

Chief Judicial Magistrate, Rohtak**Case Details**www.taxguru.in

Case Type	BA - BAIL APPLICATION		
Filing Number	13025/2020	Filing Date: 24-11-2020	
Registration Number	1506/2020	Registration Date: 24-11-2020	
CNR Number	HRRH03-013031-2020		

Case Status

First Hearing Date	24th November 2020
Decision Date	28th November 2020
Case Status	CASE DISPOSED
Nature of Disposal	Uncontested--DISMISSED
Court Number and Judge	3-Chief Judicial Magistrate

Petitioner and Advocate

1) Vikas Jain S/o Sh. Surender jain Advocate- Manoj Kumar Munjal

Respondent and Advocate

1) State of Haryana

Acts

Under Act(s)	Under Section(s)
Code of Criminal Procedure, 1973	132

History of Case Hearing

Registration Number	Judge	Business On Date	Hearing Date	Purpose of hearing
1506/2020	Chief Judicial Magistrate	24-11-2020	27-11-2020	Apperance
1506/2020	Chief Judicial Magistrate	27-11-2020	28-11-2020	Apperance
1506/2020	Chief Judicial Magistrate	28-11-2020		Disposed

Orders

Order Number	Order Date	Order Details
1	24-11-2020	Copy of order
2	27-11-2020	Copy of order
3	28-11-2020	Copy of order
4	28-11-2020	Copy of order

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Present: Sh. Harpal Singh alongwith Ms. Suhani Mathur Advocate for complainant (connected through VC).
Sh. M.K. Munjal, counsel for accused Vikas Jain.

It is the case that Proprietorship firms, namely, M/s Hanuman Enterprises, M/s Jai Bhagwati Sales, M/s Jagdamba Trading Company, M/s UT Overseas, M/s T.P. Impex, M/s Guru Nanak Enterprises and M/s Jayant Trading Company were created with ulterior motive i.e. to issue fake invoices without supplying of goods and for earning illegal commission. In the investigation, it was found that these fake transactions caused loss to the tune of Rs. 13.08 crores to the Government exchequer. According to the complainant, present applicant is the proprietor of M/s Jai Bhagwati sales and he has connived with co-accused namely, Satender Kumar Singla to avail and pass Input Tax Credit fraudulently from the firm namely, M/s Hanuman Enterprises.

2. Applicant has contended that M/s Satender is the main accused and even as per the allegations of the complainant, no direct benefit has been availed by the applicant. He vehemently contended that as per the case of complainant, exact amount of loss has not been assessed. Nothing has been stated that how the applicant is connected to Hanuman Enterprises and there is a hypothetical calculation that the applicant has issued fake invoices without movement of goods involving GST of Rs. 5.12 crore only to make the offence cognizable and non bailable. He also argued that applicant/accused could not have been arrested as the offence alleged to have been committed is punishable upto five years and as per Section 41 of Cr.P.C., a person may be arrested if he is found to have committed offence punishable more than seven years. He further contended that in absence of any assessment order, applicant could not have been arrested. The learned counsel for applicant has relied on following case in support of his arguments:-

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C. Pradeep Vs. The Commissioner of GST and Central Excise Selam,

(SC) 2020 (77) GST 574

Akhil Krishan Maggu & Anr. v. Deputy Director, Directorate General of GST Intelligence, (Punjab and Haryana) (DB) 2020 (77) GST 279.

3. On the other hand, learned counsel for complainant has vehemently opposed the bail application and submitted that Section 132 of GST Act provides ‘whoever commits’ the offence of issuing any invoice or bill without supplying of goods or services or both in violation of the provisions of this Act is covered within the ambit of GST Act. He then submitted that it is not necessary that applicant/accused should be connected with Hanuman Enterprises and it is suffice that he issued fake invoices in the name of Hanuman Enterprises. He also argued that assessment is not the pre requisite to attract the Section 132 of GST Act. He also submitted that the bail application of co-accused has already been dismissed. The learned counsel for complainant has relied on following case in support of his arguments:-

Vimal Yashwant Giri Goswami Vs. State of Gujarat, C/SCA/13679/2019

At last, he prayed that present application deserves to be dismissed.

4. Arguments heard and record perused.

5. The allegations against the present applicant/accused are that he and co-accused Satender are the persons responsible for floating bogus firms in the name of various persons and he was involved in the issuing of invoice without the actual movement of the goods. These kind of transactions were carried out to earn commission and the investigation has pointed out that such transactions have caused loss to the tune of Rs. 13.08 crores to the Government exchequer. The contention of

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the applicant that there is nothing on record to show that he had received any kind of benefit from the alleged bogus firms is not sustainable for the simple reason that investigation is at initial stage and even then the investigation team has recovered fake transport-bilty books and the diary having cash entries in his hand writing. Admittedly, the offence alleged against the accused falls within the ambit of economic offence. The investigation is still pending and same is at initial stage. In this circumstances, this Court is of the opinion that granting concession of bail to the accused will prejudice the fair investigation. Further, the authorities relied on by the applicant are not squarely applicable to the facts in hand.

Accordingly, present application is hereby dismissed.

Let file be put up on the date fixed i.e. 08.12.2020.

(Neetika Bhardwaj)
D/PMJJB, Rohtak,
U.I.D. no. HR-0374
28.11.2020

Dheeraj Kumar (Stenographer)