IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of Decision: 23.08.2021

(1) CRM-25389 of 2021 in/and CRM-M-20532 of 2021

Inderjit Singh @ Inder Aulakh

Petitioner

Versus

State of Punjab

Respondent

(2) CRM-23668 of 2021 in/and CRM-M-20774 of 2021

Yadwinder Singh

Petitioner

Versus

State of Punjab

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rupinder Khosla, Senior Advocate with
Mr. Pardhuman Garg, Advocate for the petitioner in
CRM-M-20532 of 2021.

Mr. APS Deol, Senior Advocate with
Mr. H. S. Deol, Advocate for the petitioner in
CRM-M-20774 of 2021.

Mr. H. S. Grewal, Addl. AG, Punjab.

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AVNEESH JHINGAN, J (Oral):

The matter is taken up for hearing through video conference due to COVID-19 situation.

CRM-25389 and CRM-23668 of 2021

The applications are allowed subject to all just exceptions.

The documents annexed with the applications are taken on record.

Main petitions

Reply by way of affidavit of B. K. Uppal, IPS, DGP-cum-Chief Director, Vigilance Bureau, Punjab, SAS Nagar filed on behalf of the State is taken on record.

These two petitions under Section 439 Cr.P.C. by Inderjit Singh @ Inder Aulakh and Yadwinder Singh are filed seeking regular bail in FIR No. 8 dated 21.8.2020, under Sections 7, 7(a) and 8 of the Prevention of Corruption Act, 1988 and Sections 420, 465, 467, 468, 471 and 120-B IPC, registered at Police Station Vigilance Bureau, Phase-I, SAS Nagar (Mohali).

The FIR was result of information received that there was a large scale evasion of Goods & Supplies Tax (for short, 'GST') in the State of Punjab. Acting on the information after taking due permission, mobile phones of some of the co-accused were tapped. On the basis of the information collected, some officials of the GST department, traders, transporters and persons like the petitioners alleged to be passers were nominated. As per the case set up, monthly bribes were being paid to the officials of the GST Department. In connivance, sales and purchases inter-state and intra-state were being conducted either without accounting for it or without payment of due tax. The allegations are that with such chain of transactions, bogus inputs tax credits were being availed.

Learned senior counsel appearing for the petitioners submit that the petitioners are in custody since April, 2021, the investigation is complete and the challan stands presented. It is further argued that the petitioners were named in the disclosure statement. The contention is that persons with similar allegations who were in custody for almost four months were granted regular bail by this Court. The argument is that while granting bail to the departmental officials, this court noticed that till date no sanction for prosecution has been received.

Learned counsel for the State on instructions though vehemently opposes the prayer for grant of bail but he fairly submits that no sanction qua the departmental officials has been received till date. He further submits that the orders granting regular bail to similarly situated persons in various FIRs have not been challenged by the State.

It is a case where allegations of economic offences and evasion of tax are there. A different approach is required to be adopted by the investigating agency in such type of cases. In these cases, there is a web which is knitted in a planned manner with professional advice, one loose end ensures that the entire net of the web goes out of hand. It is further to be noticed that the compliance provisions of GST are on line, even the bills, invoice and e-way bills are generated on computer. In spite of all this, there is no sanction for prosecution against the departmental officials till date. There is not even single argument put forth by the State disputing the parity of the petitioners vis-a-vis the persons who have been granted regular bail by this Court. Considering the custody period of the petitioners and the fact that investigation qua them is complete, the petitioners are granted bail subject to their furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

The petitions are allowed.

It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

Photo copy of the order be placed on the file of connected case.

[AVNEESH JHINGAN]
JUDGE

23rd August, 2021
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1. Whether speaking/ reasoned : Yes / No
2. Whether reportable : Yes / No