IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.07.2025
PRONOUNCED ON : 05.08.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.14718 of 2025

Kundan Singh ... Petitioner

Vs.

The Superintendent of CGST and Central Excise,
HPU, Chennai North Commissionerate,
No.26/1, Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034. ... Respondent

PRAYER: Criminal Original Petition is filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 praying to enlarge the petitioner on bail in R.R.No.15 of 2025 on the file of the respondent.

For Petitioner	:	Mr.R.C.Paul Kanagaraj for Mr.W.M.Abdul Azeez
For Respondent	:	Mr.N.P.Kumar, Special Public Prosecutor

ORDER

This Criminal Original Petition filed by the petitioner seeking bail in R.R.No.15 of 2025 for offence under Section 132(1)(a), 132(1)(1)(i) & 132(5) of Central Goods and Services Tax Act, 2017 on the file of the respondent.

2.Gist of the case is that the respondent on reliable source of information and intelligence gathered, initiated action against M/s.Tamilnadu Electric Palace and M/s.Kundan Singh and conducted search on 27.01.2025 in six registered business premises and two residential premises. During search operation, the officers recovered incriminating evidence/documents *i.e.,* diaries/registers/loose bills etc., under INS-02. On perusal of material evidence seized, it was found that the documents contained data of total daily business transactions of M/s.Tamilnadu Electric Palace. It was also found that taxpayer M/s.Tamilnadu Electric Palace made clandestine supplies worth Rs.69,79,06,329/- and the tax evaded works out to Rs.12.56 Crores. Summons sent to the petitioner on 27.01.2025, 28.01.2025, 17.02.2025 and 26.03.2025 and statements recorded. To other entities summons served and they were enquired. The petitioner in his statements dated 28.01.2025, 27.03.2025 admitted that he carried out clandestine supplies to the tune of Rs.76,26,58,117/- during the period from 2018-19 to 2025-26 (upto January 2025) and he evaded GST to the tune of Rs.13,72,78,461/-. Thus, the petitioner caused loss to the Government exchequer. On the authorization given by the Principal Commissioner of Chennai North Commissionerate, the petitioner arrested and produced before the learned Additional Chief Metropolitan Magistrate (E.O.II), Egmore, Chennai on 28.03.2025, thereafter, lodged in Central Prison, Puzhal on the same day.

3.The above case has a prelude. Earlier, on the petitioner's bail application in Crl.O.P.No.14718 of 2025, this Court by order dated 08.05.2025 granted bail with certain conditions. Considering the voluntary submission made by the petitioner, he was directed to deposit a sum of Rs.50,00,000/- (Rupees fifty lakh only) to the credit of R.R.No.15 of 2025 on the file of the Additional Chief Metropolitan Magistrate (E.O.II) Court, Egmore, Chennai and the remaining sum of Rs.2,00,00,000/- (Rupees Two

Crores only) within a period of ten days from the date of his release without prejudice to the right of the defence before the trial Court. On such deposit and production of proof of payment of Rs.50,00,000/- (Rupees fifty lakh only), the petitioner was ordered to released on bail with other conditions. Thereafter, the petitioner filed modification petition in Crl.M.P.No.10067 of 2025 in Crl.O.P.No.14718 of 2025 and this Court by order dated 14.05.2025 modified the condition in paragraph No.8 in Crl.O.P.No.14718 of 2025 to the effect that the petitioner was ordered to be released on bail on executing bond of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a likesum to the satisfaction of the learned Additional Chief Metropolitan Magistrate (E.O.II) Court, Egmore, Chennai and further the petitioner was directed to deposit a sum of Rs.2,50,00,000/- (Rupees two crores and fifty lakh only) to the credit of R.R.No.15 of 2025 before the learned Additional Chief Metropolitan Magistrate (E.O.II) Court, Egmore, Chennai within a period of ten days from the date of release. This modification was on the submission made by learned counsel for the petitioner submitting that the petitioner is the only person to mobilize the pre-condition amount of Rs.50,00,000/- (Rupees fifty lakh only) to get released, thereafter, the balance of Rs.2,00,00,000/- (Rupees two crores only). The petitioner submitted that once he comes out on bail, he would mobilize Rs.2,50,00,000/- (Rupees two crores and fifty lakhs only) which he admitted to deposit in R.R.No.15 of 2025. Aggrieved over the order of this Court, dated 14.05.2025 in Crl.M.P.No.10067 of 2025 in Crl.O.P.No.14718 of 2025, the petitioner approached the Hon'ble Apex Court in Special Leave to Appeal (Crl.) No.9111 of 2025. On the submissions of the petitioner that the condition imposed for bail is onerous and illegal, the Hon'ble Apex Court by order dated 23.06.2025 held that excessive bail is no bail and onerous conditions ought not to be imposed while bail is granted and the learned counsel had no authority to offer monetary deposit and found petitioner approbating and reprobating, hence, set aside the original order of this Court dated 08.05.2025 and the order of modification dated 14.05.2025 and remitted the matter to this Court for fresh consideration on merits and further granted interim protection to the petitioner from surrender. In view of the above, the present bail petition is taken up for hearing a fresh.

4.The learned counsel for the petitioner submitted that the petitioner is one of the partners in M/s.Tamilnadu Electric Palace and Proprietor of M/s.Ramdev Electricals. The allegation is that both the Proprietorship Firm and Partnership Firm are involved in supply of goods without issuance of any GST invoice in violation of provisions of Sections 31, 37 & 39 of Central Goods and Services Tax Act, 2017. The petitioner, one of the partners in M/s.Tamilnadu Electric Palace registered with GSTN, had paid a total tax of Rs.2,02,80,584/- for the supply of goods to the tune of Rs.12,12,61,200/- from 01.04.2018 to 21.12.2024. The petitioner being the Proprietor of M/s.Ramdev Electricals with registered GSTN, had paid a total tax of Rs.83,80,066/- for supply of goods to the tune of Rs.4,73,68,759/- from 01.04.2018 to 31.12.2024. He further submits that the petitioner paid required GST for supply of goods towards the above said period. But the respondent seized certain loose papers and diaries from the place of business and residence of the petitioner on 27.01.2025 and based on that unrelated documents, the respondent claims huge tax amount evaded.

5.The learned counsel further submits that the petitioner belongs to a business community and it is the customary practice that whenever they opened a place of business, they used to write in every single small bit of paper as "VYAPAAR" in Hindi language which means "Sale". With these written loose bit of papers and dairies the respondent claims the above said total taxable amount is evaded. There is no signature or seal of the petitioner or his firm on those loose bit of papers and diaries. He further submitted that the respondent not furnished any copies of seized documents to the petitioner which are recovered from the place of business as well as in residential premises in FORM-GST-INS-02. The respondent calculated the supply of goods for which Partnership Firm and Proprietorship Firm paid the GST towards supply of goods. He further submitted that if at all there is any discrepancy in calculation of supply of goods, that can be sorted out by issuing show cause notice under Section 74 of Central Goods and Services Tax Act, 2017 which the respondent failed to issue till the date of arrest. According to petitioner, the respondent has miscalculated the supply of goods and quantity and included the goods for which GST has already been paid. The respondent considered M/s.Kuldeep Lite, M/s.Kundan Electricals, M/s.Ramdev Kumaran Electricals, M/s.Shivam Electricals and

M/s.Tirupati Electricals supplies as that of the petitioner without payment of GST. Whether there was any counter claim by all these firms alleging on the petitioner's supply, is yet to be confirmed. Further, on these loose papers and entries therein and interpretation to the same given by the respondent for their own convenience, failing to accept the petitioner's explanation and the petitioner bank statement and other account statement of his firm. M/s.Tamilnadu Electric Palace is having bank account at Kotak Mahindra Bank and M/s.Ramdev Electricals is having bank account at Axis Bank. Apart from these two bank accounts, there is no other bank account. All the documents are now with the respondent, hence, custodial interrogation of the petitioner not required.

6.He further submitted that the petitioner had appeared before the respondent on issuance of summons and gave statements. Without issuance of any notice under Section 35 of BNSS, the respondent arrested the petitioner which is in clear violation of directions given by the Hon'ble Apex Court in ***State of Gujarat v. Choodamani Parameshwaran & Ors.,*** reported in ***MANU/SC/0992/2023***. The petitioner has no intention to evade justice and he was willing to cooperate with the respondent, produced all documents and further, now SCN issued on 30.06.2025. The petitioner is ready to participate in the adjudication proceedings to be held by the respondent.

7.In support of his submissions, the learned counsel for the petitioner relied on the decision of Hon'ble Full Bench of Apex Court in ***Radhika Agarwal v. Union of India (UOI) and Ors.,*** reported in ***(2025) 6 SCC 545*** wherein the Hon'ble Apex Court had considered various provisions of The Customs Act, 1962, The Prevention of Money-Laundering Act, 2002 and The Central Goods and Services Tax Act, 2017 in what manner the arrest, enquiry and investigation to be conducted and held that before arrest, “grounds of arrest” are mandatorily required to be supplied to the arrestee and likewise “reasons to believe” are to be furnished to the arrestee so that they can challenge the legality of the arrest. Section 69 of Central Goods and Services Tax Act, 2017 deals with the power of arrest which is akin to Section 165 of Cr.P.C wherein the word Magistrate substituted with the word Commissioner and it is the Commissioner to authorize the concerned officer to proceed with the investigation. Referring to para 56 of the decision, the learned counsel submitted that to pass an order of arrest in case of cognizable and non-cognizable offences, the Commissioner must satisfactorily show, vide the reasons to believe recorded by him, that the person to be arrested has committed a non-bailable offence and that the pre-conditions of sub-section (5) to Section 132 of the Act are satisfied. Further, the satisfaction to be objective and not on mere *ipse dixit* without foundational reason and material. The arrest has to be made on the formation of opinion by the Commissioner which is to be duly recorded in the reasons to believe. In para 58 of the decision, it is observed that the power of arrest should be used with great circumspection and not casually. In the present case, the Commissioner has not given any reasons to believe for arrest by objective satisfaction. He further produced the reason to believe for arrest furnished to the petitioner dated 27.03.2025 wherein it is seen that the Superintendent, GST & Central Excise gave reason to believe for arrest which has been further signed by the Principal Commissioner, nothing more. Hence, there is clear violation of mandatory condition of Commissioner to show reason to believe for commission of offence by the petitioner which is a foundational flaw. Hence, authorization is bad in law and the arrest is illegal. Further, the petitioner participated and responded to the summons issued by the respondent. Petitioner having deep social roots will not evade justice, co-operate with investigation, further to consider his period of incarceration. Added to it, now SCN issued which is now taken for adjudication for recovery of loss of revenue to the Department, if any.

8.Making the above submissions and relying upon the above decision, the learned counsel for the petitioner sought for bail to the petitioner.

9.The learned Special Public Prosecutor appearing for the respondent filed counter stating that on perusal of material evidence seized on 27.01.2025 at the Principal Place of Business of M/s.Tamilnadu Electric Palace (GSTIN: 33AANFT0713CIZN), the residence and related business places of Shri.Kundan Singh, the partner of M/s.Tamilnadu Electric Palace (GSTIN: 33AANFT0713C1ZN) and Proprietor of M/s.Ramdev Electricals (33FDOPS5494C1Z3) and the statements recorded from Shri.Kundan Singh and various persons under Section 70 of the CGST Act, 2017, it is found that petitioner presently residing at No.33, Appasamy Street, Seven Wells, Chennai committed offence under section 132(1)(a) of Central Goods and Services Tax Act, 2017 and corresponding provisions of Tamil Nadu Goods and Services Tax Act, 2017 & Integrated Goods and Services Tax Act, 2017, which is punishable with an imprisonment of a term that may extend to 5 years and with fine, in terms of 132 (1)(1)(i) of the said Act and this offence is a cognizable and non-bailable offence in terms of Sections 132(5) of the said Act. He further submitted that M/s.Tamilnadu Electric Palace (GSTIN: 33AANFT0713CIZN) registered on 23.11.2017 located at No.135, Govindappa Naicken Street, Near Hotel Arya Bhavan Restaurant, Sowcarpet, Chennai which falls under the jurisdiction of Chennai North CGST Commissionerate had supplied goods without issuance of any invoice, in violation of the provision of Section 31 of CGST Act, 2017 and failed to declare details of such outward supplies in the statutory return as specified under Section 37 of the CGST Act, 2017 as well failed to discharge due tax liability on account of such supplies in terms of Section 9 of the CGST Act, 2017 by way of filing statutory periodic GST returns as stipulated under Section 39 of CGST Act, 2017 or the rules made thereunder, with the intention to evade tax during the period from April 2018 to January 2025 and supplied goods in a clandestine manner. The documents which were seized under Form GST INS-02 as listed below from PPoB and the places related to the petitioner, Partner of M/s Tamilnadu Electric Palace (GSTIN: 33AANFT0713C1ZN)

(i)PPOB at No.135, Govindappa Naicken Street, Near Hotel Arya Bhavan Restaurant, Sowcarpet, Chennai-600079.

(ii)Residence of Shri Kundan Singh located at No.33, Appasamy Street, Seven Wells, Chennai-600079.

(iii)M/s.Ramdev Electricals (33FDOPS5494C1Z3) which was a Proprietorship firm of Shri. Kundan Singh located at Old No.34, New No.63, Rattan Bazar, Park Town, Chennai-600003.

(iv)M/s.Ramdev Electricals, No.99, Nakoda Complex, Ground Floor, Govindappa Naicken Street, Sowcarpet, Chennai-600079.

All the documents were verified and analyzed. It was found that the documents contained data and information of the total daily business transactions of the partnership firm of the petitioner, M/s Tamilnadu Electric

Palace (GSTIN: 33AANFT0713C1ZN) and the Proprietorship concern of petitioner, M/s.Ramdev Electricals (33FDOPS5494C1Z3) and all the other unregistered undeclared business premises located at Govindappa Naicken Street, Sowcarpet, Chennai.

10.It is further submitted that the petitioner, Partner of M/s.Tamilnadu Electric Place (GSTIN: 33AANFT0713CIZN) and proprietor of M/s.Ramdev Electricals (33FDOPS5494C1Z3) had accepted in his statement dated 28.01.2025 that the loose papers/Kaccha bills/ Diaries and Registers retrieved from Principal Place of Business of M/s.Tamilnadu Electric Place at No.135, Govindappa Naicken Street, Near Hotel Arya Bhavan Restaurant, Sowcarpet, Chennai and residence of the petitioner belonged to M/s.Tamilnadu Electric Palace and M/s.Ramdev Electricals. Further, the petitioner had accepted in his Statement dated 28.01.2025 that the Words written in these loose papers Kaccha bills/Diaries and Registers as (Hindi) means the sale made on that day or the sale of goods on that day: (Hindi) means the other expenses. “Cash” means the Cash sale made on that day and “Gpay” means payments received through UPI medium.

Further, a Random verification of the amounts mentioned in these loose papers/Kaccha bills Diaries and Registers reveals that transactions found in the loose papers/Kaccha bills/ Diaries and Registers are found to be reflecting in the statement of Axis bank Account No.920020057857748 provided by the petitioner which confirms that the denominations of amounts mentioned in the loose papers/Kaccha bills/ Diaries and Registers refers to the Accounted Unaccounted Sales carried out in M/s.Tamilnadu Electric Place GSTIN:33AANFT0713C1ZN) and M/s.Ramdev Electricals (GSTIN:33FDOPS5494C1Z3). Amounts written as (Hindi) in the seized/retrieved Loose Slips/Estimates are also found to be reflecting in the Diaries/Registers matching to the date.

11.He further submitted that during the course of investigation, it was also ascertained that the petitioner has displayed the GSTN of M/s.Ramdev Electricals *i.e.,* GSTIN:33FDOPS5494C1Z3 in the sign boards of many of his unregistered business firms to carryout unaccounted sales with an intention to evade tax and create a revenue loss to the Government exchequer. The unregistered business premises of the petitioner had been found to be engaged in the same practice of clandestine sales as on 25.03.2025 even after initiation of investigation against M/s.Tamilnadu Electric Palace, which reveals that the petitioner is habitual offender of evading tax and non-complying the provisions of law in force, even after investigation has commenced. Based on the above facts, it is ascertained that the petitioner was the key person to open and operate M/s.Tamilnadu Electric Palace, M/s.Ramdev Electricals and all the other allied business firms and contravened the provisions under GST Act,2017 and the petitioner has willfully and intentionally carried out the practice of evading tax to the tune of Rs.13.73 Crores.

12.He further submitted that during first vacation sitting on 08.05.2025, it was the petitioner who voluntarily offered to deposit Rs.2.5 Crores of evaded due amount, of which Rs.50 lakhs to be paid immediately to the credit of R.R.No.15 of 2025 and balance Rs.2 Crores after coming out on bail. During second vacation Court on 14.05.2025, a modification petition in Crl.M.P.No.10067 of 2025 in Crl.O.P.No.14718 of 2025 moved stating that the petitioner is the only person to mobilize the funds and since he is inside the prison, he is unable to mobilize the funds and gave an undertaking that instead of depositing Rs.2.5 Crores in two installments, in one stroke after coming out on bail, Rs.2.5 Crores would be deposited in R.R.No.15 of 2025 and pre-condition deposit of Rs.50 lakhs before granting bail to be modified. Considering the undertaking given by the learned counsel for the petitioner, this Court granted bail to the petitioner with a condition that within ten days of the petitioner coming out on bail, the petitioner to comply his undertaking. In the meanwhile, the petitioner approached the Hon'ble Apex Court in Special Leave to Appeal (Crl.) No.9111 of 2025 where the petitioner projected that without any authority of the petitioner, the learned counsel on its own had offered monetary deposit and got the order passed by this Court earlier dated 08.05.2025 in Crl.O.P.No.14718 of 2025 and subsequent order dated 14.05.2025 in Crl.M.P.No.10067 of 2025 in Crl.O.P.No.14718 of 2025. Now both orders are set aside by the Hon'ble Apex Court on 23.06.2025.

13.He further submits that now show cause notice dated 30.06.2025 issued to the petitioner confirming the contravention, evasion and the petitioner clandestine supplies made during the period from 2018-19 is to the tune of Rs.12,56,23,139/- and demand on the tax with interest has been initiated. Hence, strongly opposed for grant of bail.

14.This Court considered the rival submissions and perused the materials available on record.

15.It is not in dispute that the petitioner is one of the partners in M/s.Tamilnadu Electric Palace with GSTN No.33AANFT0713C1ZN and Proprietor of M/s.Ramdev Electricals with GSTN No.33FDOPS5494C1Z3. On reliable source of information and intelligence gathered, the officers of HPU (Headquarters Preventive Unit) had conducted a search on 27.01.2025 and seized evidence/documents *i.e.,* diaries/registers/loose bills etc., under INS-02. The petitioner also appeared before the respondent pursuant to summon issued on 27.01.2025, 28.01.2025, 17.02.2025 and 26.03.2025. Finding that the evasion is more than Rs.5 Crores and the petitioner has committed the offence under Section 132(5) of Central Goods and Services Tax Act, 2017 which is punishable with an imprisonment of a term that may extend to five years and with fine, a cognizable offence, the petitioner arrested.

16.In ***Radhika Agarwal*** case (cited supra), the Hon'ble Full Bench of Apex Court held that in the cases of GST violating Section 132 of Central Goods and Services Tax Act, 2017, the arrest can be made the pre-condition is that the Commissioner must satisfactorily show the reason to believe for arrest recorded by him showing objectively that the person to be arrested for committing Non-Bailable Offence and that the pre-condition of sub-Section 5 to Section 132 of the Act are satisfied.

17.In this case, the reason to believe for arrest is made by the Superintendent, GST Central Excise which is further signed by the Principal Commissioner of GST & Central Excise, Chennai North Commissionerate and there is nothing to explicitly show the satisfaction has been arrived objectively by the Commissioner. The arrest cannot be made merely on suspicion alone. The arrest is to be made on the formation of opinion by the Commissioner which is to be duly recorded in the reason to believe for arrest. In this case, it is not so. Further taking into consideration now based on the materials seized, collected and by statements, show cause notice dated 30.06.2025 issued and the period of petitioner's incarceration, this Court is inclined to grant bail.

18.Accordingly, the petitioner is ordered to be released on bail on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, in which one of them to be a blood surety for a like sum to the satisfaction of the learned the Additional Chief Metropolitan Magistrate (E.O.II) Court, Egmore, Chennai and on further conditions that:

[a]the sureties shall affix their photographs and Left Thumb Impression in the Application for Surety ship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Magistrate shall obtain a copy of any one of the identity proofs to ensure their identity;

[b]the petitioner shall report before the respondent daily at 10.30 a.m until further orders;

[c]the petitioner shall make himself available for interrogation by a Officer as and when required;

[d]the petitioner shall not directly or indirectly cause any threat to the de facto complainant and witnesses;

[e]the petitioner to give an undertaking that if required for being

identified by witnesses during investigation or for police custody beyond the first fifteen days, he shall comply to the directions as may be given by the Court in this regard;

[f]On breach of any of the aforementioned conditions, the learned Magistrate/Trial Court is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in *P.K.Shaji vs. State of Kerala [(2005)13 SCC 283*];

[g]If the accused thereafter absconds, a fresh FIR can be registered under Section 269 of B.N.S.

05.08.2025

Speaking Order/Non Speaking Order
Index : Yes/No
Neutral Citation: Yes/No
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To

1.The Additional Chief Metropolitan Magistrate (E.O.II) Court,
Egmore, Chennai.

2.The Superintendent of CGST and Central Excise,
HPU, Chennai North Commissionerate,
No.26/1, Mahatma Gandhi Road,
Nungambakkam, Chennai – 600 034.

3.The Public Prosecutor,
Madras High Court.

M.NIRMAL KUMAR, J.

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PRE-DELIVERY ORDER IN
Crl.O.P.No.14718 of 2025

05.08.2025