225 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CRM-M-363-2024
Date of Decision: 16.07.2024

Tara Chand …Petitioner

vs.

State of Haryana …Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Lal Singh Sandhu, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

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<u>N.S.Shekhawat J. (Oral)</u>

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.654 dated 24.10.2020 registered under Sections 406, 419, 420, 465, 467, 468, 471 (Section 409 added later on) at Police Station City Sirsa, District Sirsa.

2. The FIR in the present case was registered on the basis of the complaint moved by Deputy Excise and Taxation Commissioner (ST), Sirsa and the same has been reproduced below:-

> *"Office of Dy Excise and Taxation Commissioner (ST) Sirsa, Vanijya Bhawan, Barnala Road Sirsa From Excise Taxation Officer Ward No. 5 Sirsa. To, The Superintendent of Police. Sirsa No. 3615/ dated 11-12-19 Subject: Regarding registration of FIR against Sh. Tara Chand S/o Bhim Raj R/o H. No 676 Ward no. 15 Kirti Nagar Sirsa, Prop M/s Bhim Raj Tara Chand, Sirsa TIN 06562918765 Memo on the subject cited abuse, it is informed that a firm in the name of M/s Bhim Raj Tara Chand, Near Gate No. 3 Janta Bhawan Sirsa TIN 06562918765 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. 2963286/- by using false and fabricated documents which includes sale invoices of cigarettes regarding inter-state sale to Rajasthan, VAT D-3 forms showing sale of Cigarettes and C forms bearing No. R/C/2007/3186551, R/C/2007/3584987, R/C/2007/3186560, R/C/2007/3186574 and R/C/2009/4443152. 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 Cigarettes 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.29,63,286/-. This dealer has claimed input tax credit @ 21% on account of purchases of Cigarettes and further shown disposal of these goods @ 2% in the course of interstate sale against C forms. It has also been observed by the Special Team (Refund) in his report bearing No 50 dated 13.11.2015 that no taxable goods were sold in the course of inter- state sale by M/s Bhim Raj Tara Chand, Sirsa, 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 Bhim Raj Tara Chand Sirsa 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 concessional rate of tax against the C forms by submitting false and fabricated documents, have caused revenue loss amounting to Rs. 2965530/- to the State Exchequer as per revision order No. 05B dated 11.11.2014. It is accordingly, requested to register FIR *against Sh. Tara Chand S/o Bhim Raj R/O H. No 676 Ward no. 15 Kirti Nagar Sirsa, Prop M/s Bhim Raj Tara Chand Sirsa TIN 06562918765 as per relevant provisions/sections of IPC and any other penal law if applicable, for investigation in the matter as per law. S/d chap Singh Excise Taxation Officer Ward No. 5 Sirsa."*

3. Learned counsel for the petitioner contends that the petitioner has been falsely involved in the present case and is in custody from 31.08.2023. He further contends that the petitioner had no concern with the allegations levelled by the complainant in the FIR and was arrested after three years of registration of the FIR in the present case. He further contends that the main accused, Gopi Chand Chaudhary, Ashok Sukhija and Mahesh Kumar @ Mahesh Bansal have already been granted the bail by this Court vide orders Annexures P-4 and P-5, respectively. He further contends that the petitioner is the first offender and after completion of the investigation, the challan has already been presented against him.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that serious and specific allegations have been levelled against the petitioner and he is not entitled to grant the concession of bail by this Court.

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

6. In the present case, the co-accused namely, Gopi Chand Chaudhary, Ashok Sukhija and Mahesh Kumar @ Mahesh Bansal, against whom the main allegations have been levelled, have already been granted the concession of bail by this Court. The petitioner has already undergone more

than 10 months of custody and the challan has already been presented against him. Moreover, the petitioner is the first offender and no purpose will be served by keeping the petitioner behind bars.

7. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

(N.S.SHEKHAWAT)
JUDGE

16.07.2024.
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No