

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc.-M-50256 of 2019

Date of Decision: January 23, 2020.

Sanjay Dhingra

.....Petitioner

versus

Director General of Goods and Services Tax Intelligence

.....Respondent

CORAM: HON'BLE MR.JUSTICE VIVEK PURI.

Present: Mr.R.S.Rai, Senior Advocate with
Mr.Rohit Gupta, Advocate, Mr.Piyush Gupta, Advocate,
Ms.Amandeep Kaur Sabharwal, Advocate,
Mr.Hemant Bajaj, Advocate and
Mr.Amar Partap Singh, Advocate, for the petitioner.

Mr.T.K.Joshi, Advocate, for
Mr.Ram Pal, Advocate, for the respondent.

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Vivek Puri, J.

The present petition is for grant of regular bail to the petitioner who was arrested on 07.10.2019 under Section 69 read with Section 132 of the Central Goods and Services Tax Act, 2017 (for short, 'the Act').

Briefly, the allegations against the petitioner are to the effect that he alongwith Gulshan Dhingra and others were involved in the business of generation and selling of fake tax invoices without supplying the goods through various firms/companies. These firms/companies were either under their control or were created by them in the name of their employees or known persons. The input tax credit has been availed by the said firms/companies on the basis of fake invoices issued by various non-existent firms/companies. By generating and selling fake invoices, the accused have

facilitated irregular availment and utilization of input tax credit by various entities leading to substantial and wrongful loss to the government revenue. Accordingly, the arrest of the petitioner was effected on 07.10.2019 on the allegation that by creating fake invoices, liability to the tune of Rs.127 crores has been created for the government.

I have heard learned counsel for the parties and perused the paper book.

Learned senior counsel on behalf of the petitioner has argued that at the time of arrest and production in the Court, only police remand of the petitioner was sought and as such confining him in further custody is not required. The complaint has already been presented and no notice under Section 74 of the Act has been issued for determination of the tax. Furthermore, as per the allegations in the complaint, the evasion to the tune of Rs.13 crores has been mentioned qua M/s Kwaliti Limited pertaining to the petitioner.

On the contrary, it has been contended by the learned counsel for the respondent that merely because the accused has been remanded to judicial custody, it cannot be said that he becomes entitled to bail. There is no absolute bar to arrest and launch prosecution before adjudication or assessment or before issuance of any prior notice to the petitioner. Furthermore, the petitioner is also the king-pin and other concerns, as mentioned in the complaint, are under the control of the petitioner.

The allegations against the petitioner are serious and magnitude of fraud is to the extent of Rs.127 crores. It is too early to conclude that arrest can't be effected or prosecution can't be launched without issuing notice under Section 74 of the Act particularly when the power of arrest has been

given under Section 69 of the Act. Furthermore, merely because no police remand of the petitioner was sought and he has been remanded to judicial custody, it cannot be construed as a circumstance which may entitle him to be released on bail. The allegations against the petitioner are with regard to commission of economic offence of high magnitude and in this regard it will be appropriate to refer to the decision rendered by the Supreme Court in Nimmagadda Prasad versus Central Bureau of Investigation, 2013(3) SCC (Criminal)575, wherein it has been held as under:-

“28. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as grave offences, affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.”

Furthermore, in the aforesaid decision and also in Y.S.Jagan Mohan Reddy versus Central Bureau of Investigation, 2013(3) R.C.R. (Criminal) 108 it has been held that while granting bail, the Court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tempered with, the larger interests of the public and the State and other similarly considerations.

In the instant case, there are serious allegations against the petitioner that fake invoices of approximately Rs.931 crores involving GST of approximately Rs.127 crores without movement of goods have been

issued and input tax credit has been availed.

Keeping in view the entire facts and circumstances of the case,
no justified ground is made out to grant concession of bail to the petitioner.

Dismissed.

January 23, 2020
mohinder

(VIVEK PURI)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No