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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 1548/2020**

CENTRAL GOODS AND SERVICE TAXPetitioner
Through: Mr. Satish Aggarwala,
SSC for Indirect Taxes,
Department of Revenue.

versus

VIKRAM GOYALRespondent
Through: Mr. Rajeev Aggarwal,
Adv. through V.C.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
19.05.2025

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1. The present petition is filed challenging the order dated 23.03.2020 (hereafter '**the impugned order**'), passed by the learned Chief Metropolitan Magistrate ('**CMM**'), Patiala House Courts, New Delhi, whereby the respondent was granted bail in the proceedings under Section 132 of the Central Goods and Services Act, 2017.

2. It is the case of the prosecution that the respondent was involved in availing fraudulent Input Tax Credit ('**ITC**') to the tune of ₹6.15 crores. It is alleged that the respondent was responsible for running the firm, namely, M/s. Gupta Plastics, which was found involved in suspicious refund claims under inverted duty structure wherein 65% of the suppliers of the said firm were found to be non-existing. On analysis of the records, it was found that M/s. Gupta Industries was also functioning from the same premises and had the same set of suppliers. It is alleged that fake vehicle numbers were being used to generate E-way



Bills for the purpose of availing fraudulent ITC. It is alleged that the applicant had purchased fake invoices for both M/s. Gupta Plastics and M/s. Gupta Industries without supply of any goods for the purpose of claiming refunds on the basis of said invoices.

3. The petitioner was arrested on 15.02.2020.
4. The first application filed by the respondent seeking bail was dismissed by the learned Trial Court by order dated 20.02.2020 taking note of the allegations against the respondent and the *modus operandi* allegedly adopted by him.
5. The second bail application filed by the respondent was dismissed by the learned Trial Court by order dated 03.03.2020. The learned Trial Court again noted the allegations made against the respondent and held that no fresh ground was made out to admit the respondent on bail.
6. The third bail application filed by the respondent was allowed by the impugned order.
7. The learned Senior Standing Counsel for the Department submits that the learned Trial Court ought not to have entertained the repeated bail applications.
8. He submits that the second bail application of the respondent was dismissed as late as on 03.03.2020, despite which, without any change in circumstance, the third application filed by the respondent seeking bail was considered merely after two weeks.
9. It is trite law that an order granting bail ought not to be disturbed by a superior court unless there are strong reasons to do so. The party seeking setting aside of an order granting bail must establish a compelling case and demonstrate that the said order was illegal, unjust or improper. The Hon'ble Apex Court in



Mahipal vs. Rajesh Kumar v. Pooja and Anr : (2020) 2 SCC

118, has opined as under :

“13. The principles that guide this Court in assessing the correctness of an order [Ashish Chatterjee v. State of W.B., CRM No. 272 of 2010, order dated 11-1-2010 (Cal)] passed by the High Court granting bail were succinctly laid down by this Court in Prasanta Kumar Sarkar v. Ashis Chatterjee [Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496 : (2011) 3 SCC (Cri) 765] . In that case, the accused was facing trial for an offence punishable under Section 302 of the Penal Code. Several bail applications filed by the accused were dismissed by the Additional Chief Judicial Magistrate. The High Court in turn allowed the bail application filed by the accused. Setting aside the order [Ashish Chatterjee v. State of W.B., CRM No. 272 of 2010, order dated 11-1-2010 (Cal)] of the High Court, D.K. Jain, J., speaking for a two-Judge Bench of this Court, held : (SCC pp. 499-500, paras 9-10)

“9. ... It is trite that this Court does not, normally, interfere with an order [Ashish Chatterjee v. State of W.B., CRM No. 272 of 2010, order dated 11-1-2010 (Cal)] passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
- (ii) nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if released on bail;
- (v) character, behaviour, means, position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being influenced; and
- (viii) danger, of course, of justice being thwarted by grant of bail.

10. It is manifest that if the High Court does not advert to these relevant considerations and



mechanically grants bail, the said order would suffer from the vice of non-application of mind, rendering it to be illegal.”

14. The provision for an accused to be released on bail touches upon the liberty of an individual. It is for this reason that this Court does not ordinarily interfere with an order of the High Court granting bail. However, where the discretion of the High Court to grant bail has been exercised without the due application of mind or in contravention of the directions of this Court, such an order granting bail is liable to be set aside. The Court is required to factor, amongst other things, a prima facie view that the accused had committed the offence, the nature and gravity of the offence and the likelihood of the accused obstructing the proceedings of the trial in any manner or evading the course of justice. The provision for being released on bail draws an appropriate balance between public interest in the administration of justice and the protection of individual liberty pending adjudication of the case. However, the grant of bail is to be secured within the bounds of the law and in compliance with the conditions laid down by this Court. It is for this reason that a court must balance numerous factors that guide the exercise of the discretionary power to grant bail on a case-by-case basis. Inherent in this determination is whether, on an analysis of the record, it appears that there is a prima facie or reasonable cause to believe that the accused had committed the crime. It is not relevant at this stage for the court to examine in detail the evidence on record to come to a conclusive finding.

16. The considerations that guide the power of an appellate court in assessing the correctness of an order granting bail stand on a different footing from an assessment of an application for the cancellation of bail. The correctness of an order granting bail is tested on the anvil of whether there was an improper or arbitrary exercise of the discretion in the grant of bail. The test is whether the order granting bail is perverse, illegal or unjustified. On the other hand, an application for cancellation of bail is generally examined on the anvil of the existence of supervening circumstances or violations of the conditions of bail by a person to whom bail has been granted...

(emphasis supplied)

10. Undisputedly, the Courts ought not to entertain repeated bail applications without change in circumstances. The practice of filing of successive bail applications without there being any change in circumstances is deprecated. The Hon’ble Apex Court



in the case of **Kalyan Chandra Sarkar v. Rajesh Ranjan :**
(2004) 7 SCC 528 had observed as under:

“20. Before concluding, we must note that though an accused has a right to make successive applications for grant of bail the court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the court also has a duty to record what are the fresh grounds which persuade it to take a view different from the one taken in the earlier applications.”

11. It is, however, equally well settled that every day spent in custody can provide a new cause of action for filing a bail application under certain circumstances.

12. The learned Trial Court while passing the impugned order has taken note of the submission of the counsel for the respondent that the respondent is ready to deposit ₹1 crore of the alleged liability of ₹6.15 crores. It is further noted that ITC for a sum of ₹57,53,453/- with respect to M/s. Gupta Plastics has also been reversed and the same has not been denied by the GST authorities. It was further noted that the respondent was in custody since 15.02.2020 and no purpose would be served by keeping him further in custody.

13. It is also pertinent to note that reversal of ITC as well as the intent of the respondent to deposit a sum of ₹1 crore has not been agitated or considered by the learned Trial Court in the dismissal of the first two bail applications. As noted by this Court by order dated 21.03.2022, the petitioner department has confirmed the deposit of ₹1 crore by the respondent as well as the reversal of ITC of ₹57,53,453/-. In matters such as this which relate to financial irregularities, the offer to deposit the amount to show *bona fides* and reversing of ITC is a material change in circumstances.

14. On being pointedly asked, it is informed by the learned



Senior Standing Counsel for the Petitioner Department that after completing the investigation, a complaint has been filed in regard to the alleged evasion of duty, which is pending trial before the learned Trial Court.

15. Considering that the complaint has already been filed in the present case and the matter has now proceeded for trial, the respondent is not required for the purpose of any investigation.

16. It is not the case of the petitioner department that the respondent has misused the liberty pursuant to being admitted on bail.

17. Although it is submitted that the respondent has not deposited the entire amount of the alleged evasion, however, in the opinion of this Court, the remit of the present proceedings cannot be converted into a petition for recovery of the evaded tax. Merely because the respondent has not yet deposited the entire amount, the same is not a ground to cancel the bail granted to the respondent.

18. In ***Deepak Yadav v. State of U.P. : (2022) 8 SCC 559***, the Hon'ble Apex Court has emphasised that bail once granted, should not be cancelled in a mechanical manner. Cancellation of bail must be on very cogent and overwhelming circumstances.

19. In the present case, no such ground is made out to warrant interference with the impugned order.

20. The present petition is dismissed in the aforesaid terms.

AMIT MAHAJAN, J

MAY 19, 2025

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