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

**CRM-M-3712-2024**
**Date of Decision:19.03.2024**

Anupam Singla …Petitioner

vs.

State of Haryana …Respondent

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

Present : Mr. Vishavjeet Singh Brar, Advocate
for the petitioner.

Mr. Rajinder Kumar Banku, Deputy Advocate General, Haryana.

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**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 regular bail to him in case FIR No.04 dated 06.01.2019 registered under Sections 406, 420, 467, 468, 471 of IPC and Sections 132(1)B and C of GST Act, 2017, at Police Station Arya Nagar, District Rohtak.

2. The FIR in the present case was registered on the basis of the complaint received from Excise Taxation Officer-cum-Proper Officer of State Tax, Rohtak and the same has been reproduced below:-

> *"From R.K. Gupta, Excise Taxation Officer-cum-Proper Officer of State Tax, Rohtak To, S.H.O. Arya Nagar, Rohtak No. SPL-1/R.K. Gupta ETO/Rohtak /dt: 06.01.2019 Subject: Lodging of FIR against Sh. Vinod S/o Sh. Kishan Lal R/o Jatuwas Bithwana, Rewari-123401 Proprietor of M/s Vishal Industries GSTIN 06BLVPV3156M1Z5, J.P. Colony, Near Rambir Truck*

*Body, Rohtak Mobile No. 08295870505, 9729100134 PAN: BLVPV3156M Aadhar: 594676176798Bank Detail: Saving Account Number 679010110005420, IFSC BKID0006790, Bank of India, Shop No. 182, New Anaj Mandi, Rewari Ref: Excise Taxation Commissioner Haryana office letter No. SPL-2/AETC (Enf.) dt. 05.01.2019 regarding direction to lodge FIR in case of bogus/fake firms Memo: On the basis of information received from office of Excise Taxation Commissioner Haryana, Panchkula, from office of DETC (ST) Fatehabad and The Tribune Chandigarh cutting dt. 25th December, 2018 regarding involvement of M/s Vishal Industries, GSTIN 06BLVPV3156M1Z5, Distt.Rohtak in issuing fake invoices for the purpose of hoodwinking the government through bogus Input Tax Credit without actual receipt and supply of goods, the undersigned conducted investigation in the case. During investigation, it is found that the proprietor Sh. Vinod S/o Sh. Kishan Lal proprietor of M/s Vishal Industries GSTIN 06BLVPV3156M1Z5, Mobile No. 08295870505, 9729100134 has been found to be involved in evasion of taxes. During physical survey, it is found that the said firm is nonexisting and non functional at the address J.P. Colony, Near Rambir Truck Body, Rohtak and has been found engaged in showing purchases in Returns from non-existent and non-functional GST dealers within the State of Haryana and outside the State of Haryana without supplies of goods and further issuing fake tax invoices to the non-existent and non-functional dealers. Sh. Vinod S/o Sh. Kishan Lal fraudulently obtained registration under the Haryana Goods and Services Tax Act, 2017 with the intention to evade tax. During the financial year 2018-19, the dealer has conducted sale of Rs. 201442903 (Rs. 20.14 Crores). This fraudulent act of the above said dealer of claiming and utilization of fake Input Tax Credit (ITC) in disposal of output tax liabilities without actual payment of tax has resulted into loss of revenue to the State as under: Tax IGST Rs. 96,46,041-00 CGST Rs. 2,93,864-00 SGST*

> *Rs. 2,93,864-00 Total tax Rs. 10,233,769-00 In view of the above, it is, therefore, requested to lodge FIR against Sh. Vinod S/o Sh. Kishan Lal proprietor of M/s Vishal Industries GSTIN 06BLVPV3156M1Z5 Rohtak SD R.K. Gupta, Excise Taxation Officer-cum- Proper Officer of State Tax, Rohtak M.NO-9896110300. Today at the Police station- According to the contents of the above application received, offence under section 420/406/467/468/471 IPC, 132(1) B C of GST Act 2017 is made out, therefore an FIR No. 04, Dt 06-01-2019, U/s420/406/467/468/471 IPC, 132(1) B C of GST Act 2017, P.S Arya Nagar Rohtak has been registered. The copies of the FIR are prepared and the special reports are being sent to Illaqa Magistrate, Rohtak, Superintendent of Police, Rohtak and Deputy Superintendent, Rohtak through emails. The original copy of the application is kept with the police file. Further investigation of the case will be conducted. The above case has been registered with the code of SHO SI Jaibhagwan No. 670 in his presence in GDR. Sir, section 132(1) B C of GST Act 2017 is not available in CCTNS Software, therefore it has been written by hand."*

3. Learned counsel for the petitioner contends that the petitioner was not named in the FIR nor any incriminating evidence was collected against him during the course of investigation. Learned counsel further contends that the petitioner was arrayed as an accused as he was named by Parveen Kumar and Charan Singh, co-accused in their respective disclosure statements. Apart from that, no admissible evidence has been found during the process of investigation in the present case. Learned counsel further contends that the final report under Section 173 Cr.P.C. has already been presented before the trial Court. The petitioner is in custody since 21.01.2021 i.e. for the last more than 3 years and 02 months and the offence in the present case is punishable with maximum

imprisonment of 5 years. He further contends that all the offences in the present case are triable by the Court of Magistrate.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that 17 other FIRs of similar nature have been registered against the present petitioner and the petitioner does not deserve 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 petitioner was arrested on 21.01.2021 and is in custody since then. The offences are triable by the Court of Magistrate and the final report under Section 173 Cr.P.C. has already been presented before the competent Court. Thus, no purpose would be served by keeping the petitioner behind bars, in the present case. Moreover, the pendency of the other criminal cases is no ground to reject the bail application of the petitioner as he has been able to make out a case for grant of bail in the peculiar facts and circumstances of the present case. The Hon'ble Supreme Court in the matter of "***Prabhakar Tewari Vs. State of U.P., and another"*** *2020(1) R.C.R. (Criminal) 831* has held that the pendency of several criminal cases against the accused cannot be the basis to refuse the prayer of bail. Similar observations have been made by the Hon'ble Supreme Court in the matter of "***Maulana Mohd. Amir Rashadi Vs. State of U.P., and another"*** *2012(1) R.C.R. (Criminal) 586*.

7. In view of the above discussion, 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**

**19.03.2024**
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No