

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

246/A

CRM-M-30222 of 2021
Reserved on 02.11.2021
Pronounced on 11.11.2021

Govind

.....Petitioner

VERSUS

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Jagmohan Bansal, Sr. Advocate with
Mr. Kapish Chawla, Advocate for the petitioner.

Mr. Rajat Gautam, DAG, Haryana.

ANOOP CHITKARA, J.

THROUGH VIDEO CONFERENCE

FIR No.	Dated	Police Station	Sections
40	06.01.2019	Chandni Bagh, Panipat	420, 467, 468, 471, 201 and 120-B IPC

The petitioner, incarcerated upon his arrest has come up before this Court seeking regular bail.

2. Para 3 of the bail petition and status report mentioned the following criminal history:

Sr. No.	FIR No.	Date	Offences	Police Station
1.	22 & 23	05.01.2019	420, 467, 468, 471, 201, 120-B IPC	Chandni Bagh, Panipat
2.	25,29,30,31,32,34, 35,36, 40,41 and 42	06.01.2019	420, 467, 468, 471, 201, 120-B IPC	Chandni Bagh, Panipat
3.	668 and 669	09.07.2019	420, 467, 468, 471, 201, 120-B IPC	Chandni Bagh, Panipat
4.	631,632,633 & 636	25.06.2019	420, 467, 468, 471, 201, 120-B IPC	Chandni Bagh, Panipat
5.	675	11.07.2019	420, 467, 468, 471, 201, 120-B IPC	Chandni Bagh, Panipat

3. Briefly, the allegations against the petitioner are that on 06.01.2019, the police registered a written complaint from Excise and Taxation Officer, Panipat. The complaint mentioned that a Firm got registered under HGST Act on the basis of fake and forged documents and thus received the Government authority by submitting fake documents on Government GST online platform for falsely utilizing input tax credit. Based on the said information, the police registered FIR mentioned above. The investigation reveals the involvement of the accused in the offence which led to his arrest on 27.11.2020. Based on these allegations, the Police registered the FIR mentioned above.

4. Learned counsel for the petitioner has argued that the petitioner/accused is in custody for more than 11 months and the case is triable by Magistrate.

5. Learned State counsel has opposed the bail on the ground that a huge number of cases are registered against him and he is a habitual offender.

REASONING:

Although 20 cases have been registered against him but perusal of the status report reveals that all those cases were for similar offence.

The accused has taken advantage of the loopholes in the GST Taxation System, particularly its online platform. Undoubtedly people should not take advantage of such loopholes in the system especially the once set up by Government Organisation that affect entire masses. Probably, realizing the advantages people are taking of the loopholes the Government must have plugged all the loopholes.

Given the period of incarceration already undergone the further custody of the petitioner will not serve any purpose whatsoever.

6. The possibility of the accused influencing the investigation, tampering with evidence, intimidating witnesses, and the likelihood of fleeing justice, can be taken care of by imposing elaborative and stringent conditions. In *Sushila Aggarwal*, (2020) 5 SCC 1, Para 92, the Constitutional Bench held that unusually, subject to the evidence produced, the Courts can impose restrictive conditions.

7. Without commenting on the case's merits, given the investigation stage, the period of incarceration already undergone, and the circumstances peculiar to this case, the petitioners make a case for release on bail.

8. Given the above reasoning, the Court is granting bail to the petitioner, subject to strict terms and conditions, which shall be over and above and irrespective of the contents of the form of bail bonds in chapter XXXIII of CrPC, 1973.

9. Provided the accused is not required in any other case, the petitioner shall be released on bail in the FIR mentioned above, subject to furnishing a personal bond of Rs. Ten thousand (INR 10,000/-), and shall furnish one surety of Rs. Twenty-five thousand (INR 25,000/-), to the satisfaction of the Special Judge/Judicial Magistrate having the jurisdiction over the Police Station conducting the investigation, and in case of non-availability, any Ilaqa Magistrate/duty Magistrate. Before accepting the sureties, the concerned Court must satisfy that in case the petitioner-accused fail to appear in Court, then such sureties are capable to produce the petitioners-accused before the Court, keeping in mind the Jurisprudence behind the sureties, which is to secure the presence of the accused.

10. The furnishing of the personal bonds shall be deemed acceptance of the following and all other stipulations, terms, and conditions of this bail order.

11. The petitioners to execute a bond for attendance to the concerned Court(s). Once the trial begins, the petitioner shall not, in any manner, try to delay the proceedings, and undertakes to appear before the concerned Court and to attend the trial on each date, unless exempted. In case of an appeal, on this very bond, the petitioners also promise to appear before the higher Court in terms of Section 437-A CrPC.

12. The attesting officer shall, on the reverse page of personal bonds, mention the permanent address of the petitioner along with the phone number(s), WhatsApp number (if any), e-mail (if any), and details of personal bank account(s) (if available), and in case of any change, the petitioner shall immediately and not later than 30 days from such modification, intimate about

number, e-mail accounts, to the Police Station of this FIR to the concerned Court.

13. The petitioners shall not influence, browbeat, pressurize, make any inducement, threat, or promise, directly or indirectly, to the witnesses, the Police officials, or any other person acquainted with the facts of the case, to dissuade them from disclosing such facts to the Police, or the Court, or to tamper with the evidence.

14. The petitioners shall join the investigation as and when called by the Investigating Officer or any Superior Officer; and shall cooperate with the investigation at all further stages as may be required. In the event of failure to do so, it will be open for the prosecution to seek cancellation of the bail. Whenever the investigation occurs within the police premises, the petitioners shall not be called before 8 AM and shall be let off before 5 PM, and shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

15. Given the gravity of accusations and the heinous nature of the offence, the petitioner shall surrender all weapons, firearms, ammunition, if any, along with the arms license to the concerned authority within 30 days from today and inform the Investigator about the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and take it back in case of acquittal in this case.

16. During the trial's pendency, if the petitioner **repeats** or commits any offence where the sentence prescribed is more than seven years or violates any condition as stipulated in this order, it shall always be permissible to the respondent to apply for cancellation of this bail. It shall further be open for any investigating agency to bring it to the notice of the Court seized of the subsequent application that the accused was earlier cautioned not to indulge in criminal activities. Otherwise, the bail bonds shall continue to remain in force throughout the trial and after that in terms of Section 437-A of the CrPC.

17. Any Advocate for the petitioners and the Officer in whose presence the petitioners put signatures on personal bonds shall explain all conditions of this bail order, in vernacular and if not feasible, in Hindi.

18. In case the petitioners find the bail condition(s) as violating fundamental, human, or other rights, or causing difficulty due to any situation, then for modification of such term(s), the petitioners may file a reasoned application before this Court, and after taking cognizance, even to the Court taking cognizance or the trial Court, as the case may be, and such Court shall also be competent to modify or delete any condition.

19. This order does not, in any manner, limit or restrict the rights of the Police or the investigating agency from further investigation per law.

20. Any observation made hereinabove is neither an expression of opinion on the merits of the case, nor shall the trial Court advert to these comments.
21. In return for the protection from incarceration, the Court believes that the petitioners-accused shall also reciprocate through desirable behavior.
22. *There would be no need for a certified copy of this order for furnishing bonds. Any Advocate for the petitioners can download this order along with the case status from the official web page of this Court and attest it to be a true copy. The Prosecutor shall also verify the downloaded copy by comparing it from the official web page. In case the attesting officer or the Court wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*
23. In the facts and circumstances peculiar to this case, the petition is allowed in the terms mentioned above.

{ANOOP CHITKARA}
JUDGE

November 11, 2021
Poonam Sharma

<i>Whether speaking/reasoned :</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>