

CRM-M-13058-2024

[1]

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

CRM-M-13058-2024
Date of decision: 15.05.2024

Varender Gupta

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Puneet Bali, Sr. Advocate with
Mr. Sagar Ratusaria, Advocate for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C for grant of regular bail in case having FIR No.529 dated 27.07.2016, registered under Sections 406, 419, 420, 465, 468, 471 of IPC at Police Station Sirsa City District Sirsa.

2. In the present case, FIR was registered on the basis of complaint lodged by Excise and Taxation Officer, Ward No.5, Sirsa against Shashi Bala proprietor of M/s Paras Trading Company alleging that the said private firm got refund of Value Added Tax (in short VAT) worth Rs.24,17,057/- by producing forged and fabricated documents by showing movement of goods which was only shown in papers. During investigation, the officials of the concerned department were also found involved in the said fraud. The allegations against the present petitioner are that he stood as surety for the aforesaid firm for getting it registered with the Excise and

Taxation Department and in this manner, petitioner facilitated Shashi Bala in getting registered a fake firm with the department. The petitioner was arrested in the present case on 24.02.2024 and recovery of Rs.34,000/- was effected from him.

3. The Senior counsel for the petitioner submits that the petitioner has been falsely nominated as an accused in the present case. That the petitioner has nothing to do with the refund of VAT if any, claimed and received by M/s Paras Trading Company or its proprietor. It is further submitted that the petitioner simply stood as surety for the aforesaid firm/its proprietor for the purpose of its registration with the concerned department. It is further submitted that the petitioner has already paid the penalty imposed by the department, as per the provisions of Haryana Value Added Tax Act, 2003. It is further submitted that Haryana VAT Act, 2003 being a special act will prevail upon the general provisions of IPC as has been held by the Hon'ble Supreme Court in ***Dilawar Singh Vs. Parvinder Singh @ Iqbal Singh and Another 2005 (4) RCR (Criminal) 855***. It is further submitted that it being so, this Court has already directed the police not to submit final report against the present petitioner in this very FIR, vide order dated 24.04.2024 in CRM-M-18637-2024. The Senior counsel for the petitioner further submits that the petitioner is having no criminal history and is presently lodged in judicial custody.

4. The present petition is resisted by the State counsel who on instructions from ASI Jagpal Singh submits that M/s Paras Trading Company obtained refund of more than Rs.24 lacs from the concerned department by producing fake and fabricated document and the said refund

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was claimed by the firm in connivance with the petitioner and officials of the Excise and Taxation Department. However, the State counsel has not disputed the fact that petitioner who was arrested on 24.02.2024 is presently lodged in judicial custody and that in CRM-M-18637-2024, the police has been restrained from filing challan against the present petitioner, till further orders.

5. I have considered the submissions made by counsel for the parties.

6. Initially, the FIR was registered against M/s Paras Trading Company and during investigation, the name of petitioner surfaced and he was arrested on 24.02.2024 and is presently lodged in judicial custody and is having no criminal history, as per the custody certificate furnished by the State counsel. The culpability, if any, of the petitioner would be unfolded and determined at the time of trial. In the given circumstances, no purpose is going to be served by prolonging judicial custody of the petitioner.

7. In light of the above, without expressing any opinion on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing of bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

15.05.2024

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No