IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(257)

CRWP-8017-2021 (O&M)
DATE OF DECISION : 28.10.2021

Jagriti Garg

…Petitioner

Versus

Directorate General of Goods and Services Tax Intelligence

…Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Jagmohan Bansal, Senior Advocate with
Mr. N.K. Bindal, Advocate
for the petitioner.

Mr. Rajesh Sethi, Advocate
for the respondent.

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Suvir Sehgal, J. (*Oral*)

Heard through video conferencing.

CRM-W-1331-2021

For the reasons given in the application, it is allowed.

Sur-rejoinder on behalf of the respondent to the replication filed by the petitioner is taken on record.

CRWP-8017-2021

Instant petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of Habeas Corpus directing the respondent to release the detenue, namely, Sahil Garg, who has been arrested by the respondent alleging commission of offence under Section 132 of the Central Goods and Services Tax Act, 2017 (for brevity hereinafter referred to as "CGST Act") and has not been released in terms of Section 167 (2) read with Section 309 of the Code of Criminal Procedure, 1973 despite expiry of 60 days from the date of first remand. Another prayer has been made for declaration that order dated 18.08.2021, Annexure P-6, vide which learned Chief Judicial Magistrate has dismissed the default bail application and ordered transfer of the detenue, along with file papers, to the Court at Amloh, is invalid and contrary to law.

Learned senior counsel has submitted that on 17.06.2021, the respondent searched the premises of the detenue, who is the son of the petitioner, and forcibly took him to their office where he was detained, made to sign some documents, arrested on 18.06.2021 and produced before the Duty Magistrate, who vide order, Annexure P-2, sent him to judicial custody. Counsel submits that bail applications seeking his release have been dismissed by the Courts and CWP No.11458 of 2021, which has been filed before this Court, assailing the vires of Section 69 and 132 of CGST Act, is pending. Counsel points out that the order passed by the Magistrate permitting the respondent to record the statement of the detenue has been stayed by the learned Additional Sessions Judge vide order dated 17.08.2021, Annexure P-3. Counsel urges that it is an issue of personal liberty of an individual and impugned order dated 18.08.2021, Annexure P-6, whereby the application seeking grant of default bail has been declined, is against the provision of Section 167 Cr.P.C. and violative of Article 21 of the Constitution.

Opposing the petition, counsel representing the respondent has submitted that on the basis of specific information, it came to its notice that the alleged detenue-Sahil Garg has floated 16 fictitious firms at Mandi Gobindgarh and is passing on inadmissible Input Tax Credit (ITC) on the strength of invoices issued from the said firms. It is submitted that raids have been conducted at his residence as well as residence of Simran Dhiman and Malik Gupta, his Accountant and Broker-cum-Associate, respectively, their statements have been recorded and it has been found that Sahil Garg is the master mind, who generated fraudulent ITC by creating fake firms, and used bogus invoices for passing on inadmissible ITC of more than Rs.115 crore, without actual supply of any goods. It is further submitted that some of the registered firms have not been found at the given addresses and Sahil Garg has committed an offence under Section 132 (1) (b) (i) of CGST Act, he has been arrested on 18.06.2021 and remanded to judicial custody for 14 days, which period has been extended further. Counsel asserts that a complaint under the CGST Act has been filed, further investigation is needed to unravel the whole scam as there may be many more firms controlled and operated by Sahil Garg, who has committed a cognizable offence, which is non-bailable, and his custody is not illegal.

I have considered the respective submissions of the counsel for the parties.

From the material on the record, it is evident that the petitioner has been arrested on 18.06.2021 under Section 69 (1) of CGST Act and a complaint for offence punishable under Section 132 of the CGST Act has been filed before a Judicial Magistrate and the petitioner is in judicial custody. Vide order dated 18.08.2021, Annexure P-6, application filed under Section 167 (2) Cr.P.C by the detenue - Sahil Garg seeking grant of default bail has been dismissed and a revision challenging the said order has been withdrawn from the Court of learned Additional Sessions Judge, Chandigarh on 08.09.2021. Moreover, petition (CRWP-6201-2021) preferred by the petitioner at an earlier point of time with similar prayer has been withdrawn from this Court vide order dated 20.07.2021. In the given facts and circumstances, it cannot be said that the son of the petitioner is in illegal confinement nor can the impugned order, Annexure P-6, dismissing the application seeking release on default bail be set aside in the present proceedings.

Finding no merit in the petition, it is ordered to be dismissed.

(SUVIR SEHGAL)
JUDGE

28.10.2021
kamal

Whether speaking/ reasoned	Yes/ No
Whether Reportable	Yes/ No