

2024:PHHC:005784

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

232

**CRM-M-63722-2023
Date of Decision: 16.01.2024**

Adwait Gupta @ Monu ...Petitioner

Vs.

State of Haryana ...Respondent

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

Present: Mr. Keshav Pratap Singh, Advocate with
Mr. Sukhsandesh Singh, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

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 a regular bail in case FIR No.191 dated 18.06.2019 registered under Sections 420, 467, 468, 471, 474 and 477-A IPC and Section 132(1)(b) of Central Goods and Services Tax Act, (CGST), 2017 at Police Station Civil Lines, Sirsa, District Sirsa.

2. The FIR in the present case was registered on the basis of the complaint moved by Vijender Singh Excise Taxation Officer-cum-Proper Officer Ward No.5, Sirsa and the same has been reproduced as under:-

“ From, Vijender Singh Excise Taxation Officer cum Proper Officer Ward No.5 Sirsa. To, The Superintendent Of Police, Sirsa No.817/TI w-5) dated 26.4.2019.

Subject: - Regarding lodging of FIR against Smt. Rani Sharma w/o Sh. Sanjay Sharma Prop M/s Banke Bihari Enterprises Sirsa GSTIN 06JLVPS4431L1ZZ6 Memorandum On the it is subject cited above, submitted that a firm in the name of Ms Banke Bihari Enterprises Sirsa bearing GSTIN06JLVPS4431L1ZZ6 was

registered under the GST Act 2017 on dated 28.4.2018 and cancelled on dated 14.2.2019. The registration was auto generated. The detail of the owner of the firm is as under: - Smt. Rani Sharma W/o Sh Sanjay Sharma H. No.735 New Subhash Colony Barnala Road Sirsa. firm has made huge turnover This during the period and generated e-way bills but had not filed any return and nor any GST has been deposited into the government treasury. The firm was neither functional on the given address as enquiry made by this office. The malafide intention of this firm is only to issue fake and fictitious invoices and to evade the tax by doing business only on paper. This firm deliberately causes loss to the state exchequer. In view of the above, you are requested to kindly lodge FIR against the proprietor of the firm Smt. Rani Sharma W/o Sanjay Sharma, R/o H. No. 735 New Subhash Colony under the various provisions of IPC”.

3. Learned counsel for the present petitioner submits that in the present case, the police has wrongly invoked the provisions of Indian Penal Code and the case would be governed by the Special Statute i.e. Central Goods and Services Act, 2017. He further submits that the petitioner was arrested in the present case on 26.08.2023 and he is in custody for more than 04 months. He further contends that three more cases were ordered to be registered against the present petitioner. However, the petitioner is on bail in all the cases registered against him. He further submits that the entire case is based on documentary evidence and the entire documentary evidence has already been collected by the police. He further contends that after the conclusion of the investigation, final report under Section 173 Cr.P.C. has already been presented by the police and the further custody of the petitioner will not serve any meaningful purpose. As per him, all the offences are triable by the Court of Magistrate.

4. On the other hand, Ms. Sheenu Sura, DAG, Haryana has vehemently opposed the prayer made by the learned counsel for the petitioner on the ground that there are serious allegations against

the petitioner and the petitioner is not entitled for the concession of regular bail.

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

6. As per the record, the petitioner was arrested in the present case on 26.08.2023 and is behind the bars for the last about 04 months. Final report has already been presented before the Competent Court. Even three more cases were ordered to be registered against the present petitioner. However, the petitioner is on bail in all the cases registered against him and in the considered opinion of the Court, further custody of the petitioner will not serve any meaningful purpose.

7. 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.

(N. S. SHEKHAWAT)
JUDGE

16.01.2024
M.Sikka

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