

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

1. CRM-M-17671-2021

Gurbax Lal @ Happy Nagpal

...Petitioner

Versus

State of Punjab and another

...Respondents

3. CRM-M-17673-2021

Gurbax Lal @ Happy Nagpal

...Petitioner

Versus

State of Punjab and another

...Respondents

Date of decision: 06.07.2021

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Tarunveer Vashist, Advocate &
Ms. Ritu Gangele, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Sourabh Goel, Advocate
for respondent No. 2-complainant.

ARVIND SINGH SANGWAN, J. (Oral)

Since some of the facts are common, these petitions are heard
together and decided by this common judgment.

CRM-15325-2021 & CRM-15723-2021

Prayer in these applications is for preponing the date of the

main cases which are fixed for 27.08.2021.

For the reasons stated in the applications, the same are allowed.

Let the main cases be preponed and taken up today itself.

Main cases

Prayer in these petitions is for grant of anticipatory bail to petitioner Gurbax Lal @ Happy Nagpal in two complaint cases titled as ***Inspector (Prevention) of CGST Commissionerate, Ludhiana vs. Sandeep Kumar Puri*** as well as ***Inspector (Prevention) of CGST Commissionerate, Ludhiana vs. Rajinder Singh***, both filed under Clauses (b), (c) & (1) of Sub Section 1 of Section 132 of the CGST Act, 2017.

Learned counsel for the petitioner submits that the Superintendent (Preventive) of Central Goods and Service Tax Commissionerate, Ludhiana conducted a search in the house of petitioner on 04.02.2021. The search was conducted on an authorization issued by the Joint Commissioner, Central Goods and Service Tax Commissionerate, Ludhiana. Since the petitioner was not present and his wife and son were present, the raid, which was conducted in the absence of the petitioner, was not in accordance with law.

Learned counsel further submits that based on the search, a Panchnama was prepared on completion of investigation, however, no copy was given either to petitioner's wife or his son.

Learned counsel further submits that in fact on the basis of the investigation, which was going on against one Rajinder Singh and Sandeep Kumar Puri, who are accused in GST fraud under Clauses (b), (c) & (1) of Sub Section 1 of Section 132 of the CGST Act, 2017 punishable

under Section 132 (1) (i) of CGST Act, 2017.

Learned counsel further submits that petitioner also came to know that during investigation in aforesaid two cases, the name of the petitioner has surfaced that he has also committed GST fraud though he has no association or connection with the firms of Rajinder Singh or Sandeep Kumar Puri.

Learned counsel further submits that petitioner is not the owner or proprietor of any of the firms and he is being implicated due to the influence exercised by one Yashpal Mehta, who wants to save the skin of aforesaid two accused persons by putting the entire blame on the petitioner.

It is further argued that Yashpal Mehta's firm deals in export and import business and substantial business of Rajinder Singh and Sandeep Kumar Puri are carried out by Yashpal Mehta's firm and since an engagement ceremony of the daughter of the petitioner was performed with the son of Yashpal Mehta on 11.01.2018, which, however, was later on recalled, Yashpal Mehta became enimical towards petitioner and is bent upon to spoil the reputation of the petitioner in society.

Learned counsel further submits that it is a case where custodial investigation is not required as the petitioner is ready to cooperate in the investigation and hand over all the documents as required by the investigating agency.

Reply, filed on behalf of respondent No.2-Inspector (Prevention) of CGST Commissionerate, Ludhiana, is on record, in which, the common grounds taken against the petitioner are that Headquarters Preventive, CGST, Ludhiana got a credible information that certain bogus

firms are being operated by the petitioner and he is availing fraudulent ITC on the basis of fake invoices and he is further passing on the same by issuing bogus/fake invoices without movement of any goods. It was also informed that one Barinder Singh, who is working in Ujjivan Small Finance Bank, Ferozepur Road, Ludhiana, is helping petitioner for arranging the cash transactions for these fictitious transactions, against which, fake and bogus bills are raised. Upon this, when the department started investigating the matter, it was found that the petitioner is having two offices and has withdrawn huge amount from Canara Bank, Ludhiana Branch, which are the proceeds of the fake billing transactions of entities controlled by the petitioner and for that purpose, he was accompanied by his employee Ranjit Singh. It also came in investigation that a person, namely Sandeep Kumar @ Puri @ PP, is providing identities/credentials for creation of these entities, which are used for availing and passing of fake ITC. Said Sandeep Kumar Puri already stands arrested in the case.

It is further stated in the reply that Deputy Commissioner (Preventive) CGST, Ludhiana obtained the details from the office of Superintendent of Police, Khanna and obtained the copies of some of the blank cheques recovered from the petitioner. The details of the bank/accounts in respect of the blank cheques issued are detailed in the reply. It is stated that as many as 14 firms were found in respect of blank cheques. It is also submitted that petitioner is holding Credit/Debit Cards of 11 Banks and on search of E-way bill portal, one entity named M/s Nagpal Enterprises is found, wherein the credentials of the proprietor have been mentioned as Gurbax Lal Nagpal and it is also been found from E-way bill

portal that three entities are registered on the mobile number of Sandeep Kumar Puri, which are M/s Sai Enterprises, M/s Sai Traders and M/s Balaji International. The details of the entities controlled and operated by the petitioner are also given in the reply.

It is further stated that as many as 31 firms, as per table No. 1 in reply, were identified from the blank cheques, as per information given by Khanna Police and similarly 31 firms were identified regarding the amount of outward supply as declared by the aforesaid entities and ITC was availed and utilized towards tax payment, as per GSTR-3B filed by them. Out of 31 firms, reflected in the table, it is stated that registration of 13 firms have already been cancelled as per BIFA (Business Intelligence & Fraud Analytics) as against all the entities there is no inward supply and registration of their suppliers has been already cancelled. The details of five such entities are also given, wherein it is stated that as per business of M/s Balaji Enterprises, it has eight suppliers, whose licences were cancelled in the year 2018-19 but it shows that the entities have received Rs. 257.84 Lakh. Similarly, with regard to M/s Sai Enterprises, without there being any inward supply, ITC of Rs. 79.10 Lakh has been received against five suppliers, whose licences stand cancelled much prior to that. It is also stated regarding M/s Balak Enterprises that for the year 2018-19, the registration of six suppliers has been cancelled and the said entities have received ITC of Rs. 117.05 Lakh. With regard to M/s Nath Enterprises, it is stated that again by showing seven suppliers, ITC of Rs. 188.73 Lakh was received though their L-1 and L-2 licences were found to be cancelled. Similarly, with regard to M/s Yuvraj Enterprises, against three suppliers, ITC of

Rs. 85.87 Lakh was received but their licences were already cancelled.

It is further stated in reply that as per investigation, registration of most of the firms was found vague or incomplete and 11 firms were found to be non-traceable as some of the firms were found to be closed.

Learned counsel for respondent No. 2-complainant submits that *modus operandi* of the petitioner along with co-accused was that by operating the aforesaid false entities; by showing fake inward supply; by showing business with some entities which were either fake or their licences were already cancelled or closed; the petitioner has taken the benefit of crores of rupees by creating fake bills of about Rs. 425 crore and by passing on the ITC to the tune of Rs. 478 crore.

Learned counsel for respondent No. 2-complainant further submits that the seriousness and magnitude of the fraud committed by petitioner is to the tune of about Rs. 127 crore. It is further submitted that the proper procedure is being followed and as per the statement of Rajinder Singh and Sandeep Kumar Puri, the aforesaid role of the petitioner is apparent.

Learned counsel for respondent No. 2-complainant, thus, submits that since the fraud is of more than Rs. 5 crore, the prosecution is competent to arrest the petitioner in accordance with law and prays for dismissal of the present petitions in exercise of powers under Section 69 read with Section 132 of the GST Act, 2017.

After hearing learned counsel for the parties, without making any comment on the merits of the case, considering the aforesaid facts and circumstances, I find that the custodial interrogation of the petitioner is

required to find out the *modus operandi* of the petitioner as well as involvement of other persons.

Accordingly, both the present petitions are dismissed.

A photocopy of this order be placed on the file of other connected case.

06.07.2021

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No