

**235 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**CRM-M-53014-2021 (O&M)
Date of decision:15.02.2022

YOGENDER YADAV

...Petitioner

Versus

UNION OF INDIA THROUGH DIRECTORATE GENERAL OF GST
INTELLIGENCE

...Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Gopal Sharma, Advocate for the petitioner.

Mr. Sourabh Goel, Sr. Standing Counsel, CBIC
for the respondent.

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner is alleged to commit an offence constituted under Section 132(1)(b)(c) of Central Goods and Service Tax Act, 2017. In pursuance to the afore offence becoming allegedly committed by the applicant, he became arrested, on 23.10.2021.

2. The petitioner was serving as a chartered accountant, with two proprietorship concerns, respectively with the name, and, style of M/s Lalji Enterprises, and, M/s Hemu Overseas. He is alleged by the prosecution to facilitate, through his drawing fictitious statements of accounts, and, also through drawing of forged invoices, of the above entities, rather both to purportedly illegally avail the benefit of the provisions, as embodied in Section 16 of Central Goods and Service Tax Act, 2017 (hereinafter referred to as Act).

3. The above two entities in term of Section 16 of the Act, are alleged to illegally avail a total sum of Rs. 18.01 crores, rather, as the statutorily embodied benefit(s) of passings off.

4. Admittedly, the bail applicant was working, as a chartered accountant with proprietorship concerns (supra). If he had purportedly not

prepared above fictitious invoices, and, statements of accounts, the above offence would not have occurred. It is a matter of evidence whether the bail applicant has scribed either the invoices concerned, or the statements of accounts concerned, or has loaded them on, to the electronic devices concerned. Obviously, hence *prima-facie*, at this stage the above role, as ascribed by the prosecution to the bail petitioner cannot be tested, and, only after collection of evidence with respect to the afore, it can be concluded by the Inspector concerned, rather in his final report qua whether the inculpatory role as ascribed to the bail petitioner, becoming supported by the apposite thereto credible evidence, as becomes collected by him.

5. Be that as it may, and, if so, this Court cannot at this stage, determine the validity of the incriminatory role as scribed to the bail petitioner by the prosecution. Moreover, since the bail petitioner did *prima-facie* ably facilitate the above entities in the commission of the offences (*supra*). However, when at this stage though, there is no tangible evidence suggestive of his being a beneficiary of the illegal drawings, from the government treasury concerned, of monetary sums concerned, through the above purported illegal recouring of passings off. Moreover, when even with respect of the above, the evidence is not completely collected, and, is in the stage of becoming investigated, and, also collected.

6. If that be so, the incriminatory role as ascribed to the bail petitioner may not *prima-facie* be holding the most potent effect against him.

7. However, if all the above are to be investigated, and, the petitioner is suffering judicial incarceration since his arrest as made on 23.10.2021. Therefore, his further judicial incarceration may not be prolonged, as it would unnecessarily curtail, and, fetter his personal liberty.

8. Nonetheless, since irrespective of investigations, with respect to

the afore being still underway, and, also evidence in respect thereof, being yet not collected by the Inspector concerned, yet given the gravity of his purported incriminatory role, he cannot be admitted to bail unless certain conditions are imposed, upon him. The imposition of conditions would ensure that he does not flee from justice, and/or, tamper with prosecution evidence, and, besides also does not influence the prosecution witnesses concerned.

9. The learned counsel appearing for the petitioner has suggested, on instructions given to him, by the petitioner, that the petitioner is ready and willing, for imposition, upon him, the condition that he will give his ancestral house measuring 200 sq. yards, situated at village Multanpur, Tehsil Pataudi, District Gurugram, as personal surety, before the learned trial Judge concerned.

10. The afore conditions are required to be imposed by this Court, upon the petitioner, as a pre-condition for his being admitted to bail, as they are both just, and, reasonable.

11. Consequently, subject to the above conditions being complied with by the petitioner, before the learned trial Judge concerned, the instant petition is allowed, and, the petitioner-bail applicant is ordered to be released from judicial custody. In addition it is also made subject to his not fleeing from justice, and, his not tampering with prosecution evidence, and, his not influencing prosecution witnesses, and, besides also his appearing before the trial Court concerned, as and when directed to make his personal appearance unless validly exempted.

12. Copy dasti.

(SURESHWAR THAKUR)
JUDGE

15.02.2022

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Whether speaking/reasoned:- Yes/No

Whether reportable: Yes/No