IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) **CRM-M-12505-2022** (O&M)

Raman Kumar Chopra ...Petitioner

Versus

State of Punjab ...Respondent

(2) **CRM-M-37892-2022** (O&M)

Sunil Kumar ...Petitioner

Versus

State of Punjab and another ...Respondents

Date of Decision:- 14.12.2022

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Hitesh Verma, Advocate for the petitioner in CRM-M-12505-2022.

Mr. P.S.Ahluwalia, Advocate for the petitioner in CRM-M-37892-2022.

Mr. Siddharth Attri, AAG, Punjab

Mr. Sourabh Goel, Advocate, Senior Standing Counsel, CBIC Ms. Samridhi Jain, Advocate, Mr. Tej Bahadur, Advocate and Ms. Shivani Sahni, Advocate for the respondent.

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GURVINDER SINGH GILL, J.

1. This order shall dispose off the above mentioned two petitions filed on behalf of Raman Kumar Chopra and Sunil Kumar seeking grant of regular bail in proceedings initiated by Superintendent (Anti-Evasion) CGST, Commissionerate Ludhiana under Section 132 of the Central Goods and

Services Tax Act, 2017 *(hereinafter referred to as 'the Act')* read with Section 20 of the Integrated Goods and Services Tax Act, 2017.

2. The allegations against the accused are to the effect that during the course of investigation, it was found that Shri Sunil Kumar son of Shri Sobha Ram is running a network of bogus firms and had created the below mentioned seven firms in his own name or in the name of his family members, employees and their family members. He has created and operated these bogus firms not only for availing inadmissible input tax credit (ITC) on the strength of fake invoices but also for passing on of fraudulent ITC to buyers on the strength of invoices which were not accompanied with any goods. The details of the firms created and operated by Sunil Kumar are as under:

S. No.	Trade Name	GSTIN	Name of Prop./Partner
1.	M/s Hari Om Steels	03ALIPK6714G1ZB	Sunil Kumar (his own firm)
2.	M/s Ashutosh Steels	03CTSPK6268F1ZC	Mandeep Kaur (employee of Sunil Kumar)
3.	M/s Samridhi Steel	03AHZPC4834A1ZM	Raman Kumar Chopra (employee of Sunil Kumar)
4.	M/s Muskan Enterprises	03CHYPC6098K1ZO	Diviya Chopra (wife of Raman Kumar Chopra)
5.	M/s DK Enterprises	03GJBPK1517G1ZP	Davinder Kaur (ex-employee of Sunil Kumar)
6.	M/s Chadha Steels	03AJNPA5010G1ZX	Asha (wife of Sunil Kumar)
7.	M/s Ganpati Steels	03CFBPS1796B1ZN	Amanpreet Singh (husband of Mandeep Kaur)

3. The amount of ITC availed as per GSTR-3B returns filed in respect of seven firms are as under :-

S. No.	Name of Firm (M/s)	Name of the owner	Amount of ITC credit fraudulently availed (in rupees)
1.	M/s Hari Om Steels	Sunil Kumar (his own firm)	10,93,65,342/-
2.	M/s Ashutosh Steels	Mandeep Kaur (his employee)	57,68,106/-
3.	M/s Samridhi Steel	Raman Kumar Chopra (his employee)	8,33,70,204/-
4.	M/s Muskan Enterprises	Diviya Chopra (wife of Raman Kumar Chopra)	2,26,32,710/-
5.	M/s DK Enterprises	Davinder Kaur (his ex-employee)	3,92,15,447/-
6.	M/s Ganpati Steels	Amanpreet Singh (husband of Mandeep Kaur)	29,52,320/-
7.	M/s Chadha Steels	Asha(his wife)	5,15,00,394/-
	TOTAL ITC		31,48,04,523/-

4. The learned counsel representing the petitioners have submitted that the petitioners have falsely been implicated in the present case and that there is no convincing evidence to substantiate the allegations as levelled in the complaint. The learned counsel has further submitted that in any case the maximum sentence that could be imposed in respect of offences for which complaint has been filed is 5 years and since the petitioners have already undergone a substantial period of more than 1 year and 4 months, they deserve to be released on bail, particularly when the trial has not even commenced till date.

5. Opposing the petition, the learned State counsel has submitted that the petitioner Sunil Kumar is the main accused, who was assisted by the petitioner Raman Kumar Chopra and since a huge amount to the tune of Rs.31,48,04,523/- had been siphoned off by the accused from the State exchequer, the petitioners do not deserve to be released on bail. The learned State counsel has, however, informed that while the petitioner Sunil Kumar is not involved in any other case, the petitioner Raman Kumar Chopra is facing proceedings initiated under Section 340 Cr.P.C. for commission of offence under Section 193 IPC which was initiated pursuant to an order passed by this Court. The learned State ocunsel has also informed that charges are yet to be framed and as many as 13 PWs have been cited.

6. This Court has considered the rival submissions.

7. Both the petitioners are alleged to have created bogus firms for the purpose of availing input tax credit (ITC) on the basis of fake invoices. The total amount involved is stated to be more than Rs.31 crores. However, this Court finds that the petitioners have been behind bars for a substantial period of 1 year and 4 months and the prosecution agency has not chosen to prosecute the accused for any of the offences under the IPC and the only offence for which they are sought to be prosecuted is offence under Section 132 of the Central Goods and Services Tax Act, 2017 read with Section 20 of the Integrated Goods and Services Tax Act, 2017 wherein a maximum sentence of rigorous imprisonment for 5 years is prescribed. Conclusion of trial is likely to consume time inasmuch as the trial has not even commenced till date and 13 prosecution witnesses have been cited. In these circumstances, further detention of the petitioners would not be justified.

8. Both the petitions, as such, are accepted and the petitioners are ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

9. A photocopy of this order be placed on the file of connected cases.

14.12.2022 **(Gurvinder Singh Gill)**
kamal **Judge**

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