

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-44785-2021 (O&M)
Date of decision: 29.03.2022

Sonu Kumar Khushwaha

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.S. Swaich, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.111 dated 25.04.2019 under Sections 420, 467, 468, 471, 120-B, 201 IPC, Sections 132(1)(i) & 132 (I)(iv) of CGST Act and Sections 65, 66D & 71 of I.T. Act, registered at Police Station Cheeka, District Kaithal.

Learned counsel for the petitioner relies upon the order dated 11.11.2021 passed in CRM-M-41641-2021, vide which co-accused Ashish Kumar was granted the concession of regular bail. The operative part of the order reads as under: -

“...Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of Excise and

Taxation Officer, a firm M/s B.K. Steel in District Kaithal was having GSTIN No.06KDCPS2189R1ZI, which was registered under GST Act, 2017 in the name of one Bijendra Kumar Sharma and saving bank account of Kotak Mahindra Bank was attached with the same. It is further stated in the FIR that when physical verification was done, proprietor Bijendra Kumar Sharma could not be traced nor the business premises were found at the given address and it came to the notice that by creating a non-existent firm, he has caused loss of Rs.1.00 crore to the State Exchequer by showing the bogus sale of goods without any proper purchase.

Learned counsel has argued that only evidence against the petitioner is his own disclosure statement, wherein it has come that he was introduced to co-accused Sonu Kumar Khushwaha and he advised him to create a forged firm in the State of Haryana and for that purpose, by preparing duplicate PAN Card, Bank account etc., aforesaid firm was created. It is further submitted that the petitioner is not a beneficiary in any manner and though no amount was transferred in his account, as it has come in the investigation that account of co-accused Sonu Kumar Khushwaha was attached with GST account.

Learned counsel has further submitted that the petitioner is in custody since 05.07.2021 and as on today, he is in custody for about 04 months and he was involved in an identical case by the same complainant, wherein he was also not a beneficiary. It is

also submitted that investigation is complete; challan stands presented and the offences are triable by the Court of Magistrate.

Learned State counsel could not dispute the fact that primary evidence against the petitioner is his own disclosure statement and in pursuance thereof, nothing was recovered...”

Learned counsel further submits that allegation against the petitioner is that he along with co-accused Sandeep Kumar created forged firms in the name of M/s B.K. Steel and used the documents of one Bijendra Kumar Sharma and in one more FIR No.91, a bogus firm in the name of M/s Mansi Alloys was also registered on the basis of forged documents. It is further submitted that the petitioner is in custody for the last 08 months and 24 days; investigation is complete; out of total 40 prosecution witnesses, only 01 PW has been examined so far, therefore, it will take some time in conclusion of the trial.

Learned State counsel has filed the custody certificate dated 28.03.2022 in the Court today and has, however, submitted that though the petitioner was not named in the FIR, however, the investigation discloses that he has raised bogus invoices of more than Rs.5.00 crores for causing loss to the Govt. exchequer for taking GST tax credit.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the long custody of the petitioner and the fact that no investigation is pending against him and it will take some time in conclusion of the trial, as only 01 PW has been examined so far, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail bonds and two sureties of the like amount, to the

satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

29.03.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No