IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

243-3

CRM-M-29169-2020
Date of decision: 25.08.2021

Yogesh Bhardwaj .....Petitioner

Versus

State of Haryana .....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Gursharan Singh, Advocate
for the petitioner.

Mr. Pawan Girdhar, Addl. A.G., Haryana
for the respondent-State with
Mr. Mohd. Akil, DGP Crime, Haryana,
Mr. Shashank Kumar Sawan, IPS, SP, Panipat,
Mr. Anurag Rastogi, Addl. Chief Secretary
to Govt. of Haryana, Excise and Taxation Department,
Mr. Surat Singh Malik, DETC, Sales Tax, Panipat and
Mr. Siddarth Jain, AETC, GST, Haryana.

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ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.259 dated 09.03.2019 registered under Sections 420, 467, 468, 471, 120-B and 201 of the Indian Penal Code, 1860 at Police Station Chandni Bagh, Panipat.

The above said FIR was registered on written complaint sent by Excise Taxation Officer (State Tax), Ward-06, Panipat. In the complaint Excise Taxation Officer (State Tax) alleged that firm M/s Ganesh Trading Co. has shown sales in huge amount to different dealers of the State and passed undue input tax credit by making invoices without movement of goods and caused loss of revenue. Enquiries revealed that no firm by the said name existed at the address given. Summons were issued to Yogesh Sharma, Proprietor of the said firm who alleged that Janender Kumar Sisodia had taken his PAN Card, Aadhaar Card, bank passbook and his passport size photographs for providing bank loan and had given a cheque for an amount of Rs.2 lakhs which was dishonoured. Janender Kumar Sisodia got the firm registered on the basis of documents and deceived the authorities by wrongly passing input tax credit to other firms/taxable persons and issuing invoices with the dishonest intention to evade payment of taxes. Pursuant to registration of the above said FIR, the police investigated the case and on completion of investigation filed charge-sheet against the petitioner and his co-accused Janender Kumar, Surender @ Bhura, Nitish Singhal and Gaurav Bansal.

The petition has been opposed by learned State Counsel in terms of reply filed by way of affidavit of Satish Kumar, HPS, Deputy Superintendent of Police, Head Quarter, Panipat.

Vide order dated 15.03.2021, learned State Counsel was granted time to file additional reply with better particulars, the petitioner was granted interim regular bail and personal appearance of S.P., Panipat and concerned D.E.T.C., Panipat before this Court through video conferencing was ordered.

Mr. Mohd. Akil, DGP Crime, Haryana, Mr. Shashank Kumar Sawan, IPS, SP, Panipat, Mr. Anurag Rastogi, Addl. Chief Secretary to Govt. of Haryana, Excise and Taxation Department, Mr. Surat Singh Malik, DETC, Sales Tax, Panipat and Mr. Siddarth Jain, AETC, GST, Haryana have appeared before this Court through video conferencing.

Status report by way of affidavit of Mr. Shashank Kumar Sawan, IPS, Superintendant of Police, Panipat has been filed in CRM-M-35679-2020 titled as 'Gaurav Bansal Vs. State of Haryana'.

Learned State Counsel has submitted that photostat copy of the same may be taken on record in the present case also.

The request is allowed and photostat copy of the above said status report is ordered to be placed on record in the present case.

In the status report it has been mentioned that a Special Investigation Team (SIT) under the supervision of Assistant Superintendant of Police, Samalkha Ms. Pooja Vashishth, IPS and consisting of Inspector-Incharge, Special Detective Unit, Panipat and SI Surender Singh was constituted to conduct the remaining investigation of the case. Co-accused Ravinder Sharma was arrested by the SIT on 30.07.2021 and recovery of two laptops used in the commission of offence was made from him in accordance with his disclosure statement.

It has been further mentioned in the status report that Excise and Taxation Department, Panipat has informed that a total of 46 firms have conducted business with M/s Ganesh Trading Co., raising invoices amounting to Rs.1,29,52,83,371/-, resulting in total tax consideration of Rs.9,68,67,081/-.

In the status report it has also been mentioned that as per information of the Excise and Taxation Department, Panipat till 27.07.2021, 26 firms, out of 46 firms, had deposited a sum of

Rs.6,43,16,298/-. This deposition was in lieu of ITC claimed by these firms. A sum of Rs.1,14,51,151/- on account of GST input Tax Credit of 14 firms has been blocked on account of suspicious transactions. However, recovery of balance amount of Rs.2,10,99,632/- is still awaited.

Mr. Mohd. Akil, DGP Crime, Haryana has submitted that steps have been taken for proper investigation of the case and collection of the evidence available and supplementary police report will be filed before the Court on completion of further investigation.

Mr. Anurag Rastogi, Addl. Chief Secretary to Govt. of Haryana, Excise and Taxation Department has stated that requisite proceedings have been carried out for realization of the tax or attachment of the properties for realization of tax amounting to more than Rs.8 crores and requisite amendments are being made in the relevant provisions as well as in the software for preventing GST Input Tax Credit frauds.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the relevant record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case on the basis of disclosure statement of co-accused Janender Kumar Sisodia. The petitioner was not named in the FIR. The petitioner has nothing to do with the firm M/s Ganesh Trading Co. The police has shown recovery of one mobile phone and one ID of Yogesh Sharma complainant from the petitioner. The petitioner is a poor man who was earning his livelihood by working under Gaurav Bansal. The petitioner worked with Gaurav Bansal for a period of only 28 days and thereafter left the job. The petitioner has nothing to do with the alleged offences involved. The offences alleged to have been committed by the petitioner are triable by the Judicial Magistrate First Class. The trial is likely to take long time and no useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has submitted that the petitioner along with his co-accused created fake firm and issued invoices in huge amounts without movement of goods for wrongful claim of input tax credit and thereby caused loss of huge amount of more than Rs.9.68 crores to the public exchequer. The petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

In view of the facts and circumstances of the case, nature of accusation and evidence against the petitioner, the period of his custody, the fact that all the offences are triable by the Judicial Magistrate First Class and also the fact that the trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19, but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

In view of the above, the petition for grant of regular bail to the petitioner is allowed and order granting interim regular bail to the petitioner is made absolute and the petitioner is ordered to be released on regular bail on the bail bonds already furnished by the petitioner to the Court concerned.

However, the petitioner is granted regular bail subject to the condition that he shall not commit any similar offence after his release on bail and in case of commission of any similar offence by him in future his bail in the present case shall also be liable to be cancelled on application to be filed by the prosecution in this regard.

25.08.2021 **(ARUN KUMAR TYAGI)**
Vinay **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No