IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

225 **CRM M-837 of 2024**
Date of Decision: 05.02.2024

Amit Bansal ...Petitioner

Versus

State of Haryana ... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Vikram Chaudhri, Sr. Advocate with
Mr. Sunil Sihag, Mr. Keshvam Chaudhri and
Mr. Kunal Sharma, Advocates
for the petitioner (Through V.C.).

Ms. Sheenu Sura, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant a regular bail to him in case FIR No.646 dated 24.10.2020 registered under Sections 406, 419, 420, 465, 467, 468, 471, 409 and 120-B IPC at Police Station City Sirsa, District Sirsa.

2. The FIR in the present case was got registered on the complaint made by Excise and Taxation Officer, Ward No. 3, Sirsa to the Superintendent of Police, Sirsa and the same has been reproduced as under:-

> *"OFFICE OF DY EXCISE TAXATION COMMISSIONER (ST) SIRSA, VANIJYA BHAWAN, BARNALA ROAD SIRSA From Excise Taxation Officer Ward No. 3 Birna*

To, The Superintendent of Police Sirsa

No. 3627 / dated 11-12-19

Subject: Regarding registration of FIR against Sh Mangat Parn 8/0 Sh Nanak Chand R/o Saraswati Colony Near Bhakra Cotton Mill Rania Road Sirsa Prop M/s Shree Balaji Enterprises Back side OBC Bank Thakran Street Suratgria Chowk Sirsa /40A Ist Floor Ana) Mandi Ellenabad TIN 06832919150

Memo On the subject cited above, it is informed that a firm in the name of M/s Shree Balaji Enterprises Back side OBC Bank Thakran Street Suratgria Chowk Sirsa/40A 1st Floor Anaj Mandi Ellenabad TIN 06832919150 is found involved in claiming bogus refund on account of input tax credit. During the assessment period 2011-12, this dealer has fraudulently obtained refund of Rs. 997127/- by using false and fabricated documents which includes sale invoices of cement/tiles regarding inter state sale to Rajasthan, VAT D-3 forms showing sale of cement/ tiles and c forms bearing No. RJ/C/2011-12/000001306, R/C/2009/4444765. These refunds were obtained by using the above mentioned C forms procured from the dealers of Rajasthan who used to deal in the trading of tax free commodity i.e. khal, binola etc, on account of showing interstate sale of tiles/cement against said C forms. On perusal of the record, it has been found that actually dealer has used forged and false documents of sale (as mentioned above) and without making any actual movement of goods during the course of inter state sale, dealer has obtained the refund to the tune of Rs. 997127/-. This dealer has claimed input tax credit @13.125% on account of purchases of tiles/cement and *further shown disposal of these goods @2% in the course of interstate sale against C forms. On verification from the office of Commercial Taxation Officer Circle A Hanumangarh (Raj) conveyed vide memo No.580 dated 17.11.2014 and memo No 88 dated 10.8.2016, it has been found that no taxable goods were sold in the course of inter state sale by M/s Shree Balaji Enterprises Ellenabad, rather, in Rajasthan, against these C forms, tax free goods (khal/Binola) have been shown accounted for which shows that benefit of input tax credit has been claimed and obtained by M/s Shree Balaji Enterprises Ellenabad despite the fact that no tax has been paid at any stage by the dealer. Moreover, claim of sale at concessional rate of tax against C forms has been claimed wrongly, In this way, by claiming false ITC and claiming sales at concessional rate of tax against the C forms by submitting false and fabricated documents, have caused revenue loss amounting to Rs. 3849155/- (Refund Interest) to the State Exchequer as per re-assessment order No. 36A/2011-12 dated 25.4.2018. It is accordingly, requested to register FIR against Sh Mangat Ram S/o Sh Nanak Chand R/o Saraswati Colony Near Bhakra Cotton Mill Rania Road Sirsa Prop M/s Shree Balaji Enterprises Back side OBC Bank Thakran Street Suratgria Chowk Sirsa/40A Ist Floor Anaj Mandi Ellenabad TIN 06832919150 as per relevant provisions/sections of IPC and any other penal law if applicable for investigation in the matter as per law".*

3. Learned senior counsel appearing on behalf of the petitioner submits that the petitioner is the sole proprietor of a Firm

M/s Padam Kumar @ Amit Kumar, Sirsa, which is carrying its business as a commission agent and trading in different commodities at Grain Market, Sirsa. He is having relations with the said firm and has nothing to do with the affairs of any other firm or entity carrying on same or similar business. Further, several FIRs were registered against M/s Bharat Trading Company, Sirsa, etc., however, the petitioner had no connection with the said firm. Learned senior counsel further contends that the petitioner has been falsely involved in these cases on the basis of the disclosure statements suffered by the co-accused and after a delay of about 03 years, the petitioner was arrested in the present case by obtaining his production warrants. He further contends that in the present case, co-accused Gopi Chand Chaudhary has already been granted the concession of bail by this Court vide order dated 22.12.2023 passed in CRM M-57541 of 2023 (Annexure P-12).

4. A short reply by way of an affidavit of the Deputy Superintendent of Police (HQ) Sirsa, District Sirsa has been filed on behalf of the respondent-State and the same is taken on record.

5. Learned State counsel has vehemently opposed the submissions on the ground that the petitioner is one of the main accused and his involvement has been established during the course of investigation.

6. I have heard learned counsel for the parties and perused the record.

7. In the present case, the petitioner was arrested on 20.04.2023 and after his arrest, the final report under Section 173 Cr.P.C. has already been presented before the competent Court. Still further, the petitioner has two minor children and he is the sole bread winner of the family. Even, all the offences are triable by the Court of Magistrate and his further custody will not serve any meaningful purpose.

8. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned.

05.02.2024 **(N.S.SHEKHAWAT)**
amit rana **JUDGE**

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