

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 420 OF 2025

Ashrafbhai Ibrahimbhai Kalavdiya ...Applicant

Versus

Union of India and Anr. ...Respondents

Mr. Sudeep Pasbola, learned Senior Advocate a/w Ms. Harshada Shirsate, Mr. Ramprasad Deore and Mr. Akhilesh Ranpise i/b Mr. Mohsin Ghaniwala, learned Advocates for the Applicant.

Dr. Ashvini A. Takalkar, learned A.P.P. for the State/Respondent.

Mr. Jitendra B. Mishra a/w Mr. Saket R. Ketkar, learned Spl.P.P. and Mr. Rupesh Dubey, learned A.P.P. for Respondent No. 1.

CORAM : ASHWIN D. BHOBE, J.

DATE : 18th JULY 2025.

P.C. :

1. Mr. Sudeep Pasbola, learned Senior Advocate appears for the Applicant. Special Public Prosecutor Mr. Jitendra Mishra and Special Public Prosecutor Mr. Saket Ketkar appear for the Respondent No. 1. Dr. Ashvini Takalkar, learned A.P.P. appears for the State/Respondent No. 2.

2. Mr. Jitendra Mishra learned Special Public Prosecutors tenders the Affidavit-in-Reply dated 1st April 2025 of Vrindaba Gohil, the Additional Director General – DGGI Pune Zonal Unit on behalf of Respondent No. 1.

3. Applicant, by the present Application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (“**BNSS**” for short), is

before this Court seeking regular bail. Applicant was arrested by the Senior Intelligence Officer, Directorate General of GST Intelligence (DGGI), Pune Zonal Unit, Pune in Case No. DGGI/INT/INTL/1479/2023-Gr C-O/o ADG-DGGI-ZU-PUNE for the offences punishable under Sections 132(1)(b), 132(1)(C), 132(1)(i) and 132(2) read with Section 132(5) of the Central Goods and Services Tax Act, 2017 (“CGST Act” for short).

4. Said crime is registered as RCC No. 2301 of 2024 and is pending on the file of learned Chief Judicial Magistrate, Pune. Facts leading to the filing of the said proceedings are that Intelligence gathered by the officers of DGGI, Pune Zonal Unit, Pune that the proprietary firm by name M/s. Pathan Enterprise, registered in GST with PAN Card No. FVHPP6700D of Pathan Shbbirkhan Anvarkhan (GSTN No. 27FVHPP6700D1ZK), had availed inadmissible Input Tax Credit (ITC) fraudulently without any Tax Invoice and without any receipt of goods, passed on ITC fraudulently to other GST firm/person without supplying any goods/services.

5. Applicant was arrested on 12th March 2024 and since then he is in jail. Criminal Bail application No. 4899 of 2024 in Case No. DGGI/INT/INTL/1479/2023-Gr C-O/o ADG-DGGI-ZU-PUNE filed by the Applicant was rejected by the Additional Sessions Judge, Pune by order dated 24th October 2024.

6. Mr. Sudeep Pasbola, learned Advocate for the Applicant has raised the following grounds in support of the present Bail Application :-

a. Non-compliance of Article 22(1) of the Constitution of

India and non-compliance of the provisions of Section 50 of the Code of Criminal Procedure, 1973 (“Cr.P.C.” for short).

- b. Arrest Memo dated 12th March 2024 (at page no. 29 of the paper-book) does not mention the grounds for arrest of the Applicant, as required in terms of Section 50 of the Cr.P.C.
- c. Authorization to Arrest (under Section 69(1) of the CGST Act (at page no. 30 of the paper-book) issued by the Additional Director General, DGGI, Pune Zonal Unit, Pune, is neither a document addressed to the Applicant nor can the said document be construed to be a document furnishing the grounds of arrest.
- d. Offence charged in Case No. DGGI/INT/INTL/1479/2023-Gr C-O/o ADG-DGGI-ZU-PUNE registered with DGGI, Pune Zonal Unit, Pune is under Section 132 of the CGST Act. In the event of conviction, the maximum period of imprisonment may extent to 5 years. Applicant is in jail for a period of 1 year and 4 months.
- e. Proceedings of RCC No. 2301 of 2024 are at pre-cognizance stage. As on date, there have been 25 nos. hearings, however, the matter has not progressed.
- f. Reliance is placed on the decision of the Hon’ble Supreme Court in the case of *Vineet Jain v/s. Union of*

*India*¹.

7. Mr. Jitendra Mishra the learned Special Public Prosecutor for Respondent No. 1 has advanced the following arguments :-

- a. Applicant was furnished the grounds of arrest. Reliance is placed on Arrest Memo dated 12th March 2024 (at page no. 29 of the paper-book) and on the Authorization to Arrest (under Section 69(1) of the CGST Act (at page no. 30 of the paper-book).
- b. Applicant having not urged or raised any grievance with reference to the grounds of arrest not being furnished to the Applicant at the time of arrest or at the time of remand or at the time of filing of the Bail Application before the Trial Court, the Applicant is estopped from raising the said contention for the first time before this Court. Reliance is placed on paragraph no. 11 of the Affidavit-in-Reply dated 1st April 2025 filed by Respondent No. 1.

8. Mr. Saket Ketkar, learned Special Public Prosecutor for Respondent No. 1 has advanced the following arguments in addition to the argument canvassed by Mr. Jitendra Mishra :-

- a. Applicant being aware of the basic fact, i.e., he being arrested in the case of evasion of GST, as indicated in the Arrest Memo dated 12th March 2024, no further grounds of arrest were required to be notified to the

¹ Criminal Appeal No. 2269 of 2025 decided on 28th April 2025.

Applicant.

- b. Applicant has made an endorsement in Gujarati language on the Arrest Memo dated 12th March 2024 stating the Applicant was arrested and he having spoken to his son and family members of being taken to Pune after arrest. Similarly, Applicant having made an endorsement on the Authorization to Arrest dated 12th March 2024 in Gujarati language stating that the said document was shown and explained, the Applicant cannot plead ignorance of the grounds of arrest.

9. Dr. Ashvini Takalkar, learned A.P.P. for the State/Respondent No. 2 submits that the State of Maharashtra is a formal party and the issue raised in the present Bail Application pertains to Respondent No. 1.

10. I have perused the records with the assistance of learned Advocates of the parties.

11. Applicant is seeking bail essentially on the ground of infringement of his fundamental right guaranteed under Article 22(1) of the Constitution of India and breach of the mandate of Section 50 of the Cr.P.C. Applicant has specifically contended that on the date of his arrest i.e. on 12th March, 2024, the Applicant was not informed of the grounds for such an arrest.

12. The Hon'ble Supreme Court in the case of *Vihaan Kumar v/s. State of Haryana and Another*², while considering the issue of

² (2025) 5 Supreme Court Cases 799.

failure to comply with the requirement of informing grounds of arrest as soon as maybe after the arrest, in paragraph no. 26 has held as under :-

“26. Therefore, we conclude:

26.1. The requirement of informing a person arrested of grounds of arrest is a mandatory requirement of Article 22(1);

26.2. The information of the grounds of arrest must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts constituting the grounds is imparted and communicated to the arrested person effectively in the language which he understands. The mode and method of communication must be such that the object of the constitutional safeguard is achieved;

26.3. When arrested accused alleges non-compliance with the requirements of Article 22(1), the burden will always be on the investigating officer/agency to prove compliance with the requirements of Article 22(1);

26.4. Non-compliance with Article 22(1) will be a violation of the fundamental rights of the accused guaranteed by the said Article. Moreover, it will amount to a violation of the right to personal liberty guaranteed by Article 21 of the Constitution. Therefore, non-compliance with the requirements of Article 22(1) vitiates the arrest of the accused. Hence, further orders passed by a criminal court of remand are also vitiated. Needless to add that it will not vitiate the investigation, charge-sheet and trial. But, at the same time, filing of charge-sheet will not validate a breach of constitutional mandate under Article 22(1);

26.5. When an arrested person is produced before a Judicial Magistrate for remand, it is the duty of the Magistrate to ascertain whether compliance with Article 22(1) and other mandatory safeguards has been made; and

26.6. When a violation of Article 22(1) is established, it is the duty of the court to forthwith order the release of the accused. That will be a ground to grant bail even if statutory restrictions on the grant of bail exist. The statutory restrictions do not affect the power of the court to grant bail when the violation of Articles 21 and 22 of the Constitution is established.”

13. The Hon'ble Supreme Court in the case of *Prabir Purkayastha v/s. State (NCT of Delhi)*³, at paragraph no. 14 has held as under :-

“14. In Pankaj Bansal [Pankaj Bansal v. Union of India, (2024) 7 SCC 576], this Court after an elaborate consideration of the provisions contained in PMLA, CrPC and the constitutional mandate as provided under Article 22 held as below : (SCC pp. 595 & 597-98, paras 38 & 42-45)

“38. In this regard, we may note that Article 22(1) of the Constitution provides, inter alia, that no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest. This being the fundamental right guaranteed to the arrested person, the mode of conveying information of the grounds of arrest must necessarily be meaningful so as to serve the intended purpose. It may be noted that Section 45 PMLA enables the person arrested under Section 19 thereof to seek release on bail but it postulates that unless the twin conditions prescribed thereunder are satisfied, such a person would not be entitled to grant of bail. The twin conditions set out in the provision are that, firstly, the court must be satisfied, after giving an opportunity to the public prosecutor to oppose the application for release, that there are reasonable grounds to believe that the arrested person is not guilty of the offence and, secondly, that he is not likely to commit any offence while on bail. To meet this requirement, it would be essential for the arrested person to be aware of the grounds on which the authorised officer arrested him/her under Section 19 and the basis for the officer's “reason to believe” that he/she is guilty of an offence punishable under PMLA. It is only if the arrested person has knowledge of these facts that he/she would be in a position to plead and prove before the Special Court that there are grounds to believe that he/she is not guilty of such offence, so as to avail the relief of bail. Therefore, communication of the grounds of arrest, as mandated by Article 22(1) of the Constitution and Section 19 PMLA, is meant to serve this higher purpose and must be given due importance.

42. That being so, there is no valid reason as to why a copy of such written grounds of arrest should not be furnished to the arrested person as a matter of course and without exception. There are two primary reasons as to why this would be the

³ (2024)8 Supreme Court Cases 254.

advisable course of action to be followed as a matter of principle. Firstly, in the event such grounds of arrest are orally read out to the arrested person or read by such person with nothing further and this fact is disputed in a given case, it may boil down to the word of the arrested person against the word of the authorised officer as to whether or not there is due and proper compliance in this regard. In the case on hand, that is the situation insofar as Basant Bansal is concerned. Though ED claims that witnesses were present and certified that the grounds of arrest were read out and explained to him in Hindi, that is neither here nor there as he did not sign the document. Non-compliance in this regard would entail release of the arrested person straightaway, as held in *V. Senthil Balaji* [*V. Senthil Balaji v. State*, (2024) 3 SCC 51 : (2024) 2 SCC (Cri) 1]. Such a precarious situation is easily avoided and the consequence thereof can be obviated very simply by furnishing the written grounds of arrest, as recorded by the authorised officer in terms of Section 19(1) PMLA, to the arrested person under due acknowledgment, instead of leaving it to the debatable ipse dixit of the authorised officer.

43. The second reason as to why this would be the proper course to adopt is the constitutional objective underlying such information being given to the arrested person. Conveyance of this information is not only to apprise the arrested person of why he/she is being arrested but also to enable such person to seek legal counsel and, thereafter, present a case before the court under Section 45 to seek release on bail, if he/she so chooses. In this regard, the grounds of arrest in *V. Senthil Balaji* [*V. Senthil Balaji v. State*, (2024) 3 SCC 51 : (2024) 2 SCC (Cri) 1] are placed on record and we find that the same run into as many as six pages. The grounds of arrest recorded in the case on hand in relation to Pankaj Bansal and Basant Bansal have not been produced before this Court, but it was contended that they were produced at the time of remand. However, as already noted earlier, this did not serve the intended purpose. Further, in the event their grounds of arrest were equally voluminous, it would be well-nigh impossible for either Pankaj Bansal or Basant Bansal to record and remember all that they had read or heard being read out for future recall so as to avail legal remedies. More so, as a person who has just been arrested would not be in a calm and collected frame of mind and may be utterly incapable of remembering the contents of the grounds of arrest read by or read out to him/her. *The very purpose of this constitutional and statutory protection would be rendered nugatory by permitting the authorities concerned to merely*

read out or permit reading of the grounds of arrest, irrespective of their length and detail, and claim due compliance with the constitutional requirement under Article 22(1) and the statutory mandate under Section 19(1) PMLA.

44. We may also note that the grounds of arrest recorded by the authorised officer, in terms of Section 19(1) of the Act of 2002, would be personal to the person who is arrested and there should, ordinarily, be no risk of sensitive material being divulged therefrom, compromising the sanctity and integrity of the investigation. In the event any such sensitive material finds mention in such grounds of arrest recorded by the authorised officer, it would always be open to him to redact such sensitive portions in the document and furnish the edited copy of the grounds of arrest to the arrested person, so as to safeguard the sanctity of the investigation.

45. *On the above analysis, to give true meaning and purpose to the constitutional and the statutory mandate of Section 19(1) of the Act of 2002 of informing the arrested person of the grounds of arrest, we hold that it would be necessary, henceforth, that a copy of such written grounds of arrest is furnished to the arrested person as a matter of course and without exception.* The decisions of the Delhi High Court in *Moin Akhtar Qureshi* [*Moin Akhtar Qureshi v. Union of India*, 2017 SCC OnLine Del 12108] and the Bombay High Court in *Chhagan Chandrakant Bhujbal* [*Chhagan Chandrakant Bhujbal v. Union of India*, 2016 SCC OnLine Bom 9938], which hold to the contrary, do not lay down the correct law. *In the case on hand, the admitted position is that ED's investigating officer merely read out or permitted reading of the grounds of arrest of the appellants and left it at that, which is also disputed by the appellants. As this form of communication is not found to be adequate to fulfill compliance with the mandate of Article 22(1) of the Constitution and Section 19(1) of the Act of 2002, we have no hesitation in holding that their arrest was not in keeping with the provisions of Section 19(1) of the Act of 2002.* Further, as already noted supra, the clandestine conduct of the ED in proceeding against the appellants, by recording the second ECIR immediately after they secured interim protection in relation to the first ECIR, does not commend acceptance as it reeks of arbitrary exercise of power. In effect, the arrest of the appellants and, in consequence, their remand to the custody of the ED and, thereafter, to judicial custody, cannot be sustained. (emphasis supplied)”

14. In the instant case, the Applicant accuses non-compliance

with the requirements of Article 22(1) of the Constitution of India, thus, the burden is on DGGI to prove compliance with the requirements of Article 22(1). DGGI place reliance on the Arrest Memo and the Authorization to Arrest, to contend compliance with the requirements of Article 22(1). As the controversy revolves around the said two (2) documents, contents of the said documents are extracted here under:-

ARREST MEMO

(To be prepared In duplicate)

(under Section 69 of the Central Goods and Services Tax Act, 2017)

Whereas the principal Commissioner/Commissioner, Shri. Devendra Vasudev Nagvenkar has reasons to believe that you, Shri. Ashrafbhai Ibrahimbhai Kalavadiya, Operator of many fake GST Firms, age about 52 years, son/daughter of Shri. S/o. Shri. Ibrahimbhai Kalavdiya, and address E-502, Ultimate, Rander Road, Surat, Gujarat-394210 have committed an offence specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) of section 132 of the Central Goods and Service Tax, 2017 which is punishable under clause (i) or (ii) of sub-section (1) or sub-section (2) of the said section.

2. I, Rishi Prakash, Senior Intelligence Officer office of the Principal Commissioner/Commissioner, CGST O/o the Additional Director General, DGGI, Pune Zonal Unit, Pune, being duly authorized, hereby arrest you today at 05:00:PM on 2024-03-12 00:00:00.0 at Mira Bhayander under Section 69 of the sad Act.

3. Accordingly, Shri. Ashrafbhai Ibrahim Kalavadiya son/daughter of Shri. Ibrahimbhai Kalavadiya has been placed under arrest and he has been explained the grounds of his arrest. He was also informed about his right to have Someone informed about his arrest and Sh./Ms. Amin Ashrafbhai Kalavadiya (Son) has been informed about his arrest.

Signature :

(ऋषी प्रकाश/Rishi Prakash)

Senior intelligence Officer

Directorate General of GST Intelligence.

Name: Rishi Prakash

Pune Zoral Unit, Pune

Designation : Superintendent / Appraiser / Senior Intelligence Officer

4. I have been explained the grounds of my arrest. The fact of my arrest has been witnessed by Shri. Kumar Shankar Rangatte, Witness, son/daughter of Shri. Shankar Rangatte, resident of Ambivali, Thane.

AUTHORISATION TO ARREST

(Under Section 69(1) of the CGST ACT, 2017)

I, Devendra Vasudeo Nagvenkar, Additional Director General, Directorate General of Goods & Service Tax Intelligence, Pune Zonal Unit, Pune, on the basis of facts and evidences placed before me, have reason to believe that Shri. Ashrabhai Ibrahimbhai Kalavdiya S/o. Shri. Ibrahimbhai Kalavdiya, resident of E-502, Ultimate, Rander Road, Surat, Gujarat-394210, who is the operator of M/s. Pathan Enterprise having GSTIN 27FVHPP6700D1Zk and Principal place of Business at 7A/1, Shop No. 22, Girni Shewaladi, Shivchaitanya Colony, Ramanand Collection, Solapur Road, NR LAD, Pune, Maharashtra-412307, has actively indulged in estimated evasion of GST for the period from January, 2022 to December, 2022 to the tune of Rs. 11.14 Crore by way of fraudulent availment and utilization of ITC and Rs. 9.61 Crore by way of fraudulent passing on of ITC. He has committed the offence specified under Section 132(11b) & 132(1)(c) of the CGST Act, 2017 and the same is cognizable and non-bailable under Section 132(5) of the CGST Act, 2017.

I hereby authorize Shri. Rishi Prakash, Senior Intelligence Officer, Directorate General of Goods & Service Tax Intelligence, Pune Zonal Unit, Pune to arrest Shri. Ashrabhai Ibrahimbhai Kalavdiya S/o. Shri Ibrahimbhai Kalavdiya from Room no. 103, Lakshmi Palace, Lakshmi Industrial Estate, Penkarpada, Mira Road East - 401107 and produce him before the appropriate authority within twenty-four hours of his arrest.

Issued today, i.e. on 12th day of March, 2024, under my signature and seal.

(Devendra Vasudeo Nagvenkar)
Additional Director General,
DGGI, Pune Zonal Unit, Pune.

(Note : Mr. Mohsin Ghaniwala, the learned Advocate on record for

the Applicant has tendered the english translation under his signature, of the Endorsements in Gujarati language on the Arrest Memo and Authorization to Arrest. By consent of the parties the said translation is take on record and marked “X” for identification.) :-

Endorsement on the Arrest Memo reads as follows :-

“I have been arrested and explained. I have spoken to my son and I have spoken with my house (family) and I am being taken to Pune.”

Endorsement on the Authorization to Arrest reads as follows :-

“Seen and explained.”

15. Perusal of the Arrest Memo dated 12th March 2024, indicates the following : that the Applicant being arrested in connection with an offence under Section 132 of the CGST Act; that the Senior Intelligence Officer is authorized to arrest the Applicant under Section 69 of the said Act; that the Applicant has been placed under arrest; and Applicant explained the grounds of his arrest. Paragraph 4 of the Arrest Memo makes reference to the Applicant being explained the grounds of his arrest and that arrest of the Applicant has been witnessed by Shri. Kumar Shankar Rangatte.

16. Mr. Jitendra Mishra and Mr. Saket Ketkar, the learned Special Public Prosecutors, made an attempt to contend that the Arrest Memo indicates the basic facts of the Applicant being arrested in connection with the offence under Section 132 of the CGST Act, as such the same would be in compliance with the requirements of provisions of Section 50 of the Cr.P.C., as also the Article 22(1) of

the Constitution of India. I am unable to accept the said contention as the Arrest Memo dated 12th March 2024 does not contain the grounds of arrest of the Applicant, as would be required in terms of law and the pronouncements of the Hon'ble Supreme Court. I am in agreement with the submission made by Mr. Sudeep Pasbola, learned Senior Advocate that the Arrest Memo dated 12th March 2024 cannot be construed as grounds of arrest.

17. Mr. Jitendra Mishra and Mr. Saket Ketkar, the learned Special Public Prosecutors, tried to persuade this Court by contending that the Authorization to Attest contain the ground for arrest of the Applicant. Before considering the said contention of the learned Special Public Prosecutors, it would be apposite to refer to Section 69 of the said Act.

Section 69 of the CGST Act. Section 69 of the CGST Act is extracted hereinbelow :-

“69. Power to arrest.”-(1) Where the Commissioner has reasons to believe that a person has committed any offence specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) of section 132 which is punishable under clause (i) or (ii) of sub-section (1), or sub-section (2) of the said section, he may, by order, authorise any officer of central tax to arrest such person.

(2) Where a person is arrested under sub-section (1) for an offence specified under sub-section (5) of section 132, the officer authorised to arrest the person shall inform such person of the grounds of arrest and produce him before a Magistrate within twenty-four hours.

(3) Subject to the provisions of the Code of Criminal Procedure, 1973 (2 of 1974),-

(a) where a person is arrested under sub-section (1) for any offence specified under sub-section (4) of section 132, he shall be admitted to bail or in default of bail, forwarded to the custody of the Magistrate;

(b) in the case of a non-cognizable and bailable offence, the Deputy Commissioner or the Assistant Commissioner shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer-in-charge of a police station.”

18. Contentions of the learned Special Public Prosecutors with reference to the Authorization to Arrest dated 12th March 2024 are liable to be rejected for more than one reason, *firstly*, the said document is an internal communication of the DGGI, authorizing an officer from DGGI to effect arrest of the Applicant. *Secondly*, the said document is not addressed to the Applicant. *Thirdly*, the said document is issued under Section 69(1) of the CGST Act and not under Section 69(2) of the said Act. On a specific query to Mr. Jitendra Mishra and Mr. Saket Ketkar, learned Special Public Prosecutors as to ‘whether any ground of arrest as mentioned under Section 69(2) of the CGST Act was made available to the Applicant ?’, they reply in negative.

19. Aforesaid facts are sufficient to hold that DGGI have failed to discharge the burden of DGGI having complied with the requirement of Article 22(1) of the Constitution of India. For the reasons recorded hereinabove, non-compliance of the constitutional requirement of Article 22(1) of the Constitution of India and the statutory mandate under Section 50 of the Cr.P.C. has rendered the custody of Applicant as illegal.

20. Useful reference can be made to the observations of Hon'ble Supreme Court to paragraph Nos. 28 to 30 in the case of *Prabir Purkayastha (supra)* :-

“28. The language used in Article 22(1) and Article 22(5) of the Constitution of India regarding the communication of the grounds is exactly the identical. Neither of the constitutional provisions require that the “grounds” of “arrest” or “detention”, as the case may be, must be communicated in writing. Thus, interpretation to this important facet of the fundamental right as made by the Constitution Bench while examining the scope of Article 22(5) of the Constitution of India would *ipso facto* apply to Article 22(1) of the Constitution of India insofar as the requirement to communicate the grounds of arrest is concerned.

29. Hence, we have no hesitation in reiterating that the requirement to communicate the grounds of arrest or the grounds of detention in writing to a person arrested in connection with an offence or a person placed under preventive detention as provided under Articles 22(1) and 22(5) of the Constitution of India is sacrosanct and cannot be breached under any situation. Non-compliance of this constitutional requirement and statutory mandate would lead to the custody or the detention being rendered illegal, as the case may be.

30. Furthermore, the provisions of Article 22(1) have already been interpreted by this Court in *Pankaj Bansal* [*Pankaj Bansal v. Union of India*, (2024) 7 SCC 576] laying down beyond the pale of doubt that the grounds of arrest must be communicated in writing to the person arrested of an offence at the earliest. Hence, the fervent plea of the learned ASG that there was no requirement under law to communicate the grounds of arrest in writing to the appellant-accused is noted to be rejected.”

21. The Hon'ble Supreme Court in the case of *Ashish Kakkar v/s. UT of Chandigarh*⁴ has reiterated the view taken in *Prabir Purkayastha (supra)*.

⁴ 2025 SCC OnLine SC 1318.

22. In the case of *Directorate of Enforcement v/s. Subhash Shrama*⁵, the Hon'ble Supreme Court in paragraph no. 8 has held as under :-

“8. Once a Court, while dealing with a bail application, finds that the fundamental rights of the accused under Articles 21 and 22 of the Constitution of India have been violated while arresting the accused or after arresting him, it is the duty of the Court dealing with the bail application to release the accused on bail. The reason is that the arrest in such cases stands vitiated. It is the duty of every Court to uphold the fundamental rights guaranteed under Articles 21 and 22 of the Constitution.”

23. In the case of *Vineet Jain (supra)*, the Hon'ble Supreme Court has observed as follows :-

“The offences alleged against the appellant are under Clauses (c), (f) and (h) of Section 132(1) of the Central Goods and Services Tax Act, 2017. The maximum sentence is of 5 years with fine. A charge-sheet has been filed. The appellant is in custody for a period of almost 7 months. The sentence is limited and in any case, the prosecution is based on documentary evidence. There are no antecedents.

We are surprised to note that in a case like this, the appellant has been denied the benefit of bail at all levels, including the High Court and ultimately, he was forced to approach this Court. These are the cases where in normal course, before the Trial Courts, the accused should get bail unless there are some extra ordinary circumstances.”

24. Mr. Jitendra Mishra and Mr. Saket Ketkar, the learned Special Public Prosecutors, submit that the Applicant has another case of the similar nature at Surat, Gujarat. They therefore distinguished

⁵ 2025 SCC OnLine 240.

the decision in the case of *Vineet Jain (supra)* by placing reliance on the observation made therein to the extent that Vineet Jain had no antecedents. It is trite law that pendency of criminal cases against the accused by themselves cannot be the basis for refusal for bail. Discretion in granting bail is required to be exercised by considering the relevant material (see *Prabhakar Tewari v/s. The State of U.P. and Another*⁶).

25. For the reasons recorded hereinabove, arrest of the Applicant is illegal, warranting grant of bail to the Applicant.

26. In view of the above, the present Bail Application is allowed on the following conditions :-

- a. Applicant is directed to be released on bail in connection with Case No. DGGI/INT/INTL/1479/2023-Gr C-O/o ADG-DGGI-ZU-PUNE filed by the Senior Intelligence Officer, Directorate General of GST Intelligence (DGGI), Pune Zonal Unit, Pune for the offences punishable under Sections 132(1)(b), 132(1)(C), 132(1)(i) and 132(2) read with Section 132(5) of the Central Goods and Services Tax Act, 2017 on executing P.R. Bond in the sum of Rs. 1,00,000/- (Rupees One Lakh Only) with two local sureties in the like amount to the satisfaction of the Chief Judicial Magistrate, Pune.
- b. Applicant shall not directly or indirectly make any inducement, threat or promise to any person

⁶ (2020)11 SCC 648.

acquainted with facts of accusation, so as to dissuade him from disclosing such facts to the Court or to any police officer.

- c. Applicant shall not tamper with the prosecution witnesses and evidence in any manner.
- d. Applicant shall co-operate in the conduct of the trial in RCC No. 2301 of 2024 and shall attend the hearing before the Court of the Chief Judicial Magistrate, Pune on each and every date, unless exempted from appearance.
- e. Applicant upon his release, within a period of three days, shall furnish his cell phone number and his residential address with proof to the Senior Intelligence Officer, DGGI, Pune Zonal Unit, Pune and shall keep the same updated, in case of any change thereto.
- f. Applicant shall deposit/surrender his passport to the Senior Intelligence Officer, DGGI, Pune Zonal Unit, Pune, if not surrendered in any other case. Passport be deposited within a period of three days from his release.
- g. Applicant shall not leave the State of Maharashtra without prior written permission of the Senior Intelligence Officer, DGGI, Pune Zonal Unit, Pune.

27. Criminal Bail Application No. 420 of 2025 stands disposed of in the abovesaid terms.

[ASHWIN D. BHOBE, J.]

GITALAXMI
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Digitally signed
by GITALAXMI
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Date:
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