

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

**CRM-M No.3963 of 2021 (O&M)
Date of Decision.15.03.2021
(Heard through VC)**

Arun Gupta

...Petitioner

Vs

State Tax Officer, Office of Assistant Commissioner State Tax, Ludhiana-3,
Ludhiana Division, Ludhiana

...Respondent

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Jagmohan Bansal, Advocate
for the petitioner.

Ms. Rashmi Attri, AAG, Punjab with
Mr. Saurabh Singla, State Tax Officer.

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JAISHREE THAKUR J. (ORAL)

The instant petition has been filed under Section 439 Cr.P.C.
for grant of regular bail to the petitioner in a case registered by the State
Tax Officer, Ludhiana under Section 132 (1) (c) of the Central GST Act,
2017 and Punjab GST Act, 2017.

Learned counsel appearing for the petitioner herein would
contend that he has been arrested on 10.11.2020 in a case registered by the
Sales Tax Officer, Ludhiana under Section 132 (1) (c) of the Central GST
Act, 2017 and Punjab GST Act, 2017 on account of wrong availment of
Input Tax Credit. It is argued that a liability of Rs.6.30 crores has been
fastened upon him, even though the petitioner has already reversed the entry
pertaining to Rs.1.12 crores. It is further argued that at best, an amount of
Rs.5.18 crores would be the liability of the petitioner, which liability is
disputed. It is also argued that as on date of filing of the petition, no FIR or

complaint had been filed, which complaint is now in existence in which the petitioner would face trial. It is also submitted that there is a challenge to the vires of Section 69 and 132 of the Central Goods and Service Tax Act, 2017 in CWP No.8004 of 2020 titled as *Tarun Bassi Vs. State of Punjab and others* wherein notice has been issued to the State of Punjab and in a connected matter notice has been issued to the Union of India, while further contending that the arrest under Section 69 of the Punjab Goods and Service Tax Act, 2017 is without jurisdiction. It is further argued that in fact, the matter already stands investigated and the challan has been presented and therefore, the petitioner will be facing proceedings for wrong availment of Input Tax Credit, if any.

Counsel for the petitioner relies upon various orders passed by the Coordinate Benches wherein regular bail/interim bail has been allowed to similarly placed persons in *Ganga Ram Vs. State of Punjab and another* in CRM-M No.27425 of 2020 dated 28.10.2020, *Deepak Mittal Vs. Director General of Goods and Services Tax Intelligence* in CRM-M No.41118 of 2020 dated 16.12.2020 as well as relying upon an interim order passed by the Bombay High Court in Writ Petition No.471 of 2021 titled as *Daulat Samirmal Mehta Vs. Union of India*. In that case too, there was allegedly a wrongful availing of Input Tax Credit amounting to Rs.122.59 crores by Daulat Samirmal Mehta.

Whereas learned counsel appearing for the respondent-State along with Mr. Saurabh Singla, State Tax Officer opposes grant of regular bail by relying upon an order passed by the Coordinate Bench in CRM-M No.1511 of 2021 dated 28.01.2021 titled as *Rakesh Arora Vs. State of Punjab*. Mr. Saurabh Singla, State Tax Officer in fact would submit that a

complaint has been filed against the petitioner herein.

I have heard learned counsel for the parties and have gone through the orders as passed by the Division Bench of this Court seized of the matter qua challenge to vires of Section 69 and 132 of the CGST Act as well as orders passed by the Coordinate Bench wherein interim bail/regular bail has been allowed to the similarly situated persons. The order relied upon the counsel appearing for the State and Mr. Sourabh Singla wherein regular bail had been denied to the petitioner therein was primarily on the ground that the investigation was still incomplete. In the instant case that would not be so. The matter already stands investigated and the challan stands presented and therefore, custody of the petitioner herein would not longer be required. The instant petition is allowed and the petitioner is directed to be released on regular bail on execution of adequate personal/surety bond amounting to Rs.10 lakhs to the satisfaction of concerned trial Court/Duty Magistrate. The petitioner will surrender his passport before the concerned Court and will not leave India without prior permission of the Court. However, any observation made herein shall not be construed to be an expression on merits of the case.

(JAISHREE THAKUR)
JUDGE

March 15, 2021

Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No