

CRM-M-16421-2021

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-16421-2021

Date of decision:20.12.2021

Balwinder Singh

...Petitioner

Versus

State Tax Officer

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. J.S.Bedi, Advocate,
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARNARESH SINGH GILL, J.

Through this petition, the petitioner seeks regular bail in a complaint case registered under Sections 69, 132(1), a, b and c of the Punjab Goods and Service Act, 2017, Police Station Punjab GST Mobile Wing, Chandigarh-2, at Shambhu, pending before the learned Sub Divisional Judicial Magistrate, Amloh.

As per the allegations contained in the aforesaid complaint, the petitioner along with co-accused was found to have indulged themselves in evasion of the State Tax to the Govt., by flouting bogus firms and showing fake billings and transactions in order to draw the refund of the GST payment, and thereby had caused a loss to the tune of Rs.8.95 crore to the State Government.

Learned counsel for the petitioner has contended that the

CRM-M-16421-2021

petitioner had falsely been implicated in the present case inasmuch as the e-mail Id and phone number as updated with the respondent-department, do not belong to him. In fact, the petitioner opened a firm in the name and style of M/s Suvidha Enterprises and also obtained GST number from the respondent, but the said firm had been used by Prince Dhiman, who happens to be the son of his sister-in-law and adopted by him. The petitioner was not aware about the business transactions of the said firm maintained or looked after by Prince Dhiman. The petitioner had never transacted any business from the said firm and it was Prince Dhiman, who used to make all the transactions, if any, related to sales and purchase, as recorded on the on-line portal with the respondent. The petitioner had no role to play in the alleged offences. On these premise, the learned counsel prayed that the petitioner be released on bail.

It was further contended that there is a challenge to the vires of Section 69 and 132 of the Central Goods and Service Tax Act, 2017 in CWP No.8004 of 2020 titled as *Tarun Bassi Vs. State of Punjab and others* wherein notice stands issued to the State of Punjab and in a connected matter also, notice stands issued to the Union of India. It was further contended that the arrest under the Punjab Goods and Service Tax Act, 2017, was without jurisdiction. It was further argued that the petitioner has been in custody for the last more than 10 months and he is now not required for any investigation purposes.

It was also contended that the case is based on the documentary evidence and that no useful purpose would be served by keeping him in custody. In support of his contentions, the learned counsel

CRM-M-16421-2021

relied upon the order dated 31.03.2021 passed by this Court in CRM-M-37794-2020. Further reliance was placed upon the orders dated 16.06.2020 passed by a Coordinate Bench in CRM-M-42451-2019, dated 18.06.2020 passed in CWP-8268-2020, titled as 'Rajiv Gupta Vs. Union of India and others', by a Division Bench of this Court and dated 15.03.2021 passed by a Coordinate Bench of this Court in CRM-M-3957-2021.

On the other hand, learned State counsel submitted that the petitioner and the co-accused had caused a huge loss to the Government by evading tax and issuing bogus bills through the bogus firms, to the tune of Rs.8.95 crore. The accused had committed the crime with the help of three firms, which were directly under their control. Learned State counsel further contended that there was a nexus of more than 30 more firms registered in Punjab, Rajasthan, Delhi and other neighbouring States having common email and phone number, which were directly linked to the petitioner and co-accused Prince Dhiman. It was further contended that co-accused Prince Dhiman is still at large and all efforts are being made to nab him. It was also stated that the aforesaid offence had been committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequences to the community. It was also stated that the allegations against the petitioner are very serious and in case, he is enlarged on bail, every effort may be made by him to tamper with the evidence. In support of his contentions, he relied upon the decision rendered by the Hon'ble Supreme Court in Nimmagadda Prasad Vs. Central Bureau of Invesitgation 2013(3) RCR (Criminal) 175.

I have heard the learned counsel for the parties and also gone

CRM-M-16421-2021

through the orders passed by the Division Bench of this Court seized of the matter qua challenge to vires of Section 69 and 132 of CGST Act as well as order passed by this Court and the Coordinate Bench wherein regular bail stands granted to the similarly situated persons. The judgment relied by the learned State counsel in Nimmagadda's case (supra), is not applicable to the facts of the present case for the reason that in that case, the investigation was not complete and the challan was not presented. However, in the present case, the matter already stands investigated qua the petitioner. Moreover, the petitioner has been in custody since 09.02.2021. Trial of the case would take time to conclude.

In view of the above discussion, however without going into the merits of the case, I find that no useful purpose would be served by keeping the petitioner behind the bars. Thus, the present petition is allowed and the petitioner is ordered to be on regular bail on execution of adequate personal/surety bonds amounting to Rs.5 lakh to the satisfaction of concerned trial Court/Duty Magistrate. The petitioner would surrender his passport, if any, before the concerned Court and will not leave India without prior permission of the Court.

However, any observation made herein shall not be construed to be an expression on merits of the case.

20.12.2021

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No