**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

Date of Decision: 23.08.2021

CRM-M-24147 of 2021

Haryadwinder Singh Bajwa

Petitioner

Versus

State of Punjab

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. K. S. Nalwa, Advocate for the petitioner.

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.

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.

This petition under Section 439 Cr.P.C. is filed seeking regular bail in FIR No. 9 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 & Services Tax (for short, 'GST') in the State of Punjab. Acting on the information after taking due permission, mobile phones of some of co-accused were tapped. On the basis of the information collected, officials of the GST department, traders and transporters were nominated. The petitioner is a retired Assistant Excise & Taxation Commissioner, he retired in January, 2021. As per the case set up, monthly bribes were being paid to the officials of the GST Department. In connivance inter-state and intra-state purchases being conducted, either without accounting for it or without payment of due tax. It is further alleged 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 contention 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. The contention is that there is more evidence against the petitioner apart from the disclosure statement and the call recordings.

It is a case where allegations of economic offences and tax evasion are there. A different approach is required to be adopted by the investigating agency. In such type of cases, a well planned web is knitted after professional advice, one loose end left ensures that the entire net goes out of hand. It is further to be noticed that the compliance provisions of GST are on line, even the Invoices 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 nothing to show that the petitioners are not at parity vis-a-vis the persons who have been granted regular bail by this Court. Considering the custody period of the petitioner and the fact that investigation qua him is complete, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

The petition is allowed.

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

[AVNEESH JHINGAN]
JUDGE

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