

Present: Sh. Satish Aggarwal, Senior Standing Counsel for complainant department.
Sh. Vipin Gupta & Sh. Harsh Sethi, Advocates for applicant /accused Sunil Mehlawat.

Arguments heard on the bail application of applicant/accused Sunil Mehlawat.

2. It is argued by the learned counsels for the applicant/accused that the applicant/accused has been practicing as C.A. since past 6 years and has been falsely implicated with the allegations that UDIN number, ID and password of the applicant has been misused by co-accused Gaurav Dhir. It is further averred that even as per the allegations in the complaint, the applicant is not accused of misappropriation of a single rupee. It is further argued that the case of the prosecution is that the applicant was unaware of submission of the request by co-accused Gaurav Dhir in the GST department and even from perusal of the statement, the role as described by the prosecution, no offence under Section 132 (b), (c), (d) of GST is made out against the applicant/accused and further nothing is to be recovered from the applicant/accused. With these submissions it is prayed that applicant/accused may be granted concession of bail.

3. **Per contra**, Sh. Satish Aggarwal, learned Sr. Standing Counsel for the complainant department vehemently opposed the bail application submitting that during the investigation of the present case, the officials from complainant department visited the premises of the A.S. Mehlawat & Associates where the partner of A.S. Mehlawat & Associates, Sunil Mehlawat (accused) was found present and he was

asked to join the investigation through a summon dated 17.05.2022 on which his voluntary statement under Section 70 of the CGST Act, 2017 was recorded wherein he disclosed that he had given his UDIN login ID and Password to one of his friend namely Gaurav Dhir (co-accused) a few months ago and he had shared his OTP with him on multiple occasions. He further disclosed that co-accused had requested him that he required the UDIN certificate for some bank transactions regarding turnover certificate, projected provisional balance sheet, net worth certificate, stock statement and VISA certificate etc. and therefore he shared his ID password of UDIN and OTP with his friend i.e. the co-accused namely Gaurav Dhir. He further disclosed that on 16.05.2022, co-accused Garuav Dhir informed him that he had generated some UDIN (as mentioned in the instant application) for CA certificate for filing certain refund claims pertaining to firms which were later on found to be fraud/fake.

4. It is further argued that the accused Sunil Mehlawat is involved in causing a loss to Government Exchequer to the tune of Rs.7,60,89,626/- and thus has committed offence under Section 132 (1)(i) read with 132(1)(b)(c)(e)(f) CGST Act 2017 and he has actively participated in the preparation of forged certificates for bogus/non-existent companies to claim a GST refund and thereby causing loss to the public exchequer. It is further argued that the applicant/accused has committed Economic Offence, which attacks on the economy of the country resulting into unnecessary burden on the poor people and

considering the gravity of offence committed by accused, he should be denied the concession of bail and his bail application may be dismissed.

5. After hearing the contentions raised by learned Sr. Standing Counsel and learned defence counsels and after going through the case file carefully and thoroughly, this Court is of the considered view that the allegations levelled against the applicant/accused Sunil Mehlawat are that he shared his ID password of UDIN and OTP with his friend i.e. the co-accused namely Gaurav Dhir and on 16.05.2022, co-accused Garuav Dhir informed him that he had generated some UDIN (as mentioned in the instant application) for CA certificate for filing certain refund claims pertaining to firms which were later on found to be fraud/fake. Hence, applicant/accused Sunil Mehlawat is involved in causing a loss to Government Exchequer to the tune of Rs.7,60,89,626/- and thus has committed offence under Section 132 (1)(i) read with 132(1)(b)(c)(e)(f) CGST Act 2017 and he has actively participated in the preparation of forged certificates for bogus/non-existent companies to claim a GST refund and thereby causing loss to the public exchequer.

6. Therefore, considering the gravity and the nature of the allegations levelled against the applicant/accused and the fact that the investigation of the case is at nascent stage and further considering the fact that now a days economic offences are rampant and should be dealt with due firmness as observed by Hon'ble Apex Court in case titled as **Nimmagadda Prasad Versus Central Bureau of Investigation, 2013 (3) SCC** wherein the Hon'ble Apex Court has observed that :-

“Economic offences constitute a class apart and need to be visited with different approach in the matter of bail. The economic offences having deep rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economic of the country as a whole and thereby posing serious threat to the financial health of the country.

7. Furthermore, in case titled as **Nimmagadda Y.S. Jagan Mohan Reddy Versus Central Bureau of Investigation, 2013 (3) R.C.R. (Criminal), 108** wherein the Hon’ble Apex Court has observed that :-

“While granting bail, the Court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of accused at the trial, reasonable apprehension of the witness being tampered with, the larger interests of the public/State and other similar considerations.”

8. Hence, in light of the above discussion and considering the seriousness and nature of the offence allegedly committed by the applicant/accused, this Court is not inclined to grant concession of bail to

applicant/accused Sunil Mehlawat. Accordingly, the instant bail application moved by applicant/accused Sunil Mehlawat stands dismissed. Now to come up on 02.06.2022 the date and purpose already fixed.

9. Nothing expressed herein shall affect the merits of the present case.

Pronounced in open court.
May 21st, 2022

Anant Kr. Mehta

(Manoj Kumar Rana)
Additional Chief Judicial
Magistrate, Gurugram
UID No. HR-0264

Note: All the 5 (five) pages of this order have been checked and signed by me.

(Manoj Kumar Rana)
Additional Chief Judicial
Magistrate, Gurugram
UID No. HR-0264