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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 07.04.2025

PRONOUNCED ON : 15.04.2025

CORAM

THE HON'BLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.Nos.7983 & 7984 of 2025

Crl.OP.No.7983 of 2025
Pulkit Garg ... Petitioner/Accused

Vs.

The Senior Intelligence Officer,
DGGI, GST, Chennai Zonal Unit,
Chennai – 6. ... Respondent/complainant

PRAYER: Criminal Original Petitions filed under Section 483 of BNSS, to modify the condition imposed by the Principal Sessions Judge, Chennai while granting bail in Crl.MP.No.1988 of 2025 in R.R.No.10 of 2025 on the file of Additional Chief Metropolitan Magistrate (EO-1).

Crl.OP.No.7984 of 2025
Kalpesh Agarwal ... Petitioner/Accused

Vs.

The Senior Intelligence Officer,
DGGI, GST, Chennai Zonal Unit,
Chennai – 6. ... Respondent/complainant

PRAYER: Criminal Original Petitions filed under Section 483 of BNSS, to modify the condition imposed by the Principal Sessions Judge,

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Chennai while granting bail in Crl.MP.No.1987 of 2025 in R.R.No.9 of 2025 on the file of Additional Chief Metropolitan Magistrate (EO-1).

For Petitioner in both cases	: Mr.J.Jawahar
For Respondents in both cases	: Mr.P.Vishnu Spl. Public Prosecutor (for GST Cases)

COMMON ORDER

The petitioners aggrieved by the condition imposed by the learned Principal Sessions Judge, Chennai by orders dated 10.03.2025 in Crl.MP.Nos.1988 & 1987 of 2025, directing the petitioners' company to remit a sum of Rs.108,19,43,799/- to the credit of GST, while granting bail to them, have filed these petitions seeking modification.

2. It is the case of the prosecution that the petitioners are Directors of a company by name 'M/s.Prakash Ferrous Industries Pvt. Ltd., (PFIPL)' and engaged in the manufacturing of TMT steel Bars; that they suppressed the taxable value of the goods without the issuance of invoices with an intention to evade the payment of GST; that the investigation revealed that the said company had evaded tax to the tune for Rs.601,07,98,519/- through clandestine sale of TMT bars, during the period from April 2018 to January 2025.

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3. The petitioners were arrested on 24.02.2025 and 25.02.2025, respectively. The learned Principal Sessions Judge, Chennai has granted bail to the petitioners on 10.03.2025 in Crl.MP.Nos.1988 and 1987 of 2025, respectively, *inter alia* on the condition that the petitioners' company shall remit a sum of Rs.108,19,43,799/-, to the credit of the GST, as stated earlier.

4. The learned counsel for the petitioners submitted that the learned Principal Sessions Judge in the orders granting bail had observed that the arrest of the petitioners was illegal and in any case, the onerous condition to deposit Rs.108,19,43,799/-, towards GST which is in dispute is in violation of the law laid down by the Hon'ble Supreme Court and relied upon the orders passed by the Hon'ble Supreme Court in the following cases, in support of his submission.

a) Subhash Chouhan v. Union of India @ Another, reported in 2023 SCC OnLine SC 110;
b) Anantbhai Ashokbhai Sha v. State of Gujarat & Another, reported in 2023 SCC OnLine SC 227;
c) Rajesh Kumar Dudani v. State of Uttarkhand & Another, reported in 2023 SCC OnLine SC 209;
d) Daulat Samirmal Mehta v. Union of India, reported in [2023] 153 taxman.com 237 (SC);
e) Irfan Mohamadfirdos Kothi v. State of Gujarat,

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reported in [2023] 152 taxman.com 697 (SC)' and

f) Yashik Jindal v. Union of India,

reported in 2023 SCC OnLine 417.

5. The learned Special Public Prosecutor for the respondent however submitted that the arrest is not illegal; and that since the respondent had arrived at the GST liability of Rs.108,19,43,799/- after careful examination of the data from the digital evidence recovered and seized during the search of the premises of the company and since the petitioners have volunteered themselves to pay the tax liability, the condition cannot be said to be onerous and is not liable to be set aside.

6. This Court has carefully considered the rival submissions.

7. The learned Principal Sessions Judge had observed that the respondent had not furnished the 'Reason to Believe', to authorise the arrest of the petitioner and therefore they have violated the decision of the Hon'ble Supreme Court in ***Radhika Agarwal v. Union of India,*** reported in **Manu/SC/0274/2025**. The learned Principal Sessions Judge also found that the arrest is illegal. The respondent have not challenged the said order.

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8. In any case, in the decisions relied upon by the learned counsel for the petitioner, the Hon'ble Supreme Court had held that the condition to deposit money as a pre-requisite for grant of bail, would not be sustainable, since it cannot be presumed at this stage that the accused is under a liability to pay the said amount.

9. The aforesaid amount of Rs.108,19,43,799/- is the assessment made by the respondent and is in dispute. Hence, considering the aforesaid facts, and the law laid down by the Hon'ble Supreme Court in the aforesaid judgments, this Court is of the view that the condition imposed by the learned Principal Sessions Judge, Chennai vide orders dated 10.03.2025, made in Crl.M.P.Nos.1988 & 1987 of 2025, directing the petitioners' company to remit a sum of Rs.108,19,43,799/- to the credit of GST, cannot be sustained.

10. Further, this Court, while granting interim stay of the condition imposed at para 10(a), vide order dated 20.03.2025, has modified the condition imposed by the trial Court in para 10(c) of the impugned orders as follows:

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> "4. The Hon'ble Apex Court has repeatedly held that onerous conditions cannot be imposed while granting bail. Hence, this court is inclined to grant interim stay of the condition imposed in para 10(a) of the trial court order. Insofar as, condition No.10(c), it is modified, directing the petitioner to execute a bond for a sum of Rs.5,00,000/- with two sureties for a like sum to the satisfaction of the Chief Metropolitan Magistrate (E.O.I), Egmore."

11. In view of the above, the Criminal Original Petitions are allowed and it is ordered as follows:

(i) the condition imposed by the learned Principal Sessions Judge, Chennai in paragraph No.10(a) of the impugned orders dated 10.03.2025 in Crl.M.P.Nos.1988 & 1987 of 2025, is set aside;

(ii) the condition at paragraph No.10(c) of the impugned orders is modified as observed by this Court earlier in the interim order dated 20.03.2025, directing the petitioners to execute a bond for Rs.5 Lakhs each with two sureties for a like sum to the satisfaction of the Chief Metropolitan Magistrate (E.O.I), Egmore; and

(iii) the other conditions imposed by the learned Principal Sessions Judge, Chennai in the impugned orders dated 10.03.2025 in Crl.M.P.Nos.1988 & 1987 of 2025, remain unaltered.

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To
1.The Principal Sessions Judge,
Chennai.

2. The The Senior Intelligence Officer,
DGGI, GST, Chennai Zonal Unit,
Chennai – 6.

3.The Public Prosecutor,
High Court of Madras.

Pre-delivery common order in
Crl.O.P.Nos.7983 & 7984 of 2025

15.04.2025

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