IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-38781-2021 (O&M)
Date of decision: 28.10.2021

Krishan Lal Chopra

... Petitioner

Vs.

Director General of GST Intelligence

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Anurag Chopra, Advocate
for the petitioner.

Mr. Sourabh Goel, Advocate
for the respondent.

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ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail to the petitioner for the offence committed under Section 132 (1)(c) of CGST Act, 2017 read with Section 20 (xv) of IGST Act, 2017.

While granting interim bail to the petitioner, following order was passed by this Court on 22.09.2021: -

"...Learned senior counsel for the petitioner has referred to the application filed by the respondent before the Chief Judicial Magistrate, Ludhina seeking judicial remand of the petitioner, to

submit that in its para No.4, it is stated that ITC of Rs.12.19 crores was availed by Shubham Steels on purchase from Atul Trading Company, Narwana, Shree Krishna Trading Company, Narwana and S.K. Trading Company, Kaithal, as per figures given regarding the purchase made from the aforesaid dealers. It is also submitted that in para No.10 of this application, it is stated as under: -

> *"...It, therefore, appeared that SS and AS and various other beneficiary traders/furnace units, in connivance with Haryana based dealers availed fraudulent ITC taking benefit of nonworking of toll plazas in Punjab/Haryana due to farmers' agitation. Further, it was also important to notice that during the period 01.11.2020 to 15.06.2021, SS had passed on approx. 40% of its ITC to be a single firm, namely Salasar Castings, Mandi Gobindgarh (prop. Sh. Krishan Lal Chopra)."*

Learned senior counsel has further referred to para No.14.5 with regard to statement of the petitioner, which is recorded after his arrest, wherein it is stated that he found that Shubham Steels had passed on ITC of Rs.5.23 crores to his firm against purchase shown from Atul Trading Company and he has issued debit notes to Shubham Steels involving ITC of approximately Rs.7.33 lacs against purchases shown from Atul Trading Company.

Learned senior counsel for the petitioner has further argued *that the check period is from 01.11.2020 to 15.06.2021 and in the intervening period, the firm of the petitioner has done the business on 100% making payment through cheque/RTGS and no transaction took place in cash. Learned senior counsel has relied upon the print-outs taken from the website of respondent-Department relating to 01.04.2021 to 01.07.2021 in support of his arguments. The petitioner has already paid the tax to the corresponding period as per his returns attached with petition.*

It is also argued that it is case of the respondent-department that Shubham Steels has passed approximately 40% of its ITC to a single firm namely Salasar Castings, Mandi Gobindgarh, whose proprietor is petitioner Krishan Lal Chopra and as per table given in para No.4 of the application, ITC availed by Shubham Steels on purchase made from its dealers is only Rs.12.19 crores and 40% of the same would be around Rs.4.87 crores, qua which the offence is bailable, however, to make it non-bailable, the Department has added certain figures solely on the basis of disclosure of the petitioner (which is not admissible against him), that Shubham Steels has passed on ITC of Rs.5.23 crores. This is done just to make the offence non-bailable as per Section 132 (4) of GST Act. It is also argued that Atul has not been arrested, whereas upon notice, Shubham has deposited an amount of Rs.50.00 lacs with the Department and similarly, brother of Shubham, namely Anshu has also deposited Rs.30.00 lacs with the Department and both of *them have not been arrested.*

Learned senior counsel for the petitioner has lastly argued that no show cause notice was issued to the petitioner before arresting him, therefore, no legal procedure was followed, asking the petitioner to deposit any amount, if found short and in pursuance of summons issued under Section 70 of CGST Act, he has been arrested straightway without following procedure under Section 69 of CGST Act, therefore, his arrest is in violation of Article 20 of the Constitution of India."

Written statement along with Annexures R-1 & R-2 on behalf of the respondent, filed in the Court today, is taken on record.

Heard.

After hearing learned counsel for the parties, this petition is allowed and the order dated 22.09.2021 passed by this Court, granting interim bail to the petitioner, is hereby made absolute.

[ARVIND SINGH SANGWAN]
JUDGE

28.10.2021
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No