

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-61993-2023
Date of decision: 30.04.2024

Gopi Chand Chaudhary

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Aman Pal, 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.654 dated 24.10.2020 registered under Sections 406, 419, 420, 465, 467, 468, 471 IPC and (Sections 409, 120-B IPC added later on) at Police Station City Sirsa District Sirsa.
2. In the present case, FIR was registered on the basis of complaint lodged by Excise and Taxation Officer, Sirsa against Tara Chand, Proprietor of M/s Bhim Raj Tara Chand, Sirsa alleging that the said private firm through its proprietor got refund of Value Added Tax (in short VAT) worth Rs.29,63,286/- approximately by producing forged and fabricated documents, during assessment year 2011-2012. During investigation, the officials of the department including the petitioner were also found involved

in the said fraud. At the relevant time, the petitioner was working as a Deputy Excise and Taxation Commissioner. The petitioner was arrested and is in custody since 18.08.2023.

3. The counsel for the petitioner submits that petitioner has been falsely implicated in the present case. That the petitioner did his official duty. It is further submitted that in case, the aforesaid private firm has violated the provisions of the special enactment i.e. Haryana Value Added Tax Act 2003, then the Competent Authority is authorized to impose penalty on the said firm as per the provisions of said special enactment and that no offence under Indian Penal Code is made out against the petitioner. The counsel for the petitioner further submits that in another 18 FIRs registered against the petitioner, he is already enlarged on bail. The counsel for the petitioner further submits that petitioner retired from service in 2014 whereas the FIR in question was registered in 2016. The counsel for the petitioner further submits that the petitioner is in custody for the last more than 8 months and it will take time for the trial to conclude.

4. The State counsel filed status report by way of an affidavit of Subhash Chand, Deputy Superintendent of Police (City), Sirsa which is taken on record along with copy of inquiry report (Annexure R-1).

5. The present petition is resisted by the State counsel who submits that the aforesaid private firm got refund of Rs.29,63,286/- from the concerned department by producing fake and fabricated documents and the said refund was claimed by the firm in connivance with the officials of the concerned department including the petitioner. It is further submitted that the petitioner is also involved in number of other criminal cases of similar

nature and that no ground is made out to grant bail to the petitioner at this stage when trial at its initial stage. However, the State counsel on instructions from ASI Abhay Ram has not disputed the fact that at the relevant time, the petitioner was working as a DETC and he retired in 2016.

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

7. Initially, the FIR was registered against proprietor of M/s Bhim Raj Tara Chand, Sirsa and during investigation, the name of petitioner who at the relevant time was working as DETC, surfaced and petitioner was arrested. All the offences are triable by the Court of Judicial Magistrate Ist Class. The trial is at its initial stage. The petitioner is already enlarged on bail in another 18 criminal cases of similar nature. Culpability, if any, of the petitioner would be determined at the time of trial. Admittedly, it will take time for trial to terminate. It being so, no purpose is going to be served by detaining the petitioner in custody for any longer period.

8. 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.

30.04.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

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