2024:PHHC:005603

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

110 **CRM-M-7169-2023**
Date of Decision : January 16, 2024

RAKESH PURI **-PETITIONER**

V/S

STATE OF HARYANA **-RESPONDENT**

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Gulshan Mehta, Advocate
for the petitioner.

Mr. Bhupender Singh, D.A.G., Haryana.

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<u>KULDEEP TIWARI, J. (ORAL)</u>

1. Through the instant petition, the petitioner craves for indulgence of this Court for his being enlarged on regular bail, in case FIR No.630 dated 25.06.2019, under Sections 420, 467, 468, 471, 201 of the IPC, registered at P.S. Chandni Bagh, Panipat.

<u>FACTUAL MATRIX</u>

2. What constituted the bedrock for registration of the instant FIR, was a complaint dated 20.06.2019, as made by one Sunil Dhull, Proper Officer-cum-Excise Taxation Officer (State Tax), Panipat. Therefore, it is deemed imperative to extract the relevant portion of the said complaint, which is extracted hereinafter:-

> *"….To, The Station House Officer, Police Station, Chandni Bagh Panipat No. 2564/ETO (Ward-11) dated 20-06-19, Subject-Complaint for registering FIR against Sh. S Viji S/o Sh. Kandaswamy, H. No. 212, IInd Floor, Sec-06, Panipat, Proprietor of M/s Global Metal Industries, GSTIN-06ASWPV4034BIZJ. Memo: On the subject cited above, it is intimated that Sh. S. Viji S/o Sh.*

Kandaswamy, H. No. 212, IInd Floor, Sec-06, Panipat has got himself registered under the CGST/HGST Act, 2017 in the name of M/s Global Metal Industries, GSTIN-06ASWPV4034BILL, H. No. 212, IInd Floor, Sec-06, Panipat. The inquiries regarding genuineness of the firm was got conducted by Inquiry Agency (Taxation Inspector) as per directions given by the undersigned vide office letter No. 1877W-11, dated 29.05.2019 under rule 25 of the CGST/HGST Rules 2017 and it has been found that the dealer has uploaded bank account details, photo other details for taking registration. During the course of inquiries, the given address was visited during survey by Taxation Inspector Sh. Ravinder Parkash on 13.06.2019. The Taxation Inspector submitted his report GST REG-30 and panchnama dated 13.06.2019 duly witnessed by two panches stating therein that no such firm was found functioning at this address. Therefore, Sh. S Viji S/o Sh. Kandaswamy, H. No. 212, IInd Floor, Sec-06, Panipat has got himself registered under the CGST/HGST Act, 2017 in the name of M/s Metal In Ugt tes, GSTIN-06ASWPV4034BIZI H. No. 212, IInd Floor, Sec-06, at (taxal?Or on) and others have got himself registered under the HGST/CGST Act, TQR4he'b of fake and forged documents and deceived the Government Authorities Adulently by submitting/uploading fake/ forged documents and used Government GST online portal for utilizing input tax credit for himself and passing input tax credit to other firms/taxable persons by generating E-way bills and issuing invoices with dishonest intention to evade payment of taxes. Detail of supplies made by the concerned dealer is as under:- Name of the firm- M/s Global Metal GSTIN06ASWPV4034BIZJ Number of Invoices Issued-07 Taxable Value- 2677448/- Tax Involved-481940/- In view of the facts narrated above, it is requested that FIR against Sh. S Viji Sio Sh. Kandaswamy, H. No. 212, IInd Floor, Sec-06, Panipat has got himself registered under the CGST/HGST Act, 2017 in the name of M/s Global Metal Industries, GSTIN-06ASWPV4034BIZJ. H. No. 212, IInd Floor, Sec-06, Panipat (taxable person) and others may be registered for offences under section 420, 467, 468, 471 IPC or as seems appropriate to your goodself and computer/Electronic devices used for the same may be *traced out and appropriate action as per law may be taken....”*

3. The complaint extracted hereinabove led to registration of the instant FIR, whereupon, the investigation commenced and upon finding inculpatory evidence against the petitioner, who was already in custody in another FIR of same nature, i.e. FIR No.521 dated 08.09.2020, under Sections 420, 467, 468, 471, 120-B of the IPC, registered at P.S. Chandni Bagh, Panipat, he was brought on production warrant in the instant FIR on 25.08.2021 and was arrested. During interrogation, the petitioner suffered disclosure statement, whereupon, his role was crystallized.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PETITIONER

4. The learned counsel for the petitioner, in his asking for the relief (supra), submits that, at this stage, he does not intend to address arguments on merits of the matter, rather restricts the sphere of his arguments only to the period of incarceration suffered by the petitioner, which is approx. 02 years and 05 months. He submits that since the trial, which is a Magisterial trial, has travelled only halfway and there is no likelihood of its being concluded anytime soon, therefore, keeping the petitioner behind the bars, for an indefinite period, would serve no fruitful purpose. Lastly, he submits that though the petitioner is involved in four other cases also, however, he has been granted the concession of regular bail by Co-ordinate Benches of this Court.

SUBMISSIONS OF LEARNED STATE COUNSEL

5. The learned State counsel has placed on record the custody certificate of the petitioner, as issued by the Deputy Superintendent, District Prison, Panipat. Though he has not contested the above made factual submissions of the learned counsel for the petitioner, however, he has

opposed the grant of bail to the petitioner, on the ground, that the status report dated 28.02.2023, as furnished on affidavit of Pardeep Kumar, HPS, Dy. Superintendent of Police, Panipat, clearly reveals the culpability of the present petitioner. He submits that the petitioner has caused huge loss to the State Exchequer by taking advantage of the loopholes in the taxation system of the State. The paragraphs of the status report (supra), as emphasized by the learned State counsel, are extracted hereinafter:-

> *"(3)(ii)(a). That the firm M/s Global Metal Industries was got registered on online portal of Excise & Taxation Officer Panipat by using Mob. No.80539-45088 and office gmail id balatraders79@gmail.com.*
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> *(b). That the mobile No.80539-45088 was found on the ID of Sanjay Kumar S/o Akal Singh and on enquiry he has stated that he is a Sadhu (Priest) and lost his ID/documents in Kumbh at Haridwar and later on he had taken said document and ID duplicate from concerned departmental and now he has come to know that a mobile No.80539-45088 has been used by forging his documents and further stated that he has never used this mobile number.*
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> *(c). That a bank a/c No.52101132001093 of Oriental Bank of Commerce and another a/c No.10170001082618 of Bandhan Bank were found to be used in M/s Global Metal Industries and after obtaining the relevant documents thereof the same was found in the name of Rahul Lamba Dinesh Raj and firm was also registered in the name of Rahul Lamba. Rahul Lamba has joined investigation on 18/03/2021 and voluntarily recorded his statement to the effect that:- (Supported the case of prosecution)*
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> *XX XX XX*
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> *(d). That the firm M/s Global Metal Industries was registered at the address House No.212, 2nd Floor, Sector 6, Panipat, and the owner of the said firm namely Rajesh Kumar was joined in investigation on 01.04.2022 and he has recorded his statement to the effect that:- (Supported the case of prosecution)*
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> *XX XX XX*

(f) That the firm M/s Saraswati Enterprise was actually in the name of the petitioner but it was not exist at the spot and the entire amount of his above fake firms was transferred by the petitioner in an account No. 10170001082048 maintained with Bandhan Bank Faridabad opened in the name of petitioner wherein and a transaction of Crores was found in the said account without any movement of goods."

ANALYSIS

6. This Court has heard the submissions made by the learned counsels for the parties, however, at this stage, without considering or evincing any opinion upon the culpability of the petitioner, this Court is of the considered opinion that the instant petition is amenable for being allowed.

7. The reason for forming the above inference emanates from the factum that:- (i) the custody certificate (supra) reveals that the petitioner has undergone actual custody of approx. 2 years and 4½ months; (ii) though the petitioner, as per custody certificate (supra), is involved in four other criminal cases, however, he has been enlarged on bail in those cases; (iii) there is no likelihood of the trial concluding anytime soon, as the learned State counsel, on instructions from A.S.I. Kaptan Singh, has informed this Court that out of total 31 prosecution witnesses, only 18 prosecution witnesses have been examined so far, therefore, keeping the petitioner behind bars would serve no fruitful purpose.

FINAL ORDER

8. In view of the above, this Court deems it appropriate to grant the concession of regular bail to the petitioner. Therefore, without commenting upon the merits and circumstances of the present case, the present petition is **allowed**. The petitioner is ordered to be released on bail

on furnishing of bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

9. It is clarified that anything observed here-in-above shall have no effect on the merits of the trial and is meant for deciding the present petition only.

(KULDEEP TIWARI)
JUDGE

January 16, 2024
devinder

Whether speaking/reasoned	**:**	**Yes/No**
Whether Reportable	**:**	**Yes/No**