

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.27091 of 2021

Date of Decision: July 23, 2021

Kamal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Birinder Singh Khehar, Advocate,
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.14 dated 10.01.2019, under Sections 420, 467, 468, 471 and 120-B IPC, 1860, registered at Police Station, Bhuna, District Fatehabad. The petitioner is in custody since his arrest on 03.03.2021.

The contents of the FIR, as recorded by the Additional Sessions Judge, Fast Track Court, Fatehabad in para No.2 of his order dated 15.06.2021, are as under:-

“As per police reply, a letter moved by complainant Sh.Bhushan Kumar, ETO, Ward No.2, DETC, Fatehabad was received in the police station for lodging of FIR in cases of bogus/shell/fake firm i.e. firm M/s D.S.Traders, near SBI Bank, Main Bazar, Uklana Road, Bhuna having GSTIN 06EQIPD 3488P1Z6. It is also mentioned in the aforesaid complaint that

the aforesaid firm M/s D.S.Traders, near SBI Bank, Main Bazar, Uklana, Bhuna was got registered on 03.08.2018 under GST Act, 2017, having present co-accused Dalbir son of Sarup Singh, resident of Ward No.5 village Pirthala, District Fatehabad being proprietor of the said firm. On preliminary enquiry, the said firm was found floated in papers only and no firm was found at the given address. Therefore, the aforesaid firm was a non-existence. It is also mentioned in the police reply that the aforesaid firm M/s D.S.Traders, near SBI Bank, Main Bazar, Uklana Road, Bhuna raised 70 bills amounting to Rs.10,96,90,929/- and it was liable to pay tax of Rs.72,13,926/- but it was adjusted by him on purchase of 60 bills against the amount of Rs.10,79,56,122/- and claimed box bogus/fake input tax credit of Rs.70,96,733/- and thus caused loss to the government exchequer. It is also mentioned in the police reply that the said firm raised fabricated documents.”

Learned counsel for the petitioner has argued that the allegations in the FIR are mainly against accused Dalbir Singh, who was running the firm M/s D.S.Traders and no such firm was found engaged in work at the given address. He submits that according to the prosecution, the said firm M/S D.S.Traders was floated with an object to evade the payment of taxes and for the said commission of offence, the petitioner has been indicted on the basis of criminal conspiracy. According to him, the petitioner has not made any wrongful gain and, as the investigation of the case is complete, therefore, his further detention may not be necessary. He prays for bail.

The prayer is opposed by the learned State counsel, assisted by SI Satish Kumar, on the ground that the petitioner had facilitated the commission of offence by providing fake documents, like Aadhar card etc.

to main accused Dalbir Singh. He has further pointed out that the firm was

being run at a place which is owned by the petitioner. He, on instructions, further states that the investigation is complete, but charges are yet to be framed.

At this stage, learned counsel for the petitioner has invited the attention of the court to the rent agreement (Annexure P-6) to contend that the said shop where the office of firm M/s D.S.Traders is situated is owned by Sat Pal (landlord), and the petitioner has no concern with the said property.

After hearing the learned counsel for the parties, considering the above background and the nature of the offences, which are triable by Magistrate, this Court is of the opinion that the further custody of the petitioner may not be necessary for any useful purpose, who is presently confined in judicial custody after her arrest on 03.03.2021. Further, the trial in the above case is yet to begin, and there does not seem to be any possibility of its conclusion in near future.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate, Fatehabad.

July 23, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No