In the High Court for the States of Punjab and Haryana
At Chandigarh

CRM-M-37851-2021 (O&M)

Kamal … Petitioner

Versus

State of Haryana ... Respondent

CRM-M-48541-2021 (O&M)

Sant Kumar and another … Petitioners

Versus

State of Haryana ... Respondent

Date of Decision:16.5.2022

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Birinder Singh Khehar, Advocate,
for the petitioner in CRM-M-37851-2021.

Mr. Nayandeep Rana, Advocate and
Mr. Shubham Singh, Advocate and
Mr. Vikas Malik, Advocate,
for the petitioners in CRM-M-48541-2021.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by SI Kashmir Singh.

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GURVINDER SINGH GILL, J.(Oral)

1. This order shall dispose of the above mentioned two petitions filed on behalf of petitioners Kamal, Sant Kumar and Shobhgaya seeking grant of regular

bail in respect of a case registered against them vide FIR No.15 dated 9.1.2019/10.1.2019, Police Station Bhuna, District Fatehabad, under Sections 420, 467, 468, 471 and 120B of Indian Penal Code.

2. Reply in CRM-M-48541 of 2021 has been filed by learned State counsel today in Court, which is taken on record.

3. The FIR was lodged on the basis of a complaint made by Sh. Sanjay Khichar, ETO-cum-State GST Officer, Ward No.3, Fatehabad for lodging of FIR in cases of bogus/shell/fake firm i.e. M/s Paradise International, Bansal Complex, Near Shiv Mandir Uklana Road, Bhuna having GST No. GSTINO6AYKPM1731AIZW. It is also alleged in the complaint that the aforesaid firm 'M/s Paradise International' was got registered on 03.08.2018 under GST Act, 2017 of which David Masih resident of Uklana is the Proprietor. On preliminary enquiry, the said firm was found floated in papers only and no firm was found at the given address. Therefore, the aforesaid firm was a non-existant firm. The said firm i.e. 'M/s Paradise International' raised 89 bills amounting to Rs. 1,28,82,326/- and it was liable to pay tax of Rs. 1,20,75,425/- but it was adjusted by him on purchase of 196 bills against the amount of Rs. 13,52,30,242/- and claimed bogus/false input tax credit of Rs. 1,28,82,326/ and caused loss to the State exchequer. It is alleged that the said firm raised fabricated documents. On the basis of aforesaid complaint, the present FIR was registered and investigation was carried out.

4. During the course of investigation, it was found that the said firm namely 'M/s Paradise International' was a bogus firm and was not found at its registered address. Initially, co-accused David Masih was arrested on 14.12.2020, who suffered a disclosure statement that he was working with

Rajender Kumar, where Kamal (petitioner in CRM-M-37851-2021) used to frequently come and had assured him (David Masih) that he would get a loan sanctioned for him and on the said pretext, had taken copies of his Aadhar Card, PAN Card, photographs etc. and David Masih had given the said documents to the petitioners namely Sant Kumar and Shobhagaya (in CRM-M-48541-2021). He further disclosed that the said persons told him that they will get firm registered in his name and will look after all the transactions and in return they will give him (David Masih) an amount of Rs.15,000-20,000/- on monthly basis and that he was taken in by the said allurement and signed on various documents at their instance for the purpose of opening firm and signing bank cheques etc. It is the case of prosecution that the accused by way of floating bogus firms and raising bogus bills had claimed input tax credit to the tune of Rs. 1,28,82,326/- causing huge loss to the State Exchequer and infact after complete investigation, the said loss has been found to be about Rs.1.80 crores.

5. Learned counsel for the petitioners have submitted that the petitioners have falsely been implicated in the present case and that there is nothing on record to establish their involvement. It has further been submitted that since co-accused David Masih has already been granted bail, the petitioners also deserve the same concession on ground of parity.

6. On the other hand, learned State counsel has submitted that during the course of investigation, the prosecution had collected sufficient evidence to establish the complicity of the petitioners, who had floated various bogus firms and had issued bogus bills, so as to claim input tax credit and had thus caused huge loss to the State Exchequer. Learned State counsel has further

submitted that the petitioners are habitual offenders and that while petitioner-Kamal (in CRM-M-37851-2021) is involved in one more case, the petitioners Sant Kumar and Shibhgaya (in CRM-M-48541-2021) are involved in 3 other identical cases. It has also been informed that the petitioners, as on date, have been behind bars since the last about 10 months and that as on date 6 out of the cited 28 PWs already stand examined.

7. I have considered rival submissions addressed before this Court.

8. The allegations are broadly to the effect that the petitioners had floated bogus firms and by issuing bogus bills had claimed input tax credit to the tune of Rs.1,28,82,326/-. Upon investigation, the total loss caused to the State Exchequer on account of input tax credit availed on the basis of bogus documents has been found to be about Rs.1.80 crores. During the course of investigation, it has been found that the petitioner Kamal executed a rent deed, so as to show that a shop owned by him has been let out to co-accused for the purpose of running a fake firm, though no such business was being run therein. It has been found that the petitioner Kamal took photocopies of Aadhar Card, PAN Card from co-accused David Masih and also took his photographs and got bogus firms registered in his name. It has been found that the telephone number as well as the e-mail ID as furnished while registering bogus firms was of petitioner Shobhgaya. The petitioner Shobhgaya and his co-accused Sant Kumar, who is his (Shobhgaya's) father, made several forged transactions between the firms namely DM Industries, Bhadra; DM Agro, Bhadra; Dwarka Dass Mahabir Parsad, Hisar; DM & Sons, Hisar; Paradise International, Bhuna; DS Traders, Bhuna; Mahabir Enterprises, Bhuna and Dariya Agro, Bhuna. The father and son i.e. the

petitioners Sant Kumar and Shobhgaya are together involved in three other cases i.e. in FIR No.14, dated 9.1.2019, Police Station Bhuna, under Sections 420, 467, 468, 471, 120-B of Indian Penal Code; in FIR No.15, dated 9.1.2019, Police Station Bhuna, under Sections 420, 467, 468, 471, 120-B of Indian Penal Code and in FIR No.16, dated 9.1.2019, Police Station Bhuna, under Sections 420, 467, 468, 471 and 120-B of Indian Penal Code.

9. The evidence collected during the course of investigation clearly points towards complicity of the petitioners, who have committed a colossal fraud of about Rs.1.80 crores. Such like huge loss is virtually an attempt to shatter the economy of the country.

10. Bearing the aforesaid facts and circumstances in mind and while noticing that the petitioners are habitual offenders, this Court does not find any ground for grant of bail to the petitioners at this stage. Both the petitions, as such, are dismissed.

11. The Trial Court is, however, directed to take necessary steps for examining the maximum number of witnesses. The Trial Court to make an endeavour to examine at least 50% of the cited witnesses within the next three months provided the accused extend utmost cooperation for the same. In case, there is inordinate delay in conclusion of trial, it shall always be open to the petitioners to move afresh to the Trial Court for grant of bail.

16.5.2022 **(Gurvinder Singh Gill)**
pankaj **Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No