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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No.63206 of 2023
Date of Decision:-31.01.2024

SHANKY KHURANA

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Partap Singh, Advocate,
for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

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SANJIV BERRY, J (ORAL)

Learned State counsel has filed the reply dated 16.01.2024 by way of affidavit of Assistant Commissioner of Police, Rai, Sonipat,. The same is taken on record. Copy thereof has been supplied to the counsel opposite.

2. By way of the present petition filed under Section 438 Cr.P.C the petitioner is praying for anticipatory bail in the event of arrest in case FIR (Annexure P-1) detailed as under:-

FIR No.	Dated	Sections	Police Station
475	20.10.2020	420, 467, 468, 471 IPC and Section 11 of Central Sales Tax Act, 1956. (132 of GST Act added lateron) (11 of Central Sales Tax Act, deleted later on)	Gohana City, District Sonepat

3. Brief facts of the case put forth by the prosecution are that office of Excise Taxation Commissioner had received a communication that huge outward supply was made by M/s Bhagwati Traders, Gohana to Mandi Gobindgarh, Punjab. On preliminary inquiry, it was found that the said firm was non existent, non functional and for that sake only a sign board has been installed in front of premises located at Khanpur Mode, Gohana. The said firm had shown purchases from State of Haryana, Punjab, U.T. Chandigarh, Delhi and Uttrakhand and shown subsequent sale of ₹14,85,07,183/- in the State of Punjab. The firm was registered with Central Authority and letters were written to the respective parties from whom purchases were made by the firm to block the ITC on their end and an FIR was registered.

4. During course of investigation, co-accused Vishal was arrested and it was found that he along with present petitioner had taken a shop on rent, and executed the rent agreement and put the sign board of M/s Bhagwati Traders but they did not carry any business therein and they created this firm just to commit illegality by showing fake bills and transactions without any functional business, by issuing fake bills in the name of fake firms, thereby having caused loss to the public exchequer to the tune of more than ₹7 crores by evading GST on account of payments by issuing fake bills to fake firms.

5. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He contends that the allegations levelled by the prosecution are baseless and co-accused Vishal had since been granted concession of regular bail by this Court vide order dated 30.11.2023 passed in CRM-M-45152 of 2023,

(Annexure P-4) and challan has already been presented against him. Hence, he prays for grant of concession of anticipatory bail to the petitioner.

6. Per contra, learned State counsel submits that the petitioner along with co-accused Vishal had created a fake firm where no functional business was ever carried out but the name of that firm was used for procuring fake bills and fake transactions and by doing so accused have caused huge loss to the public exchequer of more than ₹7 crores. He submits that custodial interrogation of petitioner is required to unearth the *modus operandi* whereby they had caused huge loss to the public exchequer on account of GST transactions with fake firms on the basis of fake bills prepared by them. He further submits by referring to reply dated 16.01.2024 that challan against co-accused Vishal has been presented in Court and charges have been framed under Sections 420, 467, 468, 471,120-B IPC read with Section 132(1)(B) GST Act, as such he prays for dismissal of bail application.

7. After Considering the rival contentions and perusing the record, it transpires that as per case of the prosecution petitioner along with co-accused Vishal had created a firm M/s Bhagwati Traders in the rented accommodation by using the mobile phone in name of their friend Sachin and infact, had no functional business therein. During investigation, it has surfaced that petitioner along with co-accused used to create fake bills showing fictitious transactions in the name of non existent firms and in this manner they had caused huge loss to the State exchequer to the tune of more than ₹7 crores, therefore, custodial interrogation of petitioner is required to unearth the *modus operandi* for committing crime.

8. In these circumstances, considering the nature and gravity of the offence, it is observed that no case is made out in favour of the petitioner for grant of anticipatory bail, as a consequent the petition is hereby dismissed.

9. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

31.01.2024
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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No