

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

CRM-M No.6891 of 2021 (O&M)
Date of Decision.15.03.2021
(Heard through VC)

Ankit Mahajan

...Petitioner

Vs

State of Punjab

...Respondent

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Vikram Chaudhary, Senior Advocate with
Mr. Rahil Mahajan, Advocate
Mr. Ashish Aggrwal, Senior Advocate with
Mr. Ashutosh Kumar, Advocate
for the petitioner.

Mr. H.S. Grewal, Addl. A.G., Punjab.

-. -

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 case FIR No.09 dated 21.08.2020 under Sections 7, 7A, 8 of Prevention of Corruption Act, 1988 and Sections 420, 465, 467, 468, 471 and 120-B IPC at Police Station Vigilance, SAS Nagar (Mohali).

Learned senior counsel for the petitioner would contend that the petitioner herein has been wrongly implicated in the said matter and is in custody since 24.12.2020. It is argued that the entire allegation in the FIR pertaining to the petitioner would be that he has tried to evade payment of GST on 'tobacco' in connivance with one Som Nath, owner of Sadhu Transport Co. In fact, the question of evasion of GST would not arise since e-way bill was generated albeit a little late and as on date, an amount of ₹12 lakhs has already been deposited towards GST. It is further argued that

though he has been nominated as an accused in FIR No.9 of 2020, however, there is no allegation that the petitioner herein has directly infused or made any payment towards bribe to ETO, who had been nominated as a co-accused under the said FIR.

Learned counsel appearing on behalf of the respondent-State on instructions from Sh. Ashish Kapoor, AIG, Vigilance would submit that the petitioner has not paid the penalty as on date, which amounts to ₹20,49,000/-. It is further contended that though the petitioner had not interacted with the ETOs directly, however, he along with Som Nath, owner of Sadhu Transport Co. managed to evade payment of GST. In fact, the truck should have left the premises only after the said GST had been paid. It is further argued that there is a deep rooted conspiracy between Som Nath, owner of Sadhu Transport Co. along with various ETOs in trying to evade payment of GST and the evasion of the said payment runs into crores.

Faced with the issue of non-payment of penalty, learned senior counsel appearing for the petitioner would contend that a demand has been raised for the penalty, which is being challenged independently and therefore, would have no bearing on the release of the petitioner on regular bail. It is also argued that CGST Act is a complete Code by itself and therefore, petitioner herein would face the independent proceedings therein.

I have heard learned counsel for the parties and found that only serious allegation against the petitioner would be that there is an evasion of payment of GST on a truck seized, which was carrying goods manufactured by the petitioner, however, ownership of the same is being disputed. Be that as it may, keeping in view that the GST minus penalty has already been paid and the investigation is complete and challan stands presented, custody

of the petitioner would no longer be required and therefore, no useful purpose would be served by keeping the petitioner behind bars. The instant petition is allowed and the petitioner is directed to be released on regular bail on execution of personal/surety bond in the sum of Rs.10 lakh each 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