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

CRM-M-7259-2024
Date of Decision: 15.02.2024

Sonu …Petitioner

vs.

State of Haryana …Respondent

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

Present : Mr. Yogeshwar Dayal Kaushik, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

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N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 Cr.PC with a prayer to grant regular bail in case FIR No. 405 dated 24.10.2020, registered under Sections 420, 467, 468, 201 and 120-B of IPC (Sections 201, 120-B IPC added later on), at Police Station Faridabad Central, District Faridabad.

2. The FIR in the present case was got registered on the basis of the complaint moved by Rajesh Kumar Yadav, Excise and Taxation Officer, alleging therein that an information was received from the office of Excise and Taxation Commissioner, Panchkula regarding involvement of M/s A.S. Enterprises, Flat No. 68, ECWS Ground Floor Sector 81, Faridabad, having GSTIN 06BWTPA 3969EIZA, in utilizing bogus Input Tax Credit (ITC) through fake documents. On physical verification of the business premises of the abovesaid firm and registration certificate uploaded by the taxpayer on the

GST Portal, it was found that the taxpayer had not done any business at the address provided in the registration certificate. The firm was floated on the papers only. During investigation it was found that the abovesaid firm was registered through proprietor Ashok S/o Raj Kumar having PAN No. BWTPA3969E, Mobile No. 9671321265, Aadhaar No. 861469337689 resident of Rehrana Floor No. 81, Palwal. It was found that the firm was not only non-existing but also claimed ITC from other fake firms. The firm had not made any physical transaction of the goods. The goods were neither received nor supplied in actuality but only paper transactions were done which is in contravention to proviso of Section 132(1)(B)(C) HGST Act, 2017. Thus, the firm had created a loss to the tune of Rs.2,05,79,076/- to the Government Exchequer. Therefore, it is well established that Ashok, proprietor of M/s A.S. Enterprises had fraudulently registered the said firm under GST Act, solely for the purpose of doing fraud with the Government Revenue, by way of utilizing bogus ITC via paper transactions only, with mala fide intention of not paying taxes.

3. Learned counsel for the petitioner submits that the FIR in the present case was registered on 24.10.2020 and the petitioner was arrested on 09.12.2022, after a delay of more than 02 years on the basis of the supplementary statement made by Amit Kaushik, co-accused. He further contends that Amit Kaushik has already been granted the concession of bail by this Court, vide order dated 03.11.2023 passed in CRM-M-47866-2023 (Annexure P-4). Consequently, the case of the petitioner is on better footing. Moreover, the petitioner was arrested in the present case on 09.12.2022 and 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.

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

6. From the record it is apparent that the petitioner is in custody since 09.12.2022 i.e for the last more than one year. All the offences are triable by the Court of Magistrate and the conclusion of the trial may take quite a long time. Apart from that, the petitioner was involved on the basis of the statement made by Amit Kaushik, who has already been granted the concession of bail by this Court, vide order Annexure P-4.

7. Without commenting on the merits of the case, the present petition is allowed. 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.

(N.S.SHEKHAWAT)
JUDGE

15.02.2024.
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No