108 (seven cases)

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1. **CRM-M-41006-2020**

Anupam Singla ...... Petitioner

Versus

State of Haryana and others ...... Respondents

2. **CRM-M-18621-2021**

Jagtar Singh ...... Petitioner

Versus

State of Haryana and another ...... Respondents

3. **CRM-M-34606-2021**

Parveen Mehta ...... Petitioner

Versus

State of Haryana ...... Respondent

4. **CRM-M-15248-2021**

Devi Lal Singh ...... Petitioner

Versus

State of Haryana ...... Respondent

5. **CRM-M-47869-2021**

Sunil ...... Petitioner

Versus

State of Haryana ...... Respondent

6. CRM-M-21829-2022

Sheetal Garg ...... Petitioner

Versus

State of Haryana and another ...... Respondents

7. CRM-M-44111-2020

Charan Singh ...... Petitioner

Versus

State of Haryana and another ...... Respondents

Date of Order : 03.08.2022

CORAM : HON'BLE MR. JUSTICE AMOL RATTAN SINGH

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Present : Mr. Aditya Sanghi, Advocate
for the petitioners in CRM-M-41006-2020 and
CRM-M-21829-2022.

Mr. B.K.Bagri, Advocate
for the petitioner in CRM-M-44111-2020.

Mr. Judgepreet Singh Warring, Advocate
for the petitioner in CRM-M-18621-2021.

Mr. Arpandeep Narula, Advocate
for the petitioner in CRM-M-34606-2021.

Mr. Sumeet Puri, Advocate
for the petitioner in CRM-M-15248-2021.

Mr. Parveen Kumar, Advocate
for Mr. Abhimanyu Singh, Advocate,
for the petitioner in CRM-M-47869-2021.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Sourabh Goel, Advocate, Senior Standing Counsel
for the respondent-Director General of GST (Intelligence).

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AMOL RATTAN SINGH, J (Oral)

CRM-M-41006-2020

Vide this petition, the petitioner seeks quashing of FIR No.0008 registered at Police Station Kanina, District Mahendergarh, on 05.01.2019, alleging therein the commission of offences punishable under Sections 420, 467, 468, 471, 201, 120-B IPC and Section 132 (1)(B(C) of the Haryana Goods and Services Tax Act, 2017, on the ground that the petitioner had already been arrested in the context of the same cause of action by the Directorate General of G.S.T. (Intelligence), New Delhi, on 18.07.2019, with Mr. Sanghi submitting that in the context of those proceedings, under the Central Goods & Services Act, 2017, the petitioner has already been admitted to 'statutory bail' under the provisions of Section 167 (2) of the Cr.P.C.

The contention therefore is that in terms of Sections 6 (2) (b) of both, the CGST Act, 2017 and the HGST Act, 2017, once proceedings under one particular Act have already been initiated, i.e. either under the State Act or under the Central Act, then similar proceedings would not be initiated on essentially the same cause of action by the proper (designated) officer under the other Act.

Mr. Sanghi points to the affidavit dated 30.03.2022 filed by the Excise & Taxation Commissioner, Haryana in a connected petition, i.e. CRM-M-20024-2021 **(**in view of the fact that all petitions have been heard together), wherein it is stated as follows in paragraph 4 and 5 thereof:-

> *"4. That as per the directions of the Hon'ble Court, the deponent had requested the concerned section in DGGI, Head Quarter, New Delhi to provide information regarding arrest memo, Panchnama and other relevant documents in relation to the cazse filed against the petitioner at Delhi. The same has been received. On perusal of the entire record pertaining to the case, it was found that the case registered at Delhi is on the same set of facts as the one registered at Haryana and therefore Section 6 of C/HGST Act 2017 will be applicable on the facts of thepresent case.*
>
> *5. That due to an inadvertent mistake the DETC, Narnaul in its affidavit dated 03/09/21 has submitted in the Hon'ble Court that the cases filed against the petitioner at Delhi and Haryana are different. The law regarding GST isan evolving law and the offences under Section 132 of the GST Act are of multiple nature involving several technicalities and therefore the DETC has only relied upon the information which was availed with him at that time. Even though the mistake was unintentional, the deponent tenders an unconditional apology in this regard.*

He thus submits that with the action initiated under the CGST Act having been so initiated on 07.09.2018 but with the proceedings under the HGST Act having been initiated on 05.01.2019, the latter proceedings cannot be allowed to continue.

In that context he also points to paragraph 4 of the affidavit dated 13/15.04.2022, filed by the Deputy Director, Directorate General of GST Intelligence, in which file No.391/INT/DGGI/Hqrs./2018 on 07.09.2018 has been referred to, with learned counsel appearing for respondent no.3 [Director General of GST (Intelligence)], obviously not refuting that factual aspect.

In view of the above, with even the Excise & Taxation Commissioner not denying that the cause of action as regards FIR No.0008 lodged against the petitioner on 05.01.2019 at Police Station Kanina, District Mahendergarh, is the same cause as initiated by the Directorate General, GST (Intelligence) on 07.09.2018, this petition is allowed to the extent that as regards the provisions of the HGST Act, 2017, the FIR is hereby quashed; but with it made absolutely clear that as regards the offences alleged to have been committed in terms of Sections 420, 467, 468, 471, 201, 120-B of the IPC, such proceedings would continue and be taken to their logical conclusion by the investigating agency in Haryana and the competent court to which the report under Section 173 Cr.P.C. is submitted.

The petition stands disposed of.

Affidavits, as have not been taken on record on earlier dates but are on the file of this case as well as on the files of the other connected petitions, are ordered to be taken on record.

CRM-M-34606-2021 & CRM-M-47869-2021
CRM-M-18621-2021
CRM-M-15248-2021

Vide CRM-M-34606-2021 & CRM-M-47869-2021, the petitioners seek the concession of 'regular bail' under the provisions of Section 439 of the Cr.P.C., upon FIR no.8, dated 05.01.2019, having been registered at Police Station Kanina, District Narnaul, alleging therein the commission of offences punishable under the provisions of Sections 420, 467, 468, 471, 120-B of the IPC (Sections 201 IPC and Section 132 (1)(B)(C) of the Haryana Goods and Services Tax Act, 2017 having been added lateron).

Vide CRM-M-18621-2021, the petitioner seeks the concession of 'regular bail' under the provisions of Section 439 of the Cr.P.C., upon FIR no.147, dated 13.03.2019, having been registered at Police Station Hansi City, District Hisar, alleging therein the commission of offences punishable under Sections 120-B, 420, 467, 468, 471 of the IPC (Section 201 IPC added lateron).

Vide CRM-M-15248-2021, the petitioner seeks the concession of 'regular bail' under the provisions of Section 439 of the Cr.P.C., upon FIR no.07, dated 09.01.2019, having been registered at Police Station City Ratia, District Fatehabad, alleging therein the commission of offences punishable under Sections 420, 467, 468, 471, 120-B and 201 of the IPC.

The petitioners had been earlier admitted to interim bail vide orders passed on different dates in each case, on the ground that their role in the entire scam of allegedly cheating the public exchequer of Rs.660 crores, was only to the extent that their identities were used by the prime accused, i.e. Anupam Singla etc., and for that purpose they were paid Rs.10,000/- to Rs.15,000/- per month.

Upon query to learned State counsel, he does not deny that as per his instructions the allegations against the petitioners are indeed to the aforesaid effect at least at this stage; and further, that they have not misused the concession of bail, though against two of the petitioners, i.e. Parveen Mehta and Sunil (in CRM-M-34606-2021 & CRM-M-47869-2021 respectively), there is also an allegation of destruction of evidence and thereby with an offence under Section 201 of the IPC having been committed.

Keeping in view the nature of the allegations against the petitioners in these petitions, who have already been admitted to interim bail on that very ground by this court, and with their being no report of any misuse of concession, without making any comment whatsoever on the actual merits either of their cases, the orders passed in each case, admitting them to interim bail, are made absolute on the same terms and conditions.

The petitions are allowed as above.

CRM-M-21829-2022

The reply filed on behalf of the respondent-State, dated 08.07.2022, is ordered to be taken on record.

Though Mr. Sanghi, learned counsel for the petitioner, submits that the petitioner, Sheetal Garg, is not differently placed to other accused who have been admitted to interim bail by this court, and the petitioner himself in the context of various other FIRs has been admitted to bail by the trial court itself, learned State counsel submits that his case is different from those persons who were only used as 'tools' by the prime accused (Anupam Singla) on the lure of some amounts of money, to take part in the entire scam. He submits that the present petitioner, i.e. Sheetal Garg, was actively involved in creating bogus firms which had illegally availed of input tax credit (ITC) in active collusion with Anupam Singla, and therefore he does not deserve to be treated on the same footing as those who have been admitted to interim bail.

Mr. Sanghi submits that the aforesaid allegation is entirely on the basis of a disclosure statement allegedly made in police custody by co-accused, i.e. Anupam Singla and Suresh, as also on an alleged confession made in police custody by the petitioner.

Adjourned to 12.09.2022.

The SP Mahendergarh is directed to file his own affidavit after going into the matter to determine as to what evidence other than a disclosure/confessional statement in police custody is available against the petitioner, with the investigating agency to also therefore differentiate his case from those who have been allegedly only lured into the scam for petty gains but did not otherwise have a great role to play in defrauding the exchequer of Rs.660 crores.

<u>CRM-M-44111-2020</u>

As regards petitioner Charan Singh, in this petition, learned State counsel reiterates what he had submitted as recorded in the order dated 22.04.2022, to the effect that his role is different to that of the other accused who had been also admitted to interim bail (hereinabove), as he is alleged to have forged the signatures of the person who was the proprietor of the bogus firm, i.e. Poonam Industries (she having died and her petition having therefore been disposed of as having been rendered infructuous today), and therefore he cannot be treated to be at par with those who have been admitted to bail.

The SP Mahendergarh is directed to file his own affidavit as regards the role of Charan Singh, with learned counsel for the petitioner submitting that infact he was only an emplyee of the prime accused, i.e. Anupam Singla.

Adjourned to 12.09.2022.

(A copy of this order be also placed on the files of the other connected matters too).

(AMOL RATTAN SINGH)
JUDGE

03.08.2022
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No