IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Nineteenth day of April Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.19220 of 2020

1 J.AYESHA [PETITIONERS / ACCUSED]
2 A.MOHAMMED JUNAID

Vs

STATE REP. BY. [RESPONDENT]
THE SUPERINTENDENT OF GST & CENTRAL EXERCISE,
CHENNAI NORTH COMMISSIONER,ANTI-EVASION SECTION,
ROOM NO.308, 3RD FLOOR,ANNEX BUILDING, GST BHAVAN,
NO.28/1, M.G.ROAD, NUNGAMBAKKAM,CHENNAI-600 034.
(CRIME NO. NOT KNOWN OF 2020]

For Petitioner : M/S J.KATHER HUSSAIN Advocate

For Respondent : MR.M.VENKATESWARAN SPECIAL PUBLIC PROSECUTOR FOR GST CASES

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 174 and 175 of IPC r/w 193, IPC under Section 69 & 79 of GST Act,, in F,No.GEXCOM/AE/INV/GST/1180/2020-AE-O/o Pr.Commr-CGST-Ch(N), seek anticipatory bail.

2.The case of the prosecution is that the petitioners have floated 50 fake companies including a company owned by one Maria Glinden Prabhu and passed an ineligible credit to the tune of Rs.14.15 Crores, thereby committed an offence under Section 132(1)(b) and (c) of CGST Act, 2017. Hence, the case came to be registered.

3.The learned counsel appearing for the petitioners submit that the petitioners are only owning seven companies and the remaining 43 companies was not owned by them, without giving any such opportunity of hearing a false case has been registered against the petitioners. He would further submit that this Court by an order dated 16.03.2021 directed the petitioners to appear before the respondent police and produce all the documents to establish their contentions. He would further submit that the petitioners are regularly appearing before the respondent police. Hence, he prays for grant of anticipatory bail to the petitioners.

4.The learned Special Public Prosecutor (for Chennai North GST and Central Excise) have filed a counter affidavit in paragraphs 2, 3, 4, 7, 8 and 10 extracted hereunder:-

''2. Mr. Maria Glinden Prabhu in his voluntary statement dated 06.10.2020 before Range Officer, Dindigul deposed that during March 2018, he worked as driver to Mr. I.K. Khader Feroze, Chennai and his personal documents viz. Aadhar Card, PAN Card, Photo, Bank pass book Cell Number were collected by Mr.I.K.Khader Feroze, and GST registration number 33BHDPJ7870A1ZN was obtained in his name and residential address at No. 3/147, Velakannipuram, Chettiyapatti, Dindigul; that Mr. I.K. Khader Feroze issued fake invoices/bills without actual purchase and supply of goods; that Mr.I.K Khader Feroze obtained second GST registration number 33BHDPJ7870A2ZM at Chennai in the name of Lion Traders without his knowledge; that by using the same documents, Mr.I.K.Khader Feroze obtained third GST registration number 33BHDPJ7870A3ZL in the name of MM Traders in his residential address without his knowledge.

3. In order to investigate further, statement of Mr.Maria Glinden Prabhu was recorded on 19.11.2020 as per provisions under Sec 70 of CGST Act, 2017 wherein inter alia stated that Mr.A. Mohammed Junaid is Brother-in-Law of Mr.I.K.Khader Feroze and he is the mastermind behind floating of fake companies. He stated that several fake companies are floated by Mr. A. Mohammed Junaid by using documents of various persons and Mrs.S.Bhanumathy, Tax Consultant, used to file returns of some of the companies.

4. It is gathered from the investigation done by this office the following companies have been floated by Mr.A.Mohammed Junaid:

Sl.No.	GSTIN/Trans ID	Trade Name	Legal Name
1.	33AUAPB0146J1ZA	SVN LEATHERS	VISWANATHAN BHANU MATHY
2.	33ALVPM3029P1ZG	N.R.TRADERS	PALANI MUTHUKUMARAN
3.	33AQOPN3144Q2Z9	THASLIMA LEATHERS	MOHAMMED ALI HUSSAIN NAZEER
4.	33AAOPI4208C2Z5	ELITE ENTERPRISES	KADER ISMAIL
5.	33CFDPM0423H1ZY	TIRUCHENDUR MURUGAN AGENCIES	VEERAPPAN MURUGAN
6.	33BHDPJ7870A3ZL	M.M.TRADERS	MARIA GLINDEN PRABHU

Sl.No.	GSTIN/Trans ID	Trade Name	Legal Name
7.	33DGKPS0284K1Z0	S.S.TANNERS	KANNNAN SURESH
8.	33BHWPA2678G1Z5	FAKRU & SONS	FAKRUDEEN AZARUDEEN
9.	33ELRPM4554H2ZO	SK AGENCIES	MOHAMED BILAL
10.	33AHQPD5495D1ZA	F.S.ENTERPRISES	DHANASEKARAN
11.	33BQLPM1523Q1ZI	K.N.F. LEATHERS	MOHAMMED IQBAL MOHAMMED SHAFEEQUE
12.	33BLLPS9011C1Z8	H H TRADERS	RAJARATHINAM SUBRAMANIAN
13.	33EMTPM3275E2ZQ	S K I M LEATHERS	MOHAMED ILYAS
14.	33BEJPN5071E1ZM	HRM EXPORTS	NIJAMDEEN
15.	33CGIPS6284G1Z0	SRI DURGAI AMMAN HP GAS GRAMIN VITRAK	SENTHILKUMAR
16.	33AAOPI4208C3Z4	LEATHER PARK	KADER ISMAIL
17.	33BHDPJ7870A1ZN	AJ TRADERS	MARIA GLINDEN PRABHU JOHN PETER
18.	33BHDPJ7870A2ZM	LION TRADERS	MARIA GLINDEN PRABHU JOHN PETER
19.	33ELRPM4554H1ZP	S K B LEATHERS	MOHAMED BILAL
20.	33BQLPM1523Q2ZH	ALIF TRADERS	MOHAMMED IQBAL MOHAMMED SHAFEEQUE
21.	33BQLPM1523Q3ZG	S. N.K. TRADERS	MOHAMMED IQBAL MOHAMMED SHAFEEQUE
22.	33EMTPM3275E1ZR	SKI AGENCES	MOHAMMED ILYAS
23.	33CRGPB6145Q1ZJ	GOLDCREST	SHAKIR SHAFFI BASHA
24.	33LBNPS5447J1ZU	RAJALI & CO	SELVAM
25.	33HXLPK2289G1Z4	NANDU LEATHERS	VADIVEL KRISHNAMOORTHI
26.	33ANCPB6748F1ZB	SB ENTERPRISES	SEKAR BHARATHI
27.	33CDAPS6625Q3ZY	YESKAY ENTERPRISES	PARAMASIVAM SURESH
28.	33APJPM8175J2ZE	AIM TNTERNATIONAL	MOHAMED SHAKIR
29.	33CDVPS7585L1ZC	JAYASRI TRADERS	NATARJAN SETTU
30.	33AADPF3884A2Z7	IK LEATHER EXPORTS	IBRAHIM KHALIFULLA KHADER FEROZE
31.	33ARZPS7420E1ZE	ARSHIYA TRADING & CO	SYED ISMAYIL

Sl.No.	GSTIN/Trans ID	Trade Name	Legal Name
32.	33CGGPA7919C1ZS	AYYATHUNAI LORRY SERVICE	GURUVAIAH ANGAIAH
33.	33ADJPC2782M1ZF	CHANDRASEKAR ENTERPRISES	CHANDRASEKAR
34.	33AYDPA0819L3ZQ	A.K ENTERPRISES	YOUSUFF ABDULKHADAR
35.	33CPEPB6865F1Z1	NISHA TRADERS	RAJASEKARAN BASKARAN
36.	33AEGPT3431G1ZO	FARAH GARMENTS	MOHIDEEN THAJUDEEN
37.	33AZXPP9551B1ZX	ELITE FEET	RAMABHADRARAJU PRAKASH
38.	33CTYPA2217G1ZU	A.S.TRADERS	ASHRAF ALI ABDUL AZEEM
39.	33AJQPA6647J1ZZ	DHANISH ENTERPRISES	BASHA MOHIDEEN ASAD MOHIDEEN
40.	33CDAPS6625Q2ZZ	YESKAY TRADERS	PARAMASIVAM SURESH
41.	33AYDPA0819L4ZP	AK ENTERPRISES	YOUSUFF ABDULKHADAR
42.	33BUBPA3541A1ZN	MUTHIBA TRADERS	VELLORE SAIBAN ASKARALI
43.	33BSBPN0329K1ZX	NOOR TRADERS	USAIN MOHAMED NOOR MOHAMED SAIT
44.	33CPEPB6865F2Z0	BASKAR ENTERPRISES	RAJASEKARAN BASKARAN
45.	33CUXPK2011G2ZQ	TK OVERSEAS	AHAMED RAWTHER KAMARUDEEN
46.	33ILUPS9221J1Z9	K.M.S TRADERS	SULTANA
47.	33AADPF3884A1Z8	NEW SKYMOON TRADERSS	FEROZEIBRAHIMKHALI FULLA KHADER
48.	33AYDPA0819L1ZS	MARVA TANNERS	YOUSUFFABDULKHADAR
49.	33AYDPA0819L2ZR	MARVA TANNERS	YOUSUFFABDULKHADAR
50.	33BYBPJ6676HIZA	GOBRA ENTERPRISES	JOHN NEPOLEAN

7. In Para 5, the Petitioners create an impression that violation done by them is of calculation or clerical errors in returns filing; however it is evident from the statement dated 19.11.2020 of Mr.Maria Glinden Prabhu that Mr.A.Mohammed Junaid has floated various fake companies and issued invoices without actual supply of goods and passed on ineligible Input Tax Credit. It shows that it is a clear pattern of Bill Trading and the preliminary

quantification of the case involving the Petitioner works out to GST evasion of Rs.14.15 Crores.

8. The averment of the Petitioners that a raid was carried out while these petitioners were away from Dindigul and their house was broken open and many articles, jewels, documents were seized by the officers of the respondent is not correct as the officers of GST entered the farm house namely M/s A J Farms Bathalagundu Road, Vakkampatti, Panjampatti Perivu, Dindigul, Tamil Nadu with authorization for search (FORM INS-01) issued by the Joint Commissioner, Chennai North Commissionerate under Sec 67(2) of CGST Act, 2017. The officers of GST showed authorization for search to Mr Antony Raja Arokiyam, who introduced himself as owner of the said premises and he acknowledged by seeing the authorization for search. On the reasonable belief that incriminating documents were secreted inside the house, the officers with the assistance of Mr Antony Raja Arokiyam, and two independent witnesses a detailed search was conducted and found certain incriminating documents, Laptop, Tab and seized it and mentioned in a Mahazar dated 20.11.2020 which was drawn on the spot. It is submitted that no other records or things were seized other than listed in Mahazar and a copy of Mahazar was also served to Mr Antony Raja Arokiyam under dated acknowledgment. It is reiterated that no jewellery was seized during the said procedure.

10. It is most humbly submitted that at the time of introduction of Goods and Service Tax with effect from 01.07.2017, new registrants were issued registration certificates based on the information and self-declaration made by them on the GST Common Portal without physical verification of their business premises and stock of the goods in hand. The above said facility was created by the Government of India for smooth functioning of business of the tax payers with good faith. This facilitation is being misused by the many persons to generate ineligible Input Tax Credit by creating fake companies and fake transactions and it is submitted that the petitioner, along with his accomplices, appears to be deeply involved in such fake invoice racket. It is submitted that these acts are creating a huge loss to the exchequer and preliminary quantification of the case involving the Petitioner worked out to GST evasion of Rs.14.15 Crore approximately.''

5.Considering the fact that the allegation against the petitioners owned 50 companies in which the petitioners are only owning seven companies and the remaining 43 companies was not owned by them and the investigation is pending and the huge amount of transaction is involved to a tune of Rs.14.15 Crores, this Court is not inclined to grant anticipatory bail to the petitioners.

6.Accordingly, this Criminal Original Petition is dismissed.

-sd/-
19/04/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SUPT OF GST, CHENNAI,
CENTRAL EXERCISE,CHENNAI NORTH
COMMISSIONER,ANTI-EVASION SECTION,
ANNEX BUILDING,GST BHAVAN,
NO.28/1, M.G.ROAD, NUNGAMBAKKAM.

2 THE SPECIAL PUBLIC PROSECUTOR
FOR GST CASES,HIGH COURT, MADRAS.

CC to M/S J.KATHER HUSSAIN Advocate on payment of necessary charges

CRL OP.19220/2020

Date :19/04/2021

RVR 07/05/2021