



2025.PHHC.097148



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

1)

CRM-M-8675-2025(O&M)
Date of decision: 28.07.2025

Manish Kumar

....Petitioner

Versus

Directorate General, Goods & Service Tax Intelligence,
Zonal Unit, Ludhiana

...Respondent

2)

CRM-M-14956-2025 (O&M)

Amit Kumar Goyal

....Petitioner

Versus

Directorate General, Goods & Service Tax Intelligence,
Zonal Unit, Ludhiana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vinod Ghai, Senior Advocate
with Ms. Kashish Sahnia, Advocate
and Mr. Arnav Ghai, Advocate
for the petitioner in CRM-M-8675-2025.

Ms. Muskaan Gupta, Advocate
and Ms. Muskan Chauhan, Advocate
for the petitioner in CRM-M-14956-2025.

Ms. Sharmila Sharma, Senior Panel Counsel, DGGI
in CRM-M-14956-2025.

Mr. Sunish Bindlish, Senior Standing counsel
for the respondent- DGGI

Ms. Pridhi Sandhu, Senior Standing Counsel, CGST
for Chief Commissioner, Panchkula, CGST.

Mr. Manish Bansal, Public Prosecutor, U.T. Chandigarh
and Mr. Alankrit Bharadwaj, Addl. P.P., U.T. Excise and Tax
Department.

**HARPREET SINGH BRAR, J. (ORAL)**

1. This common order shall dispose of both the above mentioned petitions as they arise from a similar factual matrix. However, for the sake of brevity, the facts are taken from CRM-M-8675-2025.

2. The present petition is preferred under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in the case stemming from complaint No. DGGI/INT/INTL/939/2024-GrE-O/O ADG-DGGI-ZU-LUDHIANA (Annexure P-3) filed under Sections 132(1)(b) of the Central Goods and Service Tax Act, 2017 (hereinafter 'CGST Act') and punishable under Section 132(1)(b) and 132(1)(c) of the same.

3. In pursuance of order dated 01.05.2025, the following have supplied their respective affidavits:

- 1) Jitendra Jorwal, IAS, Taxation Commissioner, Department of Taxation, Punjab.
- 2) Anju, Deputy Director, DGGI, Chandigarh Zonal Unit.
- 3) Devika Rani, Deputy Director, DGGI, Gurugram Zonal Unit.

The same as taken on record.

FACTUAL BACKGROUND

4. Briefly, the facts, as alleged, are that an information was received from the Financial Investigation Unit in form of a Suspicious Transaction Report(STR) indicating substantial cash withdrawals to the tune of Rs. 4,938.63 crore, from two branches of the IFSC Bank- Ambala Cantt and Panchkula. It was further revealed that petitioner-Amit Kumar Goyal withdrew Rs.262.4 crore in cash from 08 bank accounts while his brother petitioner-Manish Kumar



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withdrew Rs.455.02 crore from 11 bank accounts. The petitioners herein created 27 fake firms, 02 of which were under the name of Amit Kumar Goyal while the remaining 25 were established by fraudulently obtaining IDs of other persons, though connected to the mobile number and email of Amit Kumar Goyal. On 08.10.2024, a search was conducted under Section 67(2) of the CGST Act at four locations in Mandi Gobindgarh and Zirakpur and a number of documents pertaining to fake GST billing as well as various electronic devices were recovered. On investigation, it was concluded that the petitioners issued forged and fabricated GST invoices worth approximately Rs.700 crore and availed input tax credit amounting to approximately Rs.107 crore based on the same.

CONTENTIONS

5. Learned Senior counsel for Manish Kumar contends that GST registration of most of the firms created by the petitioner(s) was cancelled as their principal place of business was found non-operational. However, the physical verification reports were not provided to the petitioner. The petitioner was coerced into making a statement admitting his guilt which led to his arrest on 09.10.2024. The seized electronic devices underwent forensic examination without the consent of the petitioner. Further, the notice under Section 73, 74 of the CGST Act was served at a belated stage, after filing of the present petition, which vitiates prosecution under Section 132 of the CGST Act. Additionally, the Central Board of Indirect Taxes and Customs (CBIC) vide Circular No. 171/03/2022-GST dated 06.07.2022 has clarified that tax liability, in terms of Section 7 of the CGST Act, shall not be imposed if the accused is merely involved in issuing invoices. Another circular by the CBIC, bearing No.



01/2025-GST dated 13.01.2025 mandates explaining the grounds of arrest to the accused, which the respondent officials failed to abide by in the present case. Further, the authorisation for arrest under Section 69 of the CGST Act has been granted in a mechanical manner, without duly appreciating the material available against the petitioner. Furthermore, the petitioner has been in custody since his arrest on 09.10.2024. However, a perusal of the zimini orders would indicate that the matter has been fixed for precharge evidence of the complaint for the last 06 months and is yet to be accomplished. Lastly, the investigation already stands completed qua petitioners-Manish Kumar as well as Amit Kumar Goyal, as such no useful purpose would be served by detaining them further.

6. Learned counsel for the respondent-DGGI submits that the petitioners are involved in serious financial misconduct as they have created about 27 fake firms and defrauded the State exchequer of Rs. 107 crore, claimed by them as input tax credit by issuing forged and fabricated GST bills. During the course of search operations, 54 cheque books, 46 ATM cards, 5 Voter IDs, 11 PAN cards, 7 stamps and multiple mobile phones, hard disks, laptops and loose papers were recovered. Further, it was discovered that most of these bogus firms have lost their GST registration on account of being non-existent/non-operational. Thus, it is clear that they were specifically created by the petitioners with the intention to defraud the State exchequer. Moreover, the petitioner-Amit Kumar Goyal, in his voluntary statement has admitted that no goods were actually received by these firms and that he was merely using them to raise bills. He also stated that his brother (petitioner-Manish Kumar) worked with him and that he also shared 30-40% of his commission with him. Lastly,



relying on the judgment rendered by the Hon'ble Supreme Court in ***Sandeep Goyal vs. Union of India 2020 (36) GSTL 497***, learned counsel submits that the investigation qua another co-accused remains pending and therefore, extending the benefit of bail to the petitioners may allow them to influence witnesses and tamper with the evidence. To further support his case, learned counsel has also referred to the judgments rendered in ***State of Gujarat vs. Choodamani Parmeshwaran 2023(76) GSTL 146 (SC)***, ***PV Ramana Reddy vs. Union of India 2019(26) GSTL 175(SC)***, ***Subair T.B. vs. State of Kerala 2023(6) KLT 253 (Ker)***, ***Rajesh Gandhi vs. Union of India (@024) 23 Centax 319 (Telangana)***, ***Ashok Kumar vs. Commissioner 2020(4) GSTL 111(SC)***, ***Vimal Yashwantgiri Goswami vs. State of Gujarat 2020(106) UPTC 1681 (Guj DB)***, ***Basudev Mittal vs. Union of India (2023) 2 Centax 291 (Chhattisgarh)***, ***Anush Kumar Gangwani vs. Union of India (2024) 14 Centax 274 (Chhattisgarh)***, ***Vikas Goel vs. CGST Commissionerate 2019(22) GSTL 191(P&H)***, ***Jatinder Manro vs. DGGI 2020(371) ELT 137 (P&H)***, ***Basudev Mittal vs. Union of India(2023) 2 Centax 295 (SC)***, ***Sanjay Dhingra vs. DGGI CRM-M-50256-2019 decided on 23.01.2020***, ***Nigammadda Prasad vs. CBI 2013(3) R.C.R.(Criminal) 690 (SC)***, ***YS Jagan Mohan Reddy vs. CBI 2013(3) R.C.R.(Criminal) 108 (SC)*** AND ***State of Bihar vs. Amit Kumar 2017(3) R.C.R.(Criminal) 175 (SC)***.

OBSERVATIONS AND ANALYSIS

7. I have heard learned counsel for the parties and perused the record of the case with their able assistance.

8. On 01.05.2025, the following order was passed by this Court:



“Having heard learned counsel for the parties and after perusing the record, this Court finds force in the arguments out forth by the petitioner. However, in order to test the veracity of the same, the relevant data requires to be solicited to conduct a logic-based, empirical analysis. As such, the following officers listed below:

- 1. Chief Commissioner, CGST, Panchkula Zone*
- 2. Chief Commissioner, CGST, Chandigarh Zone*
- 3. ADG, Directorate General of GST, Intelligence, Ludhiana Zonal Unit*
- 4. ADG, Directorate General of GST Intelligence, Gurugram Zonal Unit*
- 5. ADG, Directorate General of GST, Intelligence, Chandigarh Zonal Unit*
- 6. Taxation Commissioner, Punjab*
- 7. Excise and Taxation Commissioner, Haryana*
- 8. Excise and Taxation Commissioner, U.T. Chandigarh*

are directed to furnish the following information by means of an affidavit, by the next date of hearing:

- (i) Number of complaints under Section 132 of the Act filed since 2017.*
- (ii) Number of trials concluded in the said complaints as well as the number of convictions made therein.*
- (iii) Number of show cause notices under Sections 73/74 of the Act issued in cases pertaining to an amount over Rs. 5 crores.*
- (iv) Number of show cause notices dropped without adjudicating upon the matter and initiating criminal proceedings under Section 132 of the Act.*
- (v) Number of arrests made after issuance of notice under Sections 73/74 of the Act.”*

9. Before answering the question framed for adjudication, it would be apposite to study the data provided in pursuance of abovementioned order, by means of affidavits filed by:

1. Jitendra Jorwal, IAS, Taxation Commissioner, Department of Taxation, Punjab.
2. Vinay Partap Singh, IAS, Excise and Taxation Commissioner, Haryana.
3. Hari Kallikkat, IAS, Excise and Taxation Commissioner, Union Territory, Chandigarh.



4. Jagreeti Sen Negi, Chief Commissioner of Central Tax (CGST & Central Excise), Chandigarh.
5. Anju, Deputy Director, DGGI, Chandigarh Zonal Unit.
6. Devika Rani, Deputy Director, DGGI, Gurugram Zonal Unit.
7. Avinash Pandey, Deputy Director, DGGI, Ludhiana Zonal.
8. Pranave Shekhar, Assistant Commissioner of CGST, Panchkula.

10. The CGST Act provides for a departmental tax liability assessment under Section 73 and 74 as well as for criminal prosecution for tax evasion under Section 132. While the former calls for imposition of penalty in event of any wrongdoing, the latter provides for a sentence of imprisonment up to 05 years. A three Judge bench of the Hon'ble Supreme Court in ***Radhika Aggarwal vs. Union of India and others 2025 SCC OnLine SC 449***, has opined that normally it would be mandatory to conclude assessment proceedings under Section 73, 74 of the CGST Act before initiating criminal prosecution under Section 132 of the CGST Act. However, in exceptional circumstances, the same can be circumscribed after providing detailed reasons for the same. Speaking through Justice Sanjiv Khanna, the following was opined:

*“59. However, relying upon the judgment in the case of Makemytrip (supra), 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 GST 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 GST Acts 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 GST Acts 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.” (emphasis added)

11. In this context, the affidavits submitted by the concerned officers are perused. The GST regime was implemented on 01.07.2017 and interestingly, since its commencement, only a solitary conviction has been made in the States of Punjab, Haryana and Union Territory of Chandigarh put together. Further, the empirical data suggests that notices under Sections 73 and 74 of the CGST Act are served in a very few cases. It can be safely inferred that where notice is served, arrests are not being made however, where arrests are in fact made, no prior notice is served. Further, the respondent seems to be habitual of initiating proceedings but not seeing them through, a trend appropriately showcased by the data provided by all 08 DGGI jurisdictions in the States of Punjab, Haryana and Chandigarh. While it is understandable that economic offences require sophisticated investigation, the same cannot go on indefinitely. Much to the concern of this Court, the empirical data makes it abundantly clear that securing a conviction and concluding the trial is not a matter of priority for the respondent as all its energy is devoted towards curtailing liberty of the prospective accused.

12. While this Court is not oblivious to the gravity of economic



offences and its impact, of late, it has been observed that the involvement of the criminal justice system in cases pertaining to the CGST Act seemingly begins at the stage of arrest and ends when a bail is secured. Allowing such tendencies to go unchecked would raise serious doubts about the efficacy of investigation, which naturally weakens the faith of the public in the justice dispensation mechanism. Moreover, this Court is of the considered opinion that the slow-paced trials stemming from complaints under Section 132 of the CGST Act and the departure from the established procedure qua Section 73 and 74 of the CGST Act, throughout the States of Punjab, Haryana as well as Union Territory of Chandigarh is symptomatic of a systemic problem. As such, it would be against the interest of justice to shield the prosecuting agencies from accountability with regard to timely conclusion of trials.

13. The pattern displayed by the respondent officials shows a concerning deviation from the procedure established by law. The CGST Act is clear in its mandate and does not leave scope for ambiguity for the respondent to justify the conduct of its officials. In practice, the respondent is seen carrying out abrupt arrests, driven by some inexplicable urgency rather than necessity. However, as the data suggests, the respondent does not pursue the trial with the same urgency. Perhaps, the respondent ought to deliberate upon the fact that the goal of initiating criminal prosecution is not achieved by securing only an arrest and modify their approach to serve the larger purpose. Moreover, the prolonged legal battle not only infringes upon the right to speedy trial as enshrined under Article 21 of the Constitution of India but also causes irreparable harm to the psychological well being as well as the reputation of the accused.



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14. Time and again, the Hon'ble Supreme Court has reiterated that the right to speedy trial as enshrined in Article 21 of the Constitution of India, is a fundamental concept in criminal jurisprudence and a *sine qua non* for proper administration of justice. It must be noted that 'trial' herein encompasses investigation, inquiry, trial, appeal, revision and retrial etc. i.e. everything commencing with the accusation to the final verdict of the last Court. Further still, it is trite law that no person can be deprived of his liberty except through a procedure that is reasonable, fair and just as such deprivation would amount to a direct violation of the fundamental right as enshrined in Article 21 of the Constitution of India. Be that as it may, curtailment of personal liberty to some extent, during the judicial process, cannot be avoided. However, if the period of deprivation pending trial becomes excessively long, the fairness as guaranteed under Article 21 of the Constitution of India would come into play.

15. Adverting to the factual matrix of the present case, the petitioners have been in custody for 9 months 18 days while no substantial progress has been made in the trial. The final report under Section 173 Cr.P.C. (*now Section 193 BNSS*) stands presented qua the petitioners. Admittedly, the matter is at the stage of precharge evidence for the last six months and has been adjourned for about 08 times. The zimni orders presented by the learned Senior counsel in Court indicate that the trial was fixed for precharge evidence for the first time on 18.03.2025 and is currently pending for 05.08.2025.

16. In this backdrop, the following questions arise before this Court for just adjudication of the present controversy:



‘Whether an accused can be denied the concession of bail in a complaint under Section 132 of the CGST Act, on account of pending investigation qua another accused?’

17. It is trite law that the matter of bail must be decided qua each accused individually, based on the specific role attributed to them. Reliance in this regard is placed on the judgment rendered by a two Judge bench of the Hon’ble Supreme Court in ***Prahlad Singh Bhati vs. NCT, Delhi and another (2001) 4 SCC 280***, wherein speaking through Justice R.P. Sethi, the following was opined:

“8. The jurisdiction to grant bail has to be exercised on the basis of well settled principles having regard to the circumstances of each case and not in an arbitrary manner. While granting the 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, behaviour, means and standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations. It has also to be kept in mind that for the purposes of granting the bail the Legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the Court dealing with the grant of bail can only satisfy it as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not excepted, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.”

However, a specific stand has been taken by the learned counsel for the respondent that the petitioners ought not to be granted the concession of regular bail as investigation qua another co-accused is yet to be concluded. Be that as it may, the final report qua the petitioners has already been presented after subjecting them to prolonged interrogation. Nowhere during the thorough investigation process did the respondent even remotely hint at any non-cooperation on part of the petitioners. Further, it remains unclear as to why



arrest process has not been initiated against the co-accused qua whom investigation is pending. If the same is for want of sufficient material to satisfy the standards for grant of authorisation under Section 69 CGST Act, the respondent must explain the delay in investigation as well efficacy thereof. Additionally, while the possibility of evidence tampering has been flagged, the entire case is based on documentary and electronic evidence, which are already available with the investigating agency, and all of the prosecution witnesses are officials of the respondent. As such, there is no scope of tampering with the evidence or influencing the witnesses. In that vein, this Court finds it against objective standards of reason and justice to deny bail to those accused against whom final report has been presented merely on the ground that the investigation is under progress qua a co-accused. Nothing has been brought to the fore to suggest that the release of the petitioners would derail the investigation; therefore, this cannot be used as a reason to keep them under custody indefinitely. Lastly, the judgment in ***Sandeep Goyal (supra)*** is distinguishable on facts as it pertained to a situation when investigation was pending qua the bail applicant himself.

18. No doubt, by their very nature, economic offences pose a threat to the State's financial stability. Acknowledging their gravity, investigating agencies are equipped with sufficient powers to enable them to unearth the *modus operandi* and ascertain wrongful gains. However, prerogative of the investigating agency cannot supersede fundamental rights of the accused. At this juncture, it would be profitable to make a reference to the persuasive judgment rendered by a two Judge bench of the Hon'ble Supreme Court in ***Vineet Jain vs. Union of India Criminal Appeal no.2269 of 2025 (Arising out***



of S.L.P.(Criminal) No.4349 of 2025), speaking through Justice Abhay S. Oka, observed the following regarding the current state of affairs with regard to grant of bail in cases arising out of the CGST Act:

“ The offences alleged against the appellant are under Clauses (c), (f) and (h) of Section 132(1) of the Central Goods and Services Tax Act, 2017. The maximum sentence is of 5 years with fine. A charge-sheet has been filed. The appellant is in custody for a period of almost 7 months. The case is triable by a Court of a Judicial Magistrate. The sentence is limited and in any case, the prosecution is based on documentary evidence. There are no antecedents

*We are surprised to note that in a case like this, the appellant has been denied the benefit of bail at all levels, including the High Court and ultimately, he was forced to approach this Court. **These are the cases where in normal course, before the Trial Courts, the accused should get bail unless there are some extra ordinary circumstances.** ”*

Additionally, reliance can also be place on the judgment rendered by a two Judge bench of the Hon’ble Supreme Court in **Sanjay Chandra vs. CBI (2012) 1 SCC 40**, wherein it was held that bail cannot be denied merely in view of severity of the offence. The Courts ought to be conscious of the right to speedy trial bestowed on the accused by virtue of Article 21 of the Constitution of India. Speaking through Justice H.L. Dattu opined as follows:

*“43. When the undertrial prisoners are detained in jail custody to an indefinite period, Article 21 of the Constitution is violated. Every person, detained or arrested, is entitled to speedy trial, the question is: whether the same is possible in the present case. There are seventeen accused persons. Statement of the witnesses runs to several hundred pages and the documents on which reliance is placed by the prosecution, is voluminous. The trial may take considerable time and it looks to us that the appellants, who are in jail, have to remain in jail longer than the period of detention, had they been convicted. **It is not in the interest of justice that accused should be in jail for an indefinite period. No doubt, the offence alleged against the appellants is a serious one in terms of alleged huge loss to the State exchequer, that, by itself, should not deter us from enlarging the appellants on bail when there is no serious contention of the respondent that the accused, if released on bail, would interfere with the trial or tamper with evidence.** We do not see any good reason to detain the accused in custody, that too, after the*



completion of the investigation and filing of the charge-sheet.

44. This Court, in the case of *State of Kerala v. Raneef*, 2011(1) RCR (Criminal) 381 : 2011(1) Recent Apex Judgments (R.A.J.) 116 : (2011)1 SCC 784, has stated :-

"15. In deciding bail applications an important factor which should certainly be taken into consideration by the court is the delay in concluding the trial. Often this takes several years, and if the accused is denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody? Is Article 21 of the Constitution, which is the most basic of all the fundamental rights in our Constitution, not violated in such a case? Of course this is not the only factor, but it is certainly one of the important factors in deciding whether to grant bail. In the present case the respondent has already spent 66 days in custody (as stated in Para 2 of his counter-affidavit), and we see no reason why he should be denied bail. A doctor incarcerated for a long period may end up like Dr. Manette in Charles Dicken's novel *A Tale of Two Cities*, who forgot his profession and even his name in the Bastille.

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39. Coming back to the facts of the present case, both the Courts have refused the request for grant of bail on two grounds :- The primary ground is that offence alleged against the accused persons is very serious involving deep rooted planning in which, huge financial loss is caused to the State exchequer ; the secondary ground is that the possibility of the accused persons tempering with the witnesses. In the present case, the charge is that of cheating and dishonestly inducing delivery of property, forgery for the purpose of cheating using as genuine a forged document. The punishment of the offence is punishment for a term which may extend to seven years. It is, no doubt, true that the nature of the charge may be relevant, but at the same time, the punishment to which the party may be liable, if convicted, also bears upon the issue. Therefore, in determining whether to grant bail, both the seriousness of the charge and the severity of the punishment should be taken into consideration.

40. **The grant or refusal to grant bail lies within the discretion of the Court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the Court, whether before or after conviction, to assure that he will submit to the jurisdiction of the Court and be in attendance thereon whenever his presence is required.**

41. This Court in *Gurcharan Singh and Ors. v. State*, AIR



1978 Supreme Court 179 observed that two paramount considerations, while considering petition for grant of bail in non-bailable offence, apart from the seriousness of the offence, are the likelihood of the accused fleeing from justice and his tampering with the prosecution witnesses. Both of them relate to ensure of the fair trial of the case. Though, this aspect is dealt by the High Court in its impugned order, in our view, the same is not convincing.

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46. We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardise the economy of the country. At the same time, **we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation.** We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to allay the apprehension expressed by CBI.”(emphasis added)

19. Further still, recently, in ***Ashutosh Garg vs. Union of India Special Leave to Appeal (Crl.) No(s).8740/2024***, the Hon’ble Supreme Court has granted bail in a matter where the accused defrauded the State exchequer of Rs.1032 crore as Input Tax Credit by creating 294 fake firms, citing long custody of 09 months as well as the fact that maximum punishment in the offence under Section 132 CGST Act is 05 years. A two Judge bench of the Hon’ble Supreme Court in ***Ratnambar Kaushik vs. Union of India (2023) 2 SCC 671***, deliberated upon the largely documentary and electronic nature of evidence as well as the prolonged trial in matters pertaining to tax evasion under the CGST Act, where the accused had undergone about 4 months of custody, and opined as follows:

*“6. In considering the application for bail, it is noted that the petitioner was arrested on 21.07.2022 and while in custody, the investigation has been completed and the charge sheet has been filed. **Even if it is taken note that the alleged evasion of tax by the petitioner is to the extent as provided under Section 132(1)(l)(i), the punishment provided is, imprisonment which may extend to 5***

years and fine. The petitioner has already undergone incarceration for more than four months and completion of trial, in any event, would take some time. Needless to mention that the petitioner if released on bail, is required to adhere to the conditions to be imposed and diligently participate in the trial. Further, in a case of the present nature, the evidence to be tendered by the respondent would essentially be documentary and electronic. The ocular evidence will be through official witnesses, due to which there can be no apprehension of tampering, intimidating or influencing. Therefore, keeping all these aspects in perspective, in the facts and circumstances of the present case, we find it proper to grant the prayer made by the petitioner.

7. Hence, it is directed that the petitioner be released on bail subject to the conditions to be imposed by the trial Court, which among others, shall also include the condition to direct the petitioner to deposit his passport. Further, such other conditions shall also be imposed by the trial Court to secure the presence of the petitioner to diligently participate in the trial. It is further directed that the petitioner be produced before the trial Court forthwith, to ensure compliance of this order.”(emphasis added)

CONCLUSION

20. In view of the discussion above, this Court has no hesitation in holding that an accused in a complaint under Section 132 of the CGT Act cannot be denied the concession of bail, solely on the ground that investigation remains pending qua a co-accused. Furthermore, learned counsel for the respondent could not controvert the fact that the petitioners have clean antecedents and have fully cooperated in the investigation. Moreover, most of the evidence is in documentary and electronic form, which is already in possession of the investigating agency.

21. Accordingly, both the abovementioned petitions are allowed and the petitioners namely-Amit Kumar Goyal and Manish Kumar are hereby released on regular bail, subject to their furnishing bail bonds/surety bonds,



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respectively, to the satisfaction of the concerned Court. However, the bail shall also be subject to the following conditions:

- (a) They shall deposit their passports, if any, before the learned trial Court;
- (b) They shall cooperate in trial without seeking any unnecessary adjournments;
- (c) They shall not tamper with the prosecution evidence by intimidating or pressurizing the witnesses during trial;
- (d) They shall not dispose of any of their property or of the firms/companies in which they have substantial interest and which are also under investigation;

22. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case lest it may prejudice the trial. The trial Court is also directed to proceed with the trial on its own merits.

23. Needless to say, if the petitioners hamper the investigation qua the co-accused in any manner, the respondent will be at liberty to approach the concerned trial Court and if sufficient reasons are found, the trial Court will be well within its rights to cancel their bail.

24. Pending miscellaneous application(s), if any, shall also stand disposed of.

25. A photo copy of this order be placed on the file of connected case.

(HARPREET SINGH BRAR)
JUDGE

28.07.2025
Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No