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

CRM-M-14870-2024
Date of Decision: 07.05.2024

Padam Bansal …Petitioner

vs.

State of Haryana …Respondent

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

Present : Mr. Sunil Sihag, Advocate
for the petitioner.

Mr. Ram Kumar Singla, DAG, 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 in case FIR No.643 dated 24.10.2020 registered under Sections 406, 409, 419, 420, 465, 467, 468, 471 & 120-B of IPC, at Police Station City Sirsa, District Sirsa.

2. The FIR in the present case was registered on the basis of a complaint filed by Excise and Taxation Officer, Ward No.-5, Sirsa and the same has been reproduced as below:-

> *OFFICE OF DY EXCISE G TAXATION COMMISSIONER (ST) SIRSA, VANIJYA BHAWAN, BARNALA ROAD SIRSA. From Excise Taxation Officer Ward No. 5 Sirsa. To, The Superintendent of Police Sirsa No. 3600/dated 11-12-19. Subject-Regarding registration of FIR against Sh. Raman Kumar S/o Sh. Krishan Lal R/o Sultanpuria Road Near DAV School Rania Prop. M/s Giriraj Udhyog Sirsa TIN 06522917914, now amended as M/s Vijay Trading Co., Sirsa TIN 06522917914. Memo on the subject cited*

above, it is informed that a firm in the name of M/s Giriraj Udhyog Sirsa TIN 06522917914 is found involved in claiming bogus refund on account of input tax credit. During the assessment period 2011-12, this dealer has fraudulently obtained refund of Rs. 2465494/- by using false and fabricated documents which includes sale invoices of cigarettes/Tiles/Cement regarding inter state sale to Rajasthan, VAT D-3 forms showing sale of cigarettes/tiles and C forms bearing No. R/C/2007/3542041. R/C/2009/4444758, R/C/2009/4444754, R/C/2007/3627036, RJ/C/2011-12/000001675, RJ/C/2011-12/000001301, RJ/C/2011/5011665. These refunds were obtained by using the above mentioned C forms procured from the dealers of Rajasthan who used to deal in the trading of tax free commodity i.e. khal, binola etc, on account of showing interstate sale of cigarettes/Tiles/Cement against said C forms. On perusal of the record, it has been found that actually dealer has used forged and false documents of sale (as mentioned above) and without making any actual movement of goods during the course of inter state sale, dealer has obtained the refund to the tune of Rs. 2465494/-. This dealer has claimed input tax credit @13.125% 21% on account of purchases of Tiles/cigarettes/Cement and further shown disposal of these goods @2% in the course of interstate sale against C forms. It has also been observed by the Special Team (Refund) in his report bearing No.17 dated 14.08.2015 that no taxable goods were sold in the course of inter-state sale by M/s Giriraj Udhyog Sirsa, rather, in Rajasthan, against these C forms, tax free goods (khal/Binola) have been shown accounted for which shows that benefit of input tax credit has been claimed and obtained by M/s Giriraj Udhyog, Sirsa despite the fact that no tax has been paid at any stage by the dealer. Moreover, claim of sale at concessional rate of tax against C forms has been claimed wrongly. In this way, by claiming false ITC and claiming sales at concessional rate of tax against the C forms by submitting false and fabricated documents revenue loss

> *amounting to Rs. 24650368/- (Refund Interest Penalty) to the State Exchequer as per re-assessment order No. 1565A/2011-12 dated 22.03.2016. It is accordingly, requested to register FIR against Sh. Raman Kumar S/o Sh. Krishan Lal R/o Sultanpuria Road Near DAV School Sirsa Prop M/s Giriraj Udhyog Sirsa TIN 06522917914 now M/s Vijay Trading Co., Sirsa TIN 06522917914 as per relevant provisions/sections of IPC and any ther penal law if applicable, for investigation in the matter as per law. S/d Chap Singh Excise Taxation Officer Ward no. 5 Sirsa Endst No 3601-02 /TI dated 11-12-19. A copy is forwarded to the following for information please:- The Excise Txation Commissioner, Haryana Panchkula and The Dy Excise Taxation Commissioner (ST) Sirsa Excise."*

3. Learned counsel for the petitioner contends that the petitioner is a senior citizen, aged about 62 years and is a chronic patient of Hyper-tension, thyroid and diabetes. Even his old wife is suffering from various ailments. Learned counsel further contends that the FIR in the present case was registered on 24.10.2020 and after a lapse of around 3 years, the production warrant of the petitioner was sought by Investigating Agency in the present case and was wrongly arrested by the police. Learned counsel further contends that in the present case, the challan has already been presented against the present petitioner on 19.02.2024. He further contends that the police has wrongly added the offences under Sections 406, 419, 420, 465, 467, 468, 471, 409 & 120-B of IPC as the case would, at the worst, be covered by the provisions of Haryana Value Added Tax Act, 2003. He further contends that similarly placed co-accused, Gopi Chand Chaudhary and Amit Bansal, against whom multiple FIRs were registered, have already been granted the concession of bail by this

Court vide order dated 22.12.2023 passed in CRM-M-58436-2023 (Annexure P-4) and vide order dated 05.02.2024 passed in CRM-M-4639-2024 (Annexure P-5), respectively.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner is facing the prosecution in several other cases. Learned State counsel further submits that sufficient documentary evidence has already been collected against the present petitioner and his co-accused and he does not deserve the concession of bail.

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

6. The petitioner is in custody since 06.01.2024 and after completion of investigation, the final report under Section 173 Cr.P.C. has already been presented against him. Even Gopi Chand Chaudhary and Amit Bansal, co-accused have already been granted the concession of bail by this Court in CRM-M-58436-2023 and CRM-M-4639-2024 (Annexures P-4 and P-5), respectively. Thus, no purpose will be served by keeping the petitioner behind bars.

7. Without commenting on the merits of the case, 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

07.05.2024.
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

HEMLATA
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I attest to the accuracy and integrity of this document