**IN THE HIGH COURT FOR THE STATE OF TELANGANA**
**AT HYDERABAD**

**THE HONOURABLE SMT. JUSTICE K. SUJANA**

**CRIMINAL PETITION No.5740 of 2026**

**DATE: 23.04.2026**

**BETWEEN:**

Devendra Surana

..... Petitioner/Accused

**And**

Union of India and another

..... Respondent/Complainant

**ORDER**

This Criminal Petition is filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of pre-arrest bail to the petitioner, who is arrayed as accused in File No.DGGI/INTL/413/2025-Gr T-O/o ADG-DGGI-ZU-HYDERA on the file of the Senior Intelligence Officer, Directorate General of GST Intelligence (DGGI), Zonal Unit, Hyderabad.

2. The brief facts of the case are that the petitioner, Managing Director of M/s. Bhagyanagar India Limited, a reputed listed

company, purchased copper scrap from M/s. AMZ Traders after due KYC verification and compliance checks. Between November 2022 and March 2023, the company undertook 153 transactions worth about Rs.97.25 crores, supported by invoices, e-way bills, transport records, and banking transactions. Subsequently, proceedings were initiated under Section 70 of the CGST Act alleging wrongful availment of Input Tax Credit (ITC). The petitioner furnished all documents and cooperated with the investigation, but later discovered that the supplier's GST registration was retrospectively cancelled.

3. Heard Sri B. Vamshidhar Reddy, learned counsel appearing on behalf of the petitioner as well as Sri Dominic Fernandes, learned Standing Counsel for CBIC appearing on behalf of the respondents.

4. Learned counsel for the petitioner submitted that the case is purely documentary in nature and all transactions are supported by valid records, including invoices, e-way bills, and bank payments. He further submitted that the petitioner exercised due diligence by verifying the supplier's GST registration and KYC details, and any alleged default by the supplier cannot be attributed to the petitioner. The petitioner has fully cooperated

with the investigation, and custodial interrogation is unnecessary in a financial and document-based case. He contended that the petitioner is a law-abiding citizen with no criminal antecedents, and arrest would cause irreparable harm to the company and its employees. Therefore, he prayed the Court to grant pre-arrest bail to the petitioner by allowing this Criminal Petition.

5. Learned Standing Counsel for the respondents submitted that the petitioner is involved in wrongful availment of ITC based on transactions with a supplier whose GST registration was cancelled retrospectively, involving a substantial amount of over Rs.97 crores. He further submitted that the matter involves a serious economic offence affecting public revenue and requires thorough investigation. The petitioner's presence is necessary for effective inquiry, and the possibility of non-genuine transactions cannot be ruled out at this stage. Therefore, it is argued that custodial interrogation may be required and the petitioner is not entitled to anticipatory bail. Hence, he prayed the Court to dismiss the Criminal Petition.

6. In the light of the submissions made by both the learned counsel and upon perusal of the material available on record, it is evident that respondent No.2 initially issued summons dated

06.11.2025 requiring the presence of the petitioner on 13.11.2025. On the request of the petitioner, the same was rescheduled to 24.11.2025, on which date a formal statement was recorded. Thereafter, on 25.11.2025, the petitioner submitted all documents pertaining to the supplies received from M/s. AMZ Traders. The present case arises out of proceedings initiated under the CGST Act alleging wrongful availment of Input Tax Credit (ITC) by the petitioner's company in respect of transactions with M/s. AMZ Traders and that M/s. AMZ Traders is a registered entity under GST and had supplied copper scrap to the petitioner during the period from 10.11.2022 to 19.03.2023, with a total turnover of Rs.97,25,39,544.02/-. All such transactions are stated to be duly supported by valid documents, and the entire consideration, including GST, was paid through proper banking channels. It is further submitted that the supplier has filed GSTR-1 returns reflecting a total of Rs.17,50,57,117.94 towards Input Tax Credit. He also submitted that the petitioner is willing to furnish a bank guarantee and undertake full cooperation with the investigation. *Per contra*, the learned Standing Counsel for the respondent opposed the grant of anticipatory bail contending that the allegations are grave in nature, involving wrongful availment of ITC, and that the investigation is at a nascent stage and that mere readiness to deposit the alleged amount or to cooperate with the investigation cannot be a ground for granting anticipatory bail.

7. It is pertinent to note that Section 132 of the Central Goods and Services Tax Act, 2017 prescribes punishment for serious offences such as tax evasion and fraudulent ITC claims, with penalties including imprisonment up to five years and fine, depending on the quantum involved. However, in the present case, the petitioner has expressed readiness to deposit the alleged evaded amount and there is no material placed before this Court indicating any prior criminal antecedents or history of tax evasion. As seen from the record, the allegations are predominantly based on documentary evidence, which is already in possession of the respondent authorities. The petitioner is apprehending arrest and contended that offences under the CGST Act, though economic in nature, do not warrant custodial interrogation, as the punishment prescribed is not severe and the evidence is primarily documentary. Further, reliance is placed on the judgments of the Hon'ble Supreme Court and various High Courts in the cases of **P. Chidambaram, Shravan A. Mehra, Raghav Agarwal, Sapna Jain, and Hanumanthappa Pathrera Lakshmana**, wherein anticipatory bail was granted in similar GST-related cases on the ground that custodial interrogation was unnecessary. Further, in

**Radhika Agarwal v. Union of India**[1], the Hon'ble Supreme Court held that:

> *"61. However, relying upon the judgment in MakeMyTrip [MakeMyTrip (India) (P) Ltd. v. Union of India, (2016) 96 VST 37 : 2016 SCC OnLine Del 4951] , it has been submitted on behalf of the petitioners, that the power under sub-section (5) to Section 132 cannot be exercised unless the procedure under Section 73 of the CGST Act is completed and an assessment order is passed quantifying the tax evaded or erroneously refunded or input tax credit wrongly availed. According to us, this contention should not be accepted as a general or broad proposition. We would accept that normally the assessment proceedings would quantify the amount of tax evaded, etc. and go on to show whether there is any violation in terms of clauses (a) to (d) to sub-section (1) of Section 132 of the CGST Act and that clause (i) to sub-section (1) is attracted. But there could be cases where even without a formal order of assessment, the Department/Revenue is certain that it is a case of offence under clauses (a) to (d) to sub-section (1) of Section 132 and the amount of tax evaded, etc. falls within clause (i) of sub-section (1) to Section 132 of the CGST Act with sufficient degree of certainty. In such cases, the Commissioner may authorise arrest when he is able to ascertain and record reasons to believe. As indicated above, the reasons to believe must be explicit and refer to the material and evidence underlying such opinion. There has to be a degree of certainty to establish that the offence is committed and that such offence is non-bailable. The principle of benefit of doubt would equally be applicable and should not be ignored either by the Commissioner or by the Magistrate when the accused is produced before the Magistrate.*

[1] (2025) 6 SCC 545

*71. However, we may clarify that a person summoned under Section 70 of the CGST Act is not per se an accused protected under Article 20(3) of the Constitution, as has been held in Deepak Mahajan [ See para 128 of Enforcement Directorate v. Deepak Mahajan, (1994) 3 SCC 440 : 1994 SCC (Cri) 785 : (1995) 82 Comp Cas 103.] . This is because the prohibitive sweep of Article 20(3) of the Constitution does not go back to the stage of interrogation. Reference in this regard has been placed on Poolpandi v. CCE [Poolpandi v. CCE, (1992) 3 SCC 259 : 1992 SCC (Cri) 620 : (1992) 75 Comp Cas 504] and Dukhishyam Benupani v. Arun Kumar Bajoria [Dukhishyam Benupani v. Arun Kumar Bajoria, (1998) 1 SCC 52 : 1998 SCC (Cri) 261 : (1998) 91 Comp Cas 413] . It is obvious that the investigation must be allowed to proceed in accordance with law and there should not be any attempt to dictate the investigator and at the same time, there should not be any misuse of power and authority.*

*72. We also wish to clarify that the power to grant anticipatory bail arises when there is apprehension of arrest. This power, vested in the courts under the Code, affirms the right to life and liberty under Article 21 of the Constitution to protect persons from being arrested. Thus, in Gurbaksh Singh Sibbia [Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565 : 1980 SCC (Cri) 465] , this Court had held that when a person complains of apprehension of arrest and approaches for an order of protection, such application when based upon facts which are not vague or general allegations, should be considered by the court to evaluate the threat of apprehension and its gravity or seriousness. In appropriate cases, application for anticipatory bail can be allowed, which may also be conditional. It is not essential that the application for anticipatory bail should be moved only after an FIR is filed, as long as facts are clear and there is a reasonable basis for apprehending arrest. This principle was confirmed recently by a*

> *Constitution Bench of five Judges of this Court in Sushila Aggarwal v. State (NCT of Delhi) [Sushila Aggarwal v. State (NCT of Delhi), (2020) 5 SCC 1 : (2020) 2 SCC (Cri) 721] . Some decisions [State of Gujarat v. Choodamani Parmeshwaran Iyer, (2023) 20 SCC 315 : (2023) 115 GSTR 297; Bharat Bhushan v. GST Intelligence, (2024) 129 GSTR 297 : 2024 SCC OnLine SC 2586] of this Court in the context of the GST Acts which are contrary to the aforesaid ratio should not be treated as binding."*

8. In view of the above facts and circumstances of the case and considering that the petitioner has already deposited Rs.17.5 crores, which is alleged to have been evaded by availing input tax credit, and that the case is predominantly based on documentary evidence, with no compelling material shown necessitating custodial interrogation, this Court deems it fit to grant pre-arrest bail to the petitioner, subject to the following conditions:

i. The petitioner shall surrender before the Senior Intelligence Officer, Directorate General of GST Intelligence (DGGI), Zonal Unit, Hyderabad, within two weeks from today, and on such surrender, the said Station House Officer shall release him on bail on executing a personal bond for Rs.1,00,000/- (Rupees One Lakh only), with two sureties, for the like sum each.

ii. The petitioner shall abide by the other conditions stipulated in Section 482(2) of Bharatiya Nagarik Suraksha Sanhita, 2023 and co-operate with the Investigating Officer in investigating the case.

iii. The petitioner shall appear before the concerned authority whenever summons are issued to him.

iv. The petitioner shall surrender his passports before the concerned Officer and shall not leave India without prior permission of the concerned Officer and shall co-operate with the investigation and shall appear before the concerned Officer as and when summoned by them.

v. The petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case.

7. Accordingly, this Criminal Petition is allowed.

Miscellaneous applications, if any pending, shall stand closed.

**K. SUJANA, J**

Date: 23.04.2026
SS

**THE HONOURABLE SMT. JUSTICE K. SUJANA**

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