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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No.6900-2024
Date of Decision:-30.04.2024

ASHOK KUMAR

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Pratham Sethi, Advocate
for the petitioner.

Mr. Surender Singh, AAG, Haryana.

SANJIV BERRY, J (ORAL)

By way of the present petition filed under Section 438 Cr.P.C
the petitioner is praying for anticipatory bail in the event of arrest in FIR
detailed as under (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
61	15.02.2023	420, 467, 468, 471 IPC (120-B IPC added later on)	Sadar Sonipat, District Sonipat

2. Brief facts of the case are that a complaint was received at CM
window, stating that PAN card of the complainant Virender was used for
opening a fake firm in the name of SBJ Enterprises in which transactions
amounting to ₹7crores were done in the year 2020-21, whereas the
complainant had no knowledge of the same and he came to know only when

he received notice from Income Tax Department, after investigation of the complaint, FIR was lodged.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is innocent and has been falsely implicated in this case. He contends that petitioner was not named in the FIR nor any incriminating material has been collected by the investigating agency against the petitioner and he is ready to join the investigation.

4. *Per contra*, learned State counsel opposed the bail petition by arguing that there are specific evidence against the petitioner to have committed the offence in question. He submits that the petitioner used to receive fake bills from co-accused Sunny for fake firm SBJ Enterprises and used to deliver fake bills to some other firms. The amount of Goods and Service Tax (hereinafter referred to in short GST) bills so generated used to be collected by the petitioner but did not deposit the same in the account of GST, thereby causing loss to the public exchequer to the tune of crores of rupees. He submits that custodial interrogation of the petitioner is required to unearth the *modus operandi*. Hence he prays for dismissal of the petition.

5. After hearing the respective submissions and perusing the record, it transpires on the basis of the complaint thorough inquiry into the matter was conducted by the police culminated into the registration of the instant FIR. During the course of investigation the record of the firm SBJ Enterprises was taken into possession and probed and it was found that goods were shown to have been sold by the said fake firm to various other firms and upon further verification from the concerned firms it transpires

that the petitioner used to sell goods to other firms from the said fake firm SBJ Enterprises. It further transpires that all these firms had paid GST to the petitioner, however this amount of tax so received by the petitioner was never deposited in the account of GST. There had been transactions in the account of the petitioner with the account of co-accused Sunny pertaining to said fake firm and as per the report Annexure R-1 given by the Assistant Commissioner, CGST, Delhi, the said firm was used to have made fake billing amounting to ₹27 crores approximately and thereby causing loss to the State exchequer to the tune of ₹4.8 crores. The name of the petitioner figured during the investigation to have actively participated in the scam and creating fake bills from fictitious firm, collecting GST but not depositing the same in the Government account. Therefore, considering all these facts and circumstances, it is observed that the petitioner having actively participated in the entire scam is not entitled to concession of anticipatory bail and his custodial interrogation is required to unearth the *modus operandi*, resultantly, finding no merit in the present petition, the same is hereby dismissed.

6. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)

JUDGE

30.04.2024

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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No