IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-51439-2022

Date of Decision: 09.01.2023

Bajrang Lal Sharma

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Sanjay Kaushal, Senior Advocate with
Mr. A.P. Setia, Advocate for the petitioner.

Mr. Gaurav Bansal, Assistant Advocate General, Haryana.

ASHOK KUMAR VERMA, J. (ORAL)

Custody certificate dated 06.01.2023 filed in Court today is taken on record.

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No. 0761 dated 25.10.2020 registered under Sections 420, 467, 468, 471 and 120-B IPC at Police Station Sadar, Hisar.

Brief facts of the case are that initially, the present case was registered against co-accused Smt. Chotki Devi D/o Sh. Vishvanath Sahu, resident of Chauhan Mohalla, Sarai Pipal Thala, Adarsh Nagar, Delhi being Proprietor of M/s S.K. Enterprises, Talwandi Rana, Hisar, on the basis of complaint moved by Dr. Sanjeeta Kochar, ETO, Excise and Taxation Department, Hisar, alleging therein that the firm M/s S.K. Enterprises was a proprietorship firm, registered under the GST, Act on

30.10.2018 having GSTIN-06BZKPD5770QIZQ and requisite details of proprietor were uploaded at GST portal. On actual verification, no such firm was found in existence. The tax-payer submitted the return of the said firm and shown trading of the said firm worth ₹10,87,03,646/- during the period from October, 2018 to December, 2018 and claimed ITC worth ₹1,34,12,292/-. The tax-payer found involved in evasion of tax by wrongly utilization of input Tax Credit for disposal of out tax liabilities without actual payment of tax, resulting into loss of huge revenue to the State exchequer. On the basis of said complaint, present FIR was registered against Smt. Chotki Devi, proprietor of the said firm. A 'Special Investigation Team' (SIT) was constituted to enquire into the present case. During investigation, requisite record was collected and the SIT found that the firm of petitioner i.e. M/s Metal Traders, had also dealt with M/s S.K. Enterprises and this firm has also evaded GST. On 13.08.2022, the petitioner had joined the investigation and was arrested. He suffered a disclosure statement that one Deepak resident of Meham, a scrap dealer of Delhi, on commission basis provided the bills of the said firm M/s S.K. Enterprises, showing purchase of ₹35,00,000/- approximately, to save the tax.

Learned counsel for the petitioner, *inter alia,* contends that the petitioner has falsely been implicated in the instant case. The petitioner had paid the entire payment qua purchase of metal/scrap from M/s S.K. Enterprises, through RTGS against the invoices including tax. No offence is made out against the petitioner under the GST Act. On receipt of notice from the Excise and Tax Department, the petitioner had already deposited an amount of ₹9,99,480/- as tax under the GST Act, vide intimation dated 14/18.10.2022 (Annexure P-5). There is no provision under the GST Act that the offence is penal in nature. The petitioner is in custody since 13.08.2022. Challan has already been presented against him under Sections 420 and 120-B IPC only. Nothing has to be recovered from the petitioner. Trial is likely to take time and no purpose will be served by keeping the petitioner in custody. Thus, it is prayed that the petitioner may be granted the concession of regular bail.

On the other land, learned State Counsel has vehemently opposed the prayer for grant of regular bail to the petitioner, on the basis of averments made in the reply dated 12.12.2022 filed by the respondent-State. Learned counsel for the State submits that there are specific allegations against the petitioner that the firm of the petitioner i.e. M/s Metal Traders had deals with the bogus firm M/s S.K. Enterprises and obtained bogus GST bills. However, learned State counsel has fairly conceded the fact that the petitioner had already deposited the tax amount of ₹9,99,480/- under the GST Act vide intimation dated 14/18.10.2022 (Annexure P-5).

I have heard learned counsel for the parties and gone through the record.

Keeping in view the facts and circumstances of the case, custody period of the petitioner and also the fact that the petitioner had already deposited an amount of ₹9,99,480/- as tax under the GST Act vide intimation dated 14/18.10.2022 (Annexure P-5) in terms of notice served upon him by the Excise and Taxation Department, but without commenting on the merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

Accordingly, the present petition is allowed and the petitioner-Bajrang Lal Sharma, is ordered to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

January 09, 2023 **(ASHOK KUMAR VERMA)**
rishu **JUDGE**

Whether speaking/reasoned ***Yes/No***

Whether Reportable ***Yes/No***