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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-35188-2023 (O&M)
Date of decision: 27.07.2023

Rakesh Puri ….Petitioner

Versus

State of Haryana ….Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Gulshan Mehta, Advocate
for the petitioner.

Mr. Karan Garg, AAG, Haryana.

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ARUN MONGA, J. (ORAL)

Custody certificate of the petitioner has been tendered in Court by learned State counsel, which is taken on record.

2. Petitioner seeks bail in criminal case bearing FIR No.626 dated 25.06.2019, registered under Sections 420, 467, 468, 471 and 201 of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station Chandni Bagh, Panipat, Haryana.

3. A complaint dated 20.06.2019 was filed by the Proper Officer-cum-Excise & Taxation Officer (State Tax), Panipat, resulting in the registration of an FIR. The complaint alleged that one N. Nasarbasha fraudulently registered himself under the CGST/HGST Act, 2017, using the name of M/s Sh. Shyam Enterprises with GSTIN-06ARWPN8011B1ZS. To investigate the authenticity of the firm, an inquiry agency (Taxation Inspector) was directed by the complainant through an office letter dated 29.5.2019 under Rule 25 of the CGST/HGST Rules, 2017. The inquiry revealed that N. Nasarbasha had submitted false documents, including bank account details and photographs, to obtain the registration. On 13.6.2019, Taxation Inspector Mr. Ravinder Parkash visited the provided address and submitted a report and Panchnama dated 13.6.2019, witnessed by two Panches. According to their findings, no such firm was operating at that location. It became evident that N. Nasarbasha had registered the business using fraudulent and forged documents to deceive the Government Authorities. He further misused the GST online portal to take advantage of input tax credit and issued

fake invoices and e-way bills to pass on input tax credit to other firms and taxable persons. All of these actions were done with the dishonest intention of evading tax payments. Investigation was initiated in the FIR and in course thereof, petitioner was arrested as one of the suspects on 14.02.2022.

4. Learned counsel for petitioner submits that petitioner has been falsely implicated in the present case. He has no concern with the alleged crime. Petitioner was working under Vishal Bansal, Pankaj Bansal and Rahul Naroliya. It is them who were running five fictitious firms which were opened for the purpose of wrongfully availing the input tax credit/refund of taxes. These masterminds have misused the Aadhar card and PAN card of the petitioner without his knowledge to get the registration of the firm under the GST portal in the name of the petitioner. Petitioner is nowhere liable to any proceedings under the GST Act.

4.1 He further submits that petitioner is in custody since 14.2.2022 and challan has already been presented before the competent Court. Charges have been framed on 14.06.2022. There are 23 prosecution witnesses and only five witnesses have been examined till date. Petitioner is not required for custodial interrogation.

5. On the other hand, learned State counsel opposes the bail petition. He submits that it is a serious case of Tax evasion by way of preparing forged documents. During investigation, petitioner suffered his disclosure statement admitting his involvement. He further submits that petitioner is a habitual offender. Four more FIR's of similar allegation/nature were registered against him.

5.1. In rebuttal, learned counsel for petitioner submits that petitioner has been granted the concession of bail in three out of those four cases.

6. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

7 Challan is stated to have been presented, charges have been framed. Investigation is thus complete *qua* petitioner. The case is fixed for prosecution evidence and only 5 prosecution witnesses have been examined so far out of 23 prosecution witnesses. Since trial has commenced, petitioner is thus not required for custodial

interrogation. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Allegations against petitioner are a matter of trial at this stage. Commencement/conclusion of the trial is likely to take quite sometime. Whereas petitioner has already been languishing in jail for 1 year 5 months and 13 days in preventive custody, he being behind bars since 14.02.2022.

8. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/ or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency.

9. Petitioner is stated to be 46-year old family man and only bread winner of his family who has added responsibility of his wife and one daughter, who is pursing the degree of law and they are living in sheer penury in his absence. It is unlikely that he is flight risk or will flee from the trial proceedings. Offence allegedly committed by petitioner is of non-violent nature and in that sense his release on bail is not a threat to the society at large by committing any violent crime.

10. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

11. Accordingly, petitioner is ordered to be released on bail, in case not required in any other case, on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Magistrate, as the case may be.

12. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.

13. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petition alone and learned Trial Court shall proceed without being influenced with this order.

14. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

27.07.2023
vandana

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