

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

223/2 CRM M-48676 of 2023
Date of Decision: 05.02.2024

Kushal Kumar Bansal ...Petitioner
Versus
Director General of G.S.T. Intelligence, 51D, Sarabha Nagar,
Ludhiana.
... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. J.S. Dhaliwal, Advocate, for the petitioner.
Mr. Sourabh Goel, Advocate, for the respondent.

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 him a regular bail in a case registered by Directorate General of GST Intelligence, 54-D, Sarabha Nagar, Ludhiana for the offence under Section 132(1)(b) and 132(1)(c) punishable under sub-clause (I) of Section 132 (1) of the GGST Act 2017 read with Section 20 of the IGST Act, 2017.
2. Learned counsel for the petitioner contends that the petitioner is neither the proprietor nor the operator nor controller of the Firm M/s Eren Traders Ludhiana. Still further, none of the bank accounts or PAN number connected with the said Firm is in the name of the petitioner. In fact, the petitioner was an employee of co-accused Lovish Kapoor and has nothing to do with the allegations made in the complaint. Learned counsel further contends that even the documents

had been fabricated and manipulated, so as to involve the petitioner in the present case. Further, the petitioner never issued any bill to any party nor even handed over any bill to any person. Even, no payment was ever collected by the petitioner from any person nor any transfer was made by him from his account. Learned counsel further contends that the documents, which have been made the main basis of the complaint, were legally inadmissible and the petitioner has been wrongly arrayed as an accused in the present case. Learned counsel further contends that the petitioner is in custody in the present case since 08.08.2023 and his custody is no longer required by the complainant for any purpose. Learned counsel further contends that all the offences in the present case are triable by the Court of Magistrate and no purpose will be served by keeping the petitioner in custody any further. Learned counsel further submits that as per Section 70 of the Act, proceedings before the department are civil in nature and petitioner had joined the proceedings and had fully participated during the inquiry. Thus, the detention of the petitioner behind the bars is a punishment without completion of the trial and conviction, which is contrary to the whole scheme of our criminal jurisprudence.

3. On the other hand, learned counsel for the respondent has vehemently opposed the submissions made by the learned counsel for the petitioner on the ground that the petitioner was the part of the gang, which was engaged in operating a number of fake entities/firms.

He further contends that during the course of inquiry by them, it had transpired that the Firm M/s Eren Traders had received total ITC of Rs. 8.96 Crores in its GSTR-2A from four suppliers, whose GST registration was already found to be cancelled. Out of this, it has availed ITC of Rs. 7.61 Crores in its GSTR-3B return and out of this much ITC, it had utilized Rs. 4.81 Crore towards its tax liability under GSTR-3B. Not only this, the said firm has also shown bogus sales of Rs. 37.92 Crores wherein it had passed ITC of Rs.6.79 Crore through GSTR-1 to 84 number of L-1 recipients/entities. Still further, the petitioner and his co-accused were operating number of fake firms including M/s Eren Traders.

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

4. The petitioner was arrested in the present case on 08.08.2023 and is in custody for the last about 07 months. Even though, the allegations levelled against the petitioner points towards the seriousness of the charge, however, the petitioner cannot be ordered to be incarcerated for an indefinite period. In fact, all the allegations levelled by the complainant are yet to be adjudicated by the trial Court during the course of trial and further custody of the petitioner will not serve any useful purpose.

9. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the

satisfaction of the learned trial Court/Duty Magistrate/CJM concerned.

05.02.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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