



CrI.O.P.No.19316 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2025

CORAM

THE HONOURABLE Dr.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.19316 of 2025

K.S.Gita, F/71 - Senior Citizen,
D/o.K.Subbiah,
No. 195, St.Marys Road,
Alwarpet,
Chennai - 600 018.

... Petitioner/Accused

/versus/

The Deputy Commissioner,
Central Excise (Prosecution), Chennai.

...Respondent

Prayer: Criminal Original Petition filed under Section 482 of *Bharatiya Nagarik Suraksha Sanhita*, 2023, pleased to enlarge the Petitioner on bail in event of arrest in E.O.C.C.No.56/2014 filed by the Deputy Commissioner of Central Excise (Prosecution) and pending execution of Nonailable Warrant and proclamation issued by the Additional Chief Metropolitan Magistrate (E.O. II), Egmore, Chennai.

For Petitioner : Mr.K.Arvind

For Respondent : Mr.N.P.Kumar,
Special Public Prosecutor.



CrI.O.P.No.19316 of 2025

ORDER

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The petitioner, who apprehend arrest at the hands of the respondent police, for the alleged offences punishable under Sections 9(1)(b)(1), 9(1)(bb)(1), 9(1)(bbb)(1), 9(d)(1) read with 9AA, in EOCC No.56 of 2014 on the file of the respondent police, seek anticipatory bail.

2. The petitioner herein is being prosecuted by the Central Excise Department for violations of Central Excise Act, an economic offence and the complaint is pending before Additional Chief Metropolitan Court, Egmore (E.O.II) since 2014 in EOCC.No.56 of 2014.

3. The petitioner herein was then the Managing Director of M/s.Pioneer Alloy Castings Limited. A complaint been registered against her and other accused for non-remittance of CENVAT duty and the case pending against her and other accused.

4. The petitioner has not appeared on summons. Hence, the Department had taken steps for proclamation and paper publications were effected by publishing in one of the leading daily "The Hindu". Even thereafter, the petitioner did not appear before the Court. After being proclaimed as an



Crl.O.P.No.19316 of 2025

absconding accused, Non-Bailable Warrant was sought to be executed against her but that has been successfully prevented. Under these circumstances, the present petition for Anticipatory bail is filed.

5. A detailed counter is filed by the Department stating how the petitioner been evading summons from the Court and also preventing the Department from proceeding against the petitioner and others who had committed grave economic offence of defrauding the Department by not paying the CENVAT duty collected.

6. According to the counter, a sum of Rs.21,65,055/- and Rs.1,52,43,998/- has been quantified as the amount fraudulently cheated by the petitioner and other accused persons. Steps taken to secure the petitioner are narrated in the counter.

7. The Learned Counsel appearing for the petitioner submits that the Company been engulfed in liquidation proceedings and the prosecution is unwarranted. That apart, no proper notice was served on the petitioner herein and therefore, the proclamation is to be considered as non-est and anticipatory



CrI.O.P.No.19316 of 2025

bail must be granted.

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8. However, the Learned Special Public Prosecutor appearing for the respondent submitted that in *Srikant Upadhyay and others vs. State of Bihar and another* reported in *2024 SCC Online SC 282*, had clearly stated that the Court which has made all attempts to secure the accused persons, fail in their endeavour and proclaimed the absconding accused as a proclaimed offender then, anticipatory bail petition cannot be entertained.

9. This Court, on going through the earlier judgment of this Court and the judgment of Hon'ble Supreme Court of India, regarding the right of the proclaimed offender, is of the view that as far as this petitioner is concerned, it is hard to believe that she was unaware of the criminal prosecution pending against her. She had been evading notice, despite all efforts taken by the Department by paper publication and proclamation as well as issuance of NBW, her presence could not be secured.



CrI.O.P.No.19316 of 2025

WEB COPY

10. Citing liquidation proceedings is not an excuse for not participating in the criminal prosecution, especially when serious allegations of economic offences are made.

11. From the counter, this Court finds that since 2014, the Department is unable to secure the petitioner to proceed against her and others for evasion and fraud of non-remitting CENVAT duty around Rs.1 crore 74 lakhs.

12. Therefore, this Court finds that the petitioner is not entitled to anticipatory bail even on normal circumstances. Besides the proclamation process and her being declared a proclaimed offender.

13. Accordingly, this Criminal Original Petition is dismissed.

18.08.2025

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Crl.O.P.No.19316 of 2025

Dr.G.JAYACHANDRAN, J.

bsm

To,

1. The Additional Chief Metropolitan Magistrate (E.O.II), Egmore, Chennai.
2. The Deputy Commissioner, Central Excise (Prosecution), Chennai.
3. The Public Prosecutor, High Court of Madras.

Crl.O.P.No.19316 of 2025

18.08.2025