

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-19551-2020 (O&M)

Date of Decision:- 7.8.2020

Subhash Chander

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ankur Mittal, Advocate, for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

Mr. Lalit Singla, Advocate, for the complainant.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case Complaint case No.COMA/46/2019, dated 18.10.2019, under Section 69/132(1)(b)(c) of the Punjab Goods and Service Tax Act, 2017.
2. Reply by way of affidavit of Anita Sodhi, State Tax Officer, Mobile Wing, Patiala has been filed. The same is taken on record.

3. The allegations, in nutshell, are that the petitioner had availed Input Tax Credit (ITC) to the tune of about ₹10.81 crores on the basis of invoices without there being actual sale of goods.
4. Learned counsel for the petitioner has submitted that the vires of the Act i.e. Punjab Goods and Service Tax Act, 2017 has itself been challenged in CWP No.8004-2020 wherein notice of motion has been issued by the Hon'ble Division Bench of this Court and which presently stands fixed for 23.9.2020.
5. The aforestated position regarding challenge of vires is not disputed by the learned State counsel.
6. On the last date of hearing while noticing the aforesaid contention of the petitioner, this Court had ordered for release of the petitioner on interim bail.
7. Learned counsel for the petitioner has submitted that since petitioner have undergone custody of a period of about 10 months and that the maximum sentence provided for the offence in question is 5 years, therefore, no useful purpose would be served by detaining the petitioner behind bars as the trial in any case is not likely to be immediately concluded since proceedings of the trial are virtually at a stand still.
8. On the other hand learned State counsel has submitted that since it is a huge scam involving a colossal amount of more than ₹10 crores, no case for grant of bail is made out.

9. I have considered rival submissions addressed before this Court. Keeping in view the aforesaid custody period and also the fact that the maximum sentence provided for the offence in question is 5 years and that the vires of the Act is itself under challenge, the petition merits acceptance and is hereby accepted. The interim directions dated 20.7.2020 are hereby made absolute on the same terms and conditions.

August 7, 2020
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(GURVINDER SINGH GILL)
JUDGE

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