2024:PHHC:016405

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

223/2

**CRM-M-59477-2023
Date of decision : 06.02.2024**

Gopi Chand Chaudhary **...... Petitioner**

versus

State of Haryana **...... Respondent**

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Aman Pal, Advocate and
Mr. Japsehaj Singh, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

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<u>PANKAJ JAIN, J. (Oral)</u>

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.528 dated 27.07.2016 registered for the offences punishable under Sections 406, 419, 420, 465, 468 and 471 of IPC (Sections 409, 467 and 120-B of IPC added later on) at Police Station City Sirsa, District Sirsa.

2. As per the contents of the FIR it has been alleged as under:-

> "From Excise & Taxation Officer Ward No. 5 Sirsa, To, The Superintendent of Police Sine No. 1228/11 dated 166/16Subject:- To register complaint regarding the matter of crime committed by Ms Rohit Trading Co., Sirsa holding TIN 06292916731 Asst Year 2010-11 R/o H. No. 205, Noharia Bazar, Gali Maszid Wall Sirsa U/s 406, 419, 420, 465, 468 and 471 IPC. Memo With the orders of Hon'ble 'Excise & Taxation Commissioner, Haryana Panchkula letter No., whatsapp message (annexure) and DETC (ST) Sirsa vide memo No. 441 dated 27-5-2016, directions have

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been given to the lodge an FIR against those dealers who are identified to be indulging in tax evasion, fraudulent claim of input tax credit, raising bogus bills or floating bogus firms. On the subject cited above, it is brought to your kind knowledge that M/s Rohit Trading Co., Sirsa holding TIN 06292916731 was a registered dealer at Sirsa ward No.5. Main activity of the said firm is in all type of kiryana goods, soap detergent, confectionery, cosmetics, sugar, kand, vegetable & mustard oil, khal, binola, cattle feed, choker and packing material. Later on he applied for addition of bidi, cigarette, cement and other tobacco products. The dealer had made interstate sale against C forms to the dealers of Rajasthan. Inter State sale of course are governed by rate of taxation laid down in the Central tax Act 1956. The retail invoices and other documents relied upon the dealer to claim of lower rate of tax under CST Act 1956 were not produced at the time of assessment/re-assessment of the firm. For the verification of genuineness of C forms issued by the dealers of Rajasthan namely M/s Shyam Enterprises Hanumangarh TIN 08283510004, letters have been issued for interstate transaction verifications by the Special Investigating team (refund) appointed by the Government of Haryana. In lieu of the verification letter, Commercial Tax Officer, Circle A Hanumangarh vide letter No. 580 dated 17.11.2014 or 969 dated 19-8-2015 has informed that M/s Shyam EnterprisesHammangarh TIN 08283510004 was trading Khal, Binola Sarson and Bardana. It means this dealer has not sold any taxable commodity to the dealer of Rajasthan and the entire sale of Cigarette (for which the dealer has submitted the C forms to the office of DETC (ST) Sirsa) is made as local sale within the State of Haryana. Therefore, fabrication and forgery committed the relevant provisions of the code are thus invoked against the dealer. Reports from Commercial Tax Officer Circle A Hanumangarh, Commercial Tax Department, Government

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> of Rajasthan are placed on the file which reveals that the dealer has made fraudulent interstate transactions while the dealer of the Rajasthan State deals in tax free goods. It clearly indicates that the dealer is intentionally not paying the tax with the support of proper planning by showing the false interstate sales on bogus documents and causing the loss to the government exchequer. Through this systematic crime, government has to face a lot of financial loss. Besides, it is very pertinent to mention here that M/s Rohit Trading Co., Sirsa has taken an amount of Refund of Rs. 498590/- from the government exchequer on the basis of interstate sales of ciggrette against C forms by issuing the bogus bills. Hence, forge and fabricate documents submitted by the dealer attract penal action u/s 406, 419, 420, 465, 467 471 I.P.C. Please be needful in the matter. Sd/-Excise & Taxation Officer Sirsa Endst No. /TI(5) dated the A copy is forwarded to the Ld Dy Excise and Taxation Commissioner (ST), Sirsa for information please Sd/-Excise & Taxation Officer Sirsa. .”

3. The FIR relates to allowing refund on the basis of forged and fabricated documents.

4. State Counsel submits that role of the petitioner is similar to the one in the connected CRM-M Nos.57559, 60624 and 59913 of 2023.

5. On the specific query being asked to Counsel representing the State as to what was the role of the petitioner in issuing refund to the accused-firm as unearthed in the investigation, he on instructions from the Investigating Officer submits that the petitioner used to charge 2% to 3% commission on refund.

6. Having heard rival contention of the parties, this Court finds that the allegation in the FIR is w.r.t. the assessee having claimed refund wrongly by submitting forged and false documents of sale. Thus the role of the

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petitioner primarily relates to error in judgment. There is no such allegation that the petitioner acted in cahoots with the assessee to award refund illegally.

7. It is not disputed by State Counsel that the Challan already stands presented. Investigation is complete and as on date the evidence w.r.t. meeting of minds between the petitioner and the main accused remains amiss.

8. The petitioner is stated to be 67 years old Senior Citizen earning pension from the State. It is also not disputed that the petitioner served State with clean record and has no criminal antecedents.

9. In view of above this Court finds that there is no reason to prolong custody of the petitioner as a punitive measure. Resultantly, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

10. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

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Whether speaking/reasoned : Yes

Whether Reportable : No

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