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

\+ BAIL APPLN. 3762/2024&CRL.M.A. 2861/2025

BABITA SHARMA .....Petitioner

Through: Mr. Ramakant Gaur, Mr. Atul Bhuchar, Ms. Sneha Arya, Ms. Harshi Gaur, Mr. Kartik Jain, Ms. Sobiya, Advs.

versus

STATE GOVT.OF NCT OF DELHI .....Respondent

Through: Mr. Sanjeev Bhandari, ASC with Mr. Arjit Sharma, Mr. NipunjBindal ,Advs.
ACP Jarnail Singh, PS ACB

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

O R D E R

% 12.02.2025

1. This is a petition filed under section 483 of BNSS seeking grant of regular bail to the petitioner in FIR No. 05/2023, dated 28.04.2023 registered at PS Anti-Corruption Branch under Sections 7 and 13(2) of the PC Act, 1988 read with sections 468/469/471/34/120-B of IPC, 1860.

2. Briefly stating the facts are that the FIR No. 05/2023 was registered based on the complaint dated 30.11.2021 filed by the Vigilance Department, which stemmed from the letter dated 27.09.2021 preferred by the Department of Trade and Taxes, GNCTD, whereby the allegation against the petitioner is that she has wrongly directed refunds of Rs. 36.51 crores (approx.) to bogus firms since July, 2021 without conducting any verification. The said funds were refunded to the bogus firms despite the fact that the petitioner had been transferred to another Ward. Additionally, the petitioner has transferred 53 firms from ward no. 6 to ward no. 22.

3. The petitioner has been in custody since 12.08.2024.

4. Mr. Gaur, learned counsel for the petitioner submits that the prosecution has failed to place any evidence on record regarding the illegal gratification and acceptance, which is the primary ingredient to invoke the provisions of the PC Act.

5. He states that the petitioner sanctioned the said amounts based on the export invoices contained in FORM GSTR – 1 and she was only performing her duties in accordance with law.

6. He further states that chargesheet has been filed against 8 accused persons, however the in the first chargesheet there were around 14000 documents and 191 witness. The chargesheet against the petitioner has still not been filed and the petitioner was last interrogated at the time of her arrest.

7. Further, the trial is unlikely to conclude soon and the petitioner suffers from chronic and life threatening ailments, including acute diabetes, colitis and hypertension and in this regard, the petitioner has earlier also been granted interim bail.

8. *Per Contra*, Mr. Bhandari, learned ASC opposes the present petitionand states that the allegations against the petitioner are serious in nature. The petitioner is the main conspirator and due to the petitioner, huge pecuniary loss has been caused to the Government Exchequer. Further, the petitioner is guilty of processing the GST refunds without proper verification and diligence. In this regard, he draws my attention to para 10 of the status report dated 23.10.2024 which reads as under:

> *"10.Petitioner/Accused GSTO Smt. Babita Sharma has also been found connived with accused persons as she had committed series of illegalities within her complete knowledge and notice which caused huge pecuniary loss in monetary terms to Government*

exchequer and the money reached Bogus Firms/non-existent, which were not even required to be sanctioned at all. This all reflect criminal misconduct and involvement at root level on her part. She did not check even single parameter(s) and approved even migration of Bogus Firms/non-existent, on the date of her transfer from one Ward No. 6 to 22 i.e. earlier she performed as GSTO in Ward No. 6 w.e.f. Jan. 2020 to July 2021. On 26.07.2021 she was transferred from Ward No. 6 to 22. On 27.07.2021 she joined Ward No. 22. During 22.07.21 to 21.08.2021, 53 Firms applied for migration from Ward No. 6 to Ward No. 22. Further, on 26.07.2021 & 27.07.2021, forty eight request for Transfer were generated and same day i.e. on 27.07.2021, all Requests were approved by petitioner accused."

9. I have heard learned counsel for the parties.

10. In the present case, the allegations against the petitioner are serious and grave in nature and the petitioner is accused ofwrongly directing refunds of Rs. 36.51 crores (approx.) to bogus firms, however the fact remains that the petitioner is still and under trial prisoner and there is a presumption of innocence in her favour.

11. The charges against the petitioner are yet to be framed. The prosecution in its first chargesheet has cited 191 witnesses in total and their evidence has not even started. Further, the prosecution has also presented 14000 pages of documents.

12. To my mind, the trial is unlikely to conclude in the near future. Till the trial is concluded, the petitioner is presumed to be innocent.The rights under Article 21 of the Constitution of India are paramount and every accused is

entitled to a speedy trial.

13. The petitioner has been in custody since 12.08.2024 and was earlier granted interim bail vide order dated 25.10.2024, which was further extended by this court on 30.01.2025 till today.

14. In addition, 14 other co-accused persons have already been granted bail by the learned Trial court.

15. For the said reasons, the present petition is allowed and the petitioner is directed to be released on regular bail subject to the following terms and conditions:

I. The petitioner shall furnish a personal bond of Rs. 50,000/- with one surety of the like amount to the satisfaction of the concerned learned trial court,

II. The petitioner in no manner will be in touch of her office colleague(s) nor she will have any access to any official record;

III. The petitioner shall not visit any of the office of the GST except for pursuing her claims of gratuity and pension;

IV. The petitioner will make herself available to the Investigating Officer (IO) as and when directed;

V. The petitioner shall not directly or indirectly make any inducement, threat, intimidate or tamper with any person acquainted with the facts of the case;

VI. The petitioner's permanent address is Flat No.1105, MSS BLISS Homes, Govind Puram, Ghaziabad- 201013 and in case of any change, the same shall be duly informed to the IO concerned;

VII. The petitioner shall furnish to the IO concerned the cell phone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched on at all times;

VIII. The petitioner shall not indulge in any act or omission that is unlawful, illegal or that would prejudice the proceedings in pending cases, if any.

16. Nothing stated hereinabove shall tantamount to an expression of opinion on the merits of the case.

17. The petition stands disposed of in the aforesaid terms.

JASMEET SINGH, J

FEBRUARY 12, 2025 / (MS)

Click here to check corrigendum, if any