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216 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-59856-2023 (O&M)

Date of Decision: 04.12.2023

AKASH BATTA

...Petitioner

V/S

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Shiv Kumar Sharma, Advocate
for the petitioner.

Mr. I.P.S. Sabharwal, DAG Punjab.

HARPREET SINGH BRAR J. (Oral)

1. This is the first petition under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No. 155 dated 29.10.2023 registered under Sections 420, 465, 467, 468, 471, 120-B of the Indian Penal Code at Police Station Sirhind, District Fatehgarh Sahib.

2. Brief facts of the case are that on 29.10.2023 at about 04.00 PM when the Police party was present in private vehicle for patrolling and intercepting the anti-social elements, a secret informer gave the information that Akash Batta son of Rakesh Batta resident of House no. 441, Street No. 4, Gandhi Nagar, Sector-21-C, Mandi Gobindgarh alongwith his accomplices were preparing fake bills/bilties and were loading scrap in the trucks from Delhi, which was being sold in the furnaces of Sirhind and Mandi Gobindgarh in order to evade taxes of the Government. Today again Akash Batta is coming towards Sirhind, Gobindgarh on truck no. PB10-HB-9405 and truck no. PB10-JA-9277

alongwith their accomplices, scrap (iron) and fake bills/bilties could be intercepted. The information is reliable. Therefore, above said Akash Batta and his accomplices has committed an offence under Section 420/465/467/468/471/120-B of IPC by doing this. Hence, ruqa has been sent to the police station for the registration of the case against the above said Akash Batta.

3. Learned Sr. counsel for the petitioner inter alia contends that the perusal of the FIR clearly shows that the evasion of tax, if any, by the petitioner would be an offence under the provisions of Central Goods and Services Tax Act, 2017 and it is a special statute providing complete mechanism for the punishment of any offence attracted for evasion of tax and the FIR under the Indian Penal Code cannot be lodged and the petitioner is behind the bars since 29.10.2023. As such there is no evidence with regard to attracting offences under Sections 467, 468, 471 of IPC as the allegations in the FIR would show that the petitioner was carrying scrap iron without any valid bill.

4. Per contra, learned State counsel has opposed the prayer for grant of bail to the petitioner on the ground that petitioner is a habitual offender and is facing trial in three more cases.

5. Having heard the learned counsel for the parties and after perusing the record, it transpires that the petitioner is behind the bars since 29.10.2023 and the trial of the case would take long time to conclude. Culpability, if any, would be determined at the time of trial.

A two Judge Bench of Hon'ble Supreme Court in '**Satender Kumar Antil v. CBI**' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

6. Further, in view of the law laid down by Hon’ble Supreme Court in **(i) Prabhakar Tiwari Vs. State of UP and Anr. 2020(1) RCR (Criminal) 831** and **(ii) Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others 2012(2) SCC 382**, the involvement of the accused in other cases cannot be a ground to deny him the concession of bail. In view of the above, the petitioner- Akash Batta is ordered to released on regular bail subject to furnishing his requisite bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial

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Magistrate/Duty Magistrate.

7. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

8. The petition is allowed.

(HARPREET SINGH BRAR)
JUDGE

04.12.2023
Ajay Goswami

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