

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-38409-2021

Date of Decision:-25.05.2023

Amrinder Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. S.S. Grewal, Advocate for
Ms. Prabhnoor Kaur Bains, Advocate for the Petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

1. The prayer in the petition under Section 439 Cr.PC is for grant of regular bail in Complaint No.15 of 2021 titled as State Versus Vinod Kumar & Ors. Registered on 12.05.2021 under Sections 132(1) (a), (b) & (c) of Central Goods & Services Tax Act, 2017 and Punjab Goods & Services Tax Act, 2017 filed before the Court of Sub Divisional Judicial Magistrate, Khanna, District Ludhiana.

2. The brief facts of the case as culled out from the complaint are as under:-

An investigation into the business activities of firms under subject has revealed that a group of persons as mentioned below have colluded and connived with each other to make a network of fake firms and defraud the state exchequer. All these below mentioned individuals have made a total of 40 firms and have evaded tax amounting to Rs.122.28

Crores. The common Email-ids, Phone numbers and PAN cards have been used in all these firms to get the registrations and pass on the fraudulent Input tax Credit (ITC) to various beneficiary firms. No tax has been ever paid in the inward supply chain of these firms and a mechanism has been devised by all these individuals to cover the movement of clandestine goods with fake invoices so that fraudulent ITC could be availed for adjustment against the output tax liability. Further bank accounts given/uploaded at the GSTN Portal of these firms are different than the bank accounts through which money transaction has happened and even parallel and fake bank accounts have been opened to withdraw the cash in some of these firms. It is also pertinent to mention that huge cash has been collected/ withdrawn from the bank accounts by same and common persons. Different roles were assigned in this group of individuals amongst each other such as getting registration on the PAN of some individuals and cash withdrawals by some other persons of the group. The verification of inward supplies of these firms from the E-Way portal revealed that the inward supply chain of these firms is NIL at subsequent stages and these firms itself were also found to be non-existent at their registered place of business. All these individuals are therefore individually and severally responsible for defrauding the state exchequer. Accordingly a case for arrest of the following 7 persons has been granted by Commissioner of State Tax, Punjab.

- 1) Mr. Vinod kumar, S/o S! Om Parkash Street, 1.0. 12, Amloh road, Khanna, Ludhiana.
- 2) Mr. Maninder Sharma, S/o Sh. Satya Varat Rattan, Street no. 1, ward no. 4, Nandi colony, Khanna, Ludhiana.
- 3) Mr. Harvinder Singh, S/o Sh. Sukhdev Singh H.No. 3660, Filli Gate Jagraon, Ludhiana.
- 4) Mr. Sandeep Singh, S/o Sh. Ikbal Singh Nabha Colony No. 01 Khanna, Ludhiana

- 5) Mr. Amarinder Singh,S/o Sh. Gurnam Singh H.No. 428, Uchha Vehra, GT road Khanna, Ludhiana
- 6) Mr. Sunny Mehta, S/o Sh. Kuldeep Mehta, H.No. C/18 St. No. 3 Jagat Colony Khanna, Ludhiana.
- 7) Mr. Sukhdev Singh S/o Sh. Kartar Singh, Shiva Tower Over Lock Road Near OBC Bank Ludhiana.

The person wise details of tax evasion done through firms registered in the name of members of this groups is as below:-

Sr. No.	Name of Person	Address	Firms Regd. In Punjab	Firms Regd. Outside Punjab	Total Firms Regd.	Tax evaded	Remarks
1	Vinod Kumar	Street No.12, Amloh Road, Khanna	3	0	3	7,40,00,287/-	
2	Maninder Sharma	Gali No.1, Ward No.4, Nandi Colony, Khanna	2	0	2	6,31,89,852/-	In addition, an amount of Rs.1.99 Crores received from bogus bank A/c of M/s Laxmi Iron Traders
3	Harvinder Singh	H.No.3660, Filligate Jagraon	3	3	6	37,44,56,536/-	
4	Sandeep Singh	Nabha Coloney No.01 Khanna, Ludhiana	5	3	8	177,355,995/-	
5	Amrinder Singh	H.No.428 Uchha Vehra, GT Road Khanna	7	4	11	22,67,83,552/-	
6	Sunny Mehta	H.No.C/18 St. No.3 Jagat Colony Khanna, Ludhiana	4	5	9	26,99,55,692/-	
7	Sukhdev Singh	Shiva Tower Over Lock Road Near OBC Bank Ludhiana	1	0	1	3,71,52,715/-	An amount of Rs.38.40 lacs cash withdrawn from bogus bank A/c of M/s Laxmi Iron Traders
Total			25	15	40	122,28,94,629	

As per the complaint evasion of tax was Rs.122,28,94,629/- which has now increased to Rs.131,96,00,000/-.

3. Based on the detailed investigation conducted the complaint in question came to be filed under Section 132(1) (a), (b) & (c) of Central Goods & Services Tax Act, 2017 and Punjab Goods & Services Tax Act, 2017.

4. The Counsel for the petitioner contends that similarly situated co-accused of the petitioner, namely, Maninder Sharma, Vinod Kumar, Sunny Mehta and Sandeep Singh have been granted the concession of regular bail vide order dated 31.08.2022. As the petitioner was in custody since 13.03.2021 and only the examination in chief of the complainant had taken place as against the total 63 prosecution witnesses yet to be examined, the petitioner was entitled to the concession of bail.

5. The Counsel for the State on the other hand does not dispute the factual position as also the fact that the similarly situated co-accused of the petitioner have been granted the concession of regular bail. He however contends that the serious nature of the allegations does not entitle the petitioner to the grant of bail.

6. I have heard Counsel for the parties.

7. Since the grant or refusal of bail lies in the discretion of the Court the discretion is to be exercised with regard to the facts and circumstances of each case. However, bail is not to be denied to satisfy the collective sentiments of a community or as a punitive measure.

8. Therefore, broadly speaking (subject to any statutory restrictions contained in Special Acts), in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. However, this would not prevent the Court from granting bail even prior to the completion

of investigation if the facts so warrant.

9. Given the fact that the petitioner was arrested on 13.03.2021 and is in custody ever since in a case where the maximum sentence that could be awarded was 05 years, the further incarceration of the petitioner is not required, more so when his co-accused have been granted the concession of regular bail vide order dated 31.08.2022.

10. In view of the aforementioned circumstances, the further incarceration of the petitioner would be wholly unnecessary. Thus without commenting on the merits of the case, the aforementioned petitions are allowed and the petitioner-**Amrinder Singh** son of Gurnam Singh is ordered to be released on bail subject to the satisfaction of the Trial Court, concerned which is at liberty to impose any stringent conditions that it deems appropriate.

11. Further, the Petitioner is directed to surrender his passport before the Trial Court or furnish an affidavit in case he do not possess any passport.

12. If any attempt whatsoever is made by the petitioner and/or his family members/friends to contact/threaten/intimidate any of the witnesses of the case, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.

13. The petitions stand disposed of.

(JASJIT SINGH BEDI)
JUDGE

May 25, 2023
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No