the petitioner. Admittedly, there is no other case pending against the petitioner.

Therefore, taking into consideration the totality of circumstances in the present case, I deem it fit and appropriate to admit the petitioner on bail. Resultantly, the present petition is allowed. It is ordered that the petitioner shall be released on regular bail on his furnishing bail bond/surety to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Gurugram.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

July 06, 2020 **(JASGURPREET SINGH PURI)**
Vijay Asija **JUDGE**

Whether speaking/reasoned Yes / No
Whether Reportable Yes / No