

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-9743-2022 (O&M)
Date of decision: 11.03.2022

Nitish Singhal

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Yashveer Kharb, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.337 dated 20.06.2020 under Sections 420, 467, 468, 471 IPC and Sections 120-B & 201 IPC (added later on), registered at Police Station Chandni Bagh, District Panipat.

Learned counsel for the petitioner relies upon the order dated 25.08.2021 passed in CRM-M-31101-2020, granting regular bail to the petitioner, in another FIR No.259 dated 09.03.2019 under Sections 420, 467, 468, 471 IPC, Police Station Chandni Bagh, Panipat. The operative part of the order reads as under: -

“...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, arrested the petitioner and his co-accused Surender @ Bhura, Janender Kumar, Yogesh Bhardwaj and Gaurav Bansal and on completion of investigation filed charge-sheet against them.

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 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 CRMM-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 was not named in the FIR and no allegation was made against the petitioner in the FIR even by reference. The petitioner has been falsely implicated in the case subsequently on statement of co-accused. Alleged recovery of the photocopies of identity proofs was planted on him. The same also does not show his involvement in commission of the alleged offences. The petitioner is neither the proprietor nor partner of the firm. The petitioner is also not the beneficiary of the defrauded amounts. The petitioner was not aware about the fraudulent evasion of the taxes. The petitioner has not committed any offence and has no concern with the alleged offences. The petitioner was nominated as accused in two other cases of similar nature but the petitioner has been granted regular bail in both the cases by this Court vide order dated

26.08.2020 and 23.07.2020 passed by CRM-M-52922-2019 and CRMM-53063-2019 respectively. The offences alleged to have been committed by the petitioner are triable by the Judicial

Magistrate First Class. The petitioner is in custody for more than two years. 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. His mobile phone was used for creating e-mail account of the firm. 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...”

Learned counsel further submits that on similar set of allegations, four FIRs were registered against the petitioner and it is already noticed in the aforesaid order that he has already been granted regular bail in two cases as well as in FIR No.259. It is also submitted that the allegations in all the FIRs

are that by using mobile phone of the complainant, his firm evaded the GST. Learned counsel further submits that the petitioner is in custody for the last about 07 months and it will take some time in conclusion of the trial, as the offences are triable by the Court of Magistrate.

Learned State counsel, on the basis of custody certificate dated 10.03.2022 filed in the Court today, has not disputed the factual position. As per custody certificate, the petitioner is in custody for the last more than 07 months and challan stands presented.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the aforesaid facts and circumstances of the case, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

11.03.2022
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No