IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-47646-2025 (O&M)
Reserved on : 14.10.2025
Pronounced on : 15.12.2025

Shant Jain

..... Petitioner

VERSUS

State of Punjab & Anr.

..... Respondents

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by : Mr. R.S. Randhawa, Advocate,
Ms. Ravinder Kaur, Advocate and
Mr. Varun Tuteja, Advocate for the petitioner.

Mr. Jasdev Singh Thind, DAG Punjab.

Mr. Sourabh Goel, Sr. Standing Counsel with
Ms. Deify Jindal, Advocate for the respondent No.2.

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SURYA PARTAP SINGH, J.

1. The instant petition is the first petition for bail moved by the petitioner. In nut-shell the facts emerging from record are that on 08.07.2025, when petitioner appeared before the Inspector (Anti-Evasion), Central Goods and Services Tax Commisionerate, Ludhiana, hereinafter being referred to as 'complainant' only, in response to a notice received by him under Section 70 of the Central Goods and Services Tax Act 2017, hereinafter being referred to as 'CGST Act' only, he was arrested by the abovementioned Inspector. The allegations, for which the petitioner has been, arrested are for the commission of offence punishable under Sections 132(1)(b), (c), (e) & (1) of CGST Act and Section 132(1)(i) of the CGST

Act and Section 132(1)(i) of Punjab State Goods and Service Tax Act, 2017, both read with Section 20 of Integrated Goods and Services Tax Act 2017. Against the abovementioned arrest by the complainant, the petitioner has approached this Court for grant of bail by invoking the provisions comprised under Section 483 of the 'Bharatiya Nagarik Suraksha Sanhita, 2023'.

2. The pith and substance of the facts, which can be extracted, from record are that the FIR of this case came into being when on 07.01.2025, a search, as per Section 67 of the CGST Act, was conducted at the principal place of business of petitioner, i.e. 'M/s Sijjan Fabricators', bearing GSTIN No.03AYOPJ2270R1ZY, situated at 134, Industrial Area-A, Millerganj, Ludhiana, Punjab. According to complainant, the abovementioned search continued till early morning of 08.01.2025, and that during the abovementioned search, the petitioner was not present in the premises. As per complainant, the petitioner was telephonically called to join the search proceedings, which had resulted into recovery incriminating material and that a *panchnama* was duly drawn and the search proceedings were duly recorded in the presence of independent Panchs.

3. According to complainant, subsequently the petitioner was joined in the search proceedings, and in further investigation it was found that conduct of the petitioner during the course of investigation was not *bona fide* and that his replies were evasive, non-candid, design to mislead the investigation, and thus, the conduct of the petitioner amounted to non-cooperative, and therefore, a complaint for the offence under Sections 132(1)(b), (c), (e) & (1) of CGST Act, Section 132(1)(i) of CGST Act, 2017 and Section 132(1)(i) of Punjab State Goods and Service Tax Act, 2017,

both read with Section 20 of Integrated Goods and Services Tax Act, 2017 has been filed. It has been alleged in the complaint that the petitioner had claimed and received refund amounting to Rs.8.74 crores and in receipt of bogus invoices worth Rs.133.22 crores involving tax amount of Rs.15.98 crores and that the petitioner had received Input Tax Credit, hereinafter being referred to as 'ITC', amounting to Rs.15.98 crores out of total ITC amounting to approx Rs.23.16 crores, from non-existent/operation supplier on account of bogus invoices.

4. Heard.

5. It has been contended on behalf of petitioner that the petitioner is an innocent and *bona fide* businessman, who is being harassed on account of illegal prosecution by the complainant. According to learned counsel for the petitioner, the petitioner has not committed any act with *mala fide* intentions, to draw any undue advantage or defraud the CGST authorities. According to learned counsel for the petitioner, in fact the petitioner is a victim of unnecessary prosecution launched by the complainant.

6. As per learned counsel for the petitioner, the contents of complaint itself shows that during the course of search, the petitioner had voluntarily made payments of GST, in form DRC-03, firstly, for the shortage of stock found during stock verification and secondly for billing from 'M/s S.M. Knitwears'. The learned counsel for the petitioner has further contended that a voluntary act performed by the petitioner has been given the colour of criminality, merely on the assumptions that payment of tax during the search proceedings, at the instance of complainant, smacks of

mala fide intentions on the part of the petitioner. In this regard, the learned counsel for the petitioner has argued that an opposite view of the ground situation, has been taken by the complainant, whereas the voluntary act of the petitioner should have been appreciated, and if any deficiency in the stock or any other document was found, on payment of tax the same should have been exonerated/ignored.

7. It has been further contended by learned counsel for the petitioner that right from the intervening night of 07/08th January, 2025, when search was conducted in the petitioner's company, the petitioner has been cooperating with the authorities, and he had submitted the entire record pertaining to business to the authorities, which was taken into custody on 08.01.2025. As per learned counsel for the petitioner, subsequent thereto also till his arrest on 08.07.2025, the petitioner was constantly appearing before the GST authorities, as and when instructed by them, and that he had never evaded any summons issued to him. According to learned counsel for the petitioner, despite full cooperation extended by the petitioner during the course of enquiries, without any reasonable and plausible explanation, the petitioner has been arrested.

8. In addition to above, it has also been contended by learned counsel for the petitioner that during the course of investigation from January 2025 till June 2025, the petitioner has deposited, through form DRC-03 (voluntary payments), a sum of Rs.2,20,25,836/- on the direction of GST Department towards the alleged liability without admission of guilt, as a gesture of cooperation. It has also been contended by learned counsel for

the petitioner that the business entity of the petitioner has paid taxes amounting to Rs.58,52,413/- through periodic GST Returns.

9. According to learned counsel for the petitioner, the deposits made by the petitioner through DRC-03, exceed the amount of deposit required under Section 107(6) of the CGST Act, which provides that an assessee is required to deposit only 10% of the disputed amount to file an appeal before the First Appellate Authority. It has also been contended by learned counsel for the petitioner that the abovementioned amount is even more than 20%, which as per Section 112(8) of CGST Act is required to be deposited for filing an appeal before the Appellate Tribunal.

10. While claiming that there has been no *mala fide* intention on the part of petitioner to defraud the GST Department, and that as an act of highhandedness, the CGST Department has arrested the accused, who is already facing long incarceration for being in custody since 08.07.2025, the learned counsel for the petitioner has urged for benefit of bail for the petitioner. In support of his arguments, the learned counsel for the petitioner has referred to the principles of law laid down by the Hon'ble Supreme Court of India, in Criminal Appeal No.2269 of 2025 titled as 'Vineet Jain V/s Union of India', and by this Court in CRM-M-24201-2025 titled as 'Arvind Kumar V/s Directorate General of GST Intelligence, Amritsar' and CRM-M-8675-2025 titled as 'Manish Kumar & Ors. V/s Directorate General, Goods & Service Tax Intelligence & Ors.'.

11. The abovementioned arguments have been controverted by learned counsel for the respondents. It has been contended by learned

counsel for the respondents that the instant case is an open and shut case with regard to commission of abovementioned offence by the petitioner. According to learned counsel for the respondents, in the present case it is an admitted fact that during the course of search, when discrepancies in the account books and stocks were exposed, the petitioner voluntarily made the payment of requisite tax amount through two accounts.

12. According to learned counsel for the respondents, it is an admitted case of the petitioner that vide DRC-03, he had made payment of GST at the time of search on account of shortage of stocks, and on account of having availed 'ITC'. It has been claimed by the complainant that the abovementioned payments were made by the petitioner voluntarily, and that the abovementioned payment by the petitioner clearly establishes the guilt of the petitioner, which renders him liable to be prosecuted under the CGST Act. As per learned counsel for the respondents, on arrival of petitioner at the premises, it was found that the petitioner had deliberately deleted WhatsApp chats, WhatsApp call logs, and normal call logs from his phone, immediately before joining the investigation.

13. In addition to above, the learned counsel for the respondents has also contended that in the present case this fact cannot be ignored that the petitioner had been creating false documents for the purpose of playing fraud with the GST Department, and when his misdeeds were exposed, he started projecting himself to be a *bona fide* tax-payer and voluntarily paid a part of requisite taxes. As per complainant, the abovementioned action on the part of petitioner cannot be absolve the petitioner from his criminal

liability. According to learned counsel for the respondents, in fact the abovementioned action on the part of petitioner is proof of the criminal activity of the petitioner.

14. While claiming that the offence committed by the petitioner comes within the ambit of economic office, the learned counsel for the respondents, while relying upon the principles of law laid down by the Hon'ble Supreme Court in the cases of 'Radhika Agarwal V/s Union of India' 2025(6) SCC 545 and 'Central Bureau of Investigation V/s V. Vijay Sai Reddy' 2013(3) SCC (Criminal) 563, has argued that for the commission of economic offence, a strict approach is supposed to be followed.

15. I have duly considered the facts and circumstances of the present case as well as relevant laws.

16. At the very outset, it is relevant to mention that in a recent verdict, the Hon'ble Supreme Court of India in the case of Vineet Jain (supra) has made the following observations:-

> *"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 case is triable by a Court of a Judicial Magistrate. The sentence is limited and in any case, the prosecution is based on documentary evidence. There are no antecedents*
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> *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.

By setting aside the impugned order dated 24th January, 2025 of the High Court of Judicature for Rajasthan, Bench at Jaipur, we grant bail to the appellant. The appellant shall be immediately produced before the Trial Court and the Trial Court shall enlarge him on bail on appropriate terms and conditions till the conclusion of the trial."

17. In addition to above, it is also relevant to mention here that the Hon'ble Supreme Court of India in the case of Radhika Agarwal (supra) has propounded that 'the arrest must proceed on the belief supported by reasons relying on material that the conditions specified in Section 132(5) are satisfied, and not on suspicion alone. An arrest cannot be made to merely investigate whether the conditions are being met. The arrest is to be made on the formulation of the opinion by the Commissioner, which is to be duly recorded in the reasons to believe. The reasons to believe must be based on the evidence establishing-to the satisfaction of the Commissioner - that the requirements of sub-section (5) to Section 132 of the GST Act are met'.

18. It has also been observed by the Hon'ble Supreme Court of India in the abovementioned case that 'the figures with regard to the tax demand and the tax collected would, in fact, indicate some force in the petitioners' submission that the assessees are compelled to pay tax as a condition for not being arrested. Sub-section (5) to Section 74 of the GST Acts gives an option to the assessee and does not confer any right on the tax

authorities to compel or extract tax by threatening arrest. This would be unacceptable and violative of the rule of law'.

19. In the case of 'Sanjay Chandra V/s CBI' (2012) 1 SCC 40, the Hon'ble Supreme Court of India has ruled that the benefit of bail cannot be denied merely in view of severity of the offence, and that the Court ought to be conscious of the right to speedy trial bestowed on account of Article 21 of the Constitution of India.

20. This Court in the case of 'Gurcharan Singh & Ors. V/s State', AIR 1978 SC 179 observed that 'two paramount considerations, while considering petition for grant of bail in non-bailable offence, apart from the seriousness of the offence, are the likelihood of the accused fleeing from justice and his tampering with the prosecution witnesses. Both of them relate to ensure the fair trial of the case'.

21. Taking into consideration the abovementioned settled principles of law and the factual matrix of the case, following are the relevant factors which are required to be taken into consideration, for arriving at any decision with regard to present petition: -

i) that the petitioner is in custody since 08.07.2025, i.e. for a period of more than 05 months;

ii) that investigation in this case is already complete and therefore, nothing is left to be recovered from the possession of petitioner;

iii) that the act and conduct of petitioner, who has been appearing in response to the notice issued by the Investigating Agency, speaks in volumes about his cooperation;

iv) that the payment of tax during search proceedings also speaks in favour of *bona fide* intentions of the petitioner;

v) that as per custody certificate, the petitioner has no criminal antecedents;

vi) that the trial is not likely to be concluded in near future;

vii) that detention of petitioner in judicial lockup is not likely to serve any purpose;

viii) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses; and

ix) that there is nothing on record to show that if released on bail, the petitioner will not participate/cooperate in the trial.

22. In the present case, the principles of law laid down by the Hon'ble Supreme Court in the case of "Dataram versus State of Uttar Pradesh and another", 2018(2) R.C.R. (Criminal) 131, are also relevant, wherein it has been observed that "a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being

incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case".

23. The principles laid down by the Hon'ble the Supreme Court of India in the case of 'Satender Kumar Antil Vs. Central Bureau of Investigation and Another', (2022) 10 SCC 51, are also relevant in this case. In the abovementioned case, it has been observed that "the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice".

24. Recently, in the case of 'Tapas Kumar Palit Vs. State of Chhattisgarh', 2025 SCC Online SC 322, the Hon'ble Supreme Court of India has observed that "if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then,

definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed". It has also been observed by the Hon'ble Supreme Court of India in the abovementioned case that "delays are bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently".

25. Therefore, to elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to an undertrial prisoner, as mandated by Hon'ble Apex court in "Balwinder Singh versus State of Punjab and Another", 2024 SCC Online SC 4354.

26. If the cumulative effect of all the abovementioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the petitioner is entitled for the benefit of bail, and that the present petition deserves to be allowed.

27. Accordingly, without commenting anything on the merits of the case, the present petition is hereby ***allowed***. The petitioner is hereby ordered to be released on bail on furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court, subject to the following conditions:-

(i) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

(ii) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final decision of the trial;

(iii) that the petitioner shall submit a security bond equal to the amount being claimed by the complainant as tax & penalty. If the petitioner is found guilty at the conclusion of trial, the complainant would be entitled to use the abovementioned security bond for the realization of the dues from the petitioner; and

(iv) that the petitioner shall not leave India without prior permission of learned trial Court.

28. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to be cancelled and the prosecution shall be at liberty to move an application in that regard.

(SURYA PARTAP SINGH)
JUDGE

15.12.2025
Gaurav Thakur

Whether speaking / reasoned Yes/No
Whether Reportable Yes/No