

2025:PHHC:085931



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27147-2025

Date of decision : 15.07.2025

Sarthak Jain

....Petitioner

versus

Senior Intelligence Officer

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Bipan Ghai, Senior Advocate with
Mr. Nikhil Ghai, Advocate and
Mr. Akhil Godara, Advocate
for the petitioner.

Mr. Sourabh Goel, Senior Standing Counsel-DRI
with Ms. Geetika Sharma, Advocate
for respondent-DRI.

RAJESH BHARDWAJ, J.

1. Present petition has been filed for grant of regular bail in COMA-5720/2025 dated 22.04.2025 arising out of DIN No.202502DNN5000000BP68 titled as Senior Intelligence Officer Vs. Sarthak Jain for offence under Section 132(1)(b) & 132(1)(c) and punishable under Section 132(1)(i) of Central Goods and Services Tax Act. Further prayer has been made for grant of *ad interim* bail to the petitioner.

2. Succinctly the facts of the case are that the petitioner has been prosecuted by the respondent in a complaint case for the offence under Section 132(1)(b) & 132(1)(c). It was alleged in the complaint that the petitioner is the proprietor of M/s Sarthak Enterprises, partner and authorized signatory of M/s Disha Enterprises and controller/operator of all business and financial activities of M/s Kashbhi Accessories point. The petitioner through these 03 firms had fraudulently availed fake Input Tax



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Credit (ITC) amounting to Rs. 8.36 crores approx. through fake GST invoices of Rs.98.81 crores approx. The petitioner was alleged to have passed-on wrongfully availed ITC to various beneficiary firms/companies. Thus, by his malafide actions, he actively commissioned the offence and defrauded the Govt. Exchequer to the tune of Rs.8.36 crores. It was alleged in the complaint that by his malafide action, the petitioner had committed a non-bailable and cognizable offence punishable under Section 132(1)(b) & 132(1)(c) of Central Goods and Services Tax (CGST) Act, 2017 and Punjab GST Act, 2017. The intelligence was gathered that the taxpayer had claimed ITC on the basis of invoices raised by 38 fake entities which have been cancelled *suo-moto*. Acting upon the intelligence, searches were carried out under Section 67(2) of the CGST Act, 2017. Upon consequent searches, number of incriminating documents and electronic devices related to allegedly fake GST billings had been recovered from the office premises of the petitioner under 03 separate Panchnamas all dated 21.02.2024. It was alleged that during course of investigation, it was found out that GST registration Number of 38 firms were cancelled by Jurisdictional Officer of GST Department on the ground of non-existent/non-operational at the declared Principal Place of Business. Thus, the petitioner was arrested on 22.02.2025. Aggrieved by the same, the petitioner approached the Court of learned Additional Sessions Judge, Ludhiana praying for grant of bail, however, finding no merit, the same was declined after hearing both the sides by learned Additional Sessions Judge, Ludhiana vide order dated 06.05.2025. Hence, the petitioner is before this Court by way of filing of present petition for grant of bail.

3. Learned Senior counsel for the petitioner has vehemently



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contended that the petitioner has been falsely and frivolously implicated by the respondent in the present case. He submits that petitioner has been prosecuted for the offence under Sections 132(1)(b) & 132(1)(c) of Central Goods and Services Tax Act. He submits that in a due deliberated manner, the petitioner was called by the respondent in their office on 21.02.2025 and thereafter, he was clandestinely arrested. He was shown to be arrested on 22.02.2025. It is submitted by learned Senior counsel that as per the provisions of Section 69 of the CGST Act, every person is to be provided the ground of arrest before effecting his arrest so as to apprise the petitioner of his ground of arrest, however, the same was not provided to the petitioner. It is submitted that arrest of the petitioner is thus, illegal in view of the provisions of Section 69 of the CGST Act. He further submits that as per the provisions of Section 70 of CGST Act, enquiry is essential before the prosecution of any person, however, without there being any enquiry having been carried out as per the provision of Section 70 CGST Act, the petitioner was straightway arrested. He further submits that as per provisions of 132(1)(b) & 132(1)(c) of the CGST Act, in case the charges are proved against the petitioner, the maximum sentence he can be awarded is 05 years. He submits that the petitioner had already suffered an incarceration of about 05 months. It is submitted that the petitioner has no criminal antecedents and the investigation in the case has already been carried out as is evident from the complaint filed by the respondent. It is submitted that the complete case planted against the petitioner is totally based upon the documentary evidence and thus, the petitioner in the overall facts and circumstances of the case, deserves to be granted bail. He relied upon the judgments passed in '**SLP (Criminal) No.4349 of 2025**' titled as '**Vineet Jain Vs. Union of India**', '**CRM-M-**

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37860-2024’ titled as ‘Vishal Chauhan Vs. Haryana State GST (Intelligence Unit) through Excise Taxation Officer-cum-Proper Officer, Rohtak’, ‘CRM-M-24201-2025’ titled as ‘Arvind Kumar Vs. Directorate General of GST Intelligence, Amritsar’ and ‘Writ Petition (Criminal) No.336 of 2018’ titled as ‘Radhika Agarwal Vs. Union of India and others’.

4. Per contra, learned State counsel has opposed the submissions made by the counsel for the petitioner and submits that the petitioner has committed a serious offence. He submits that the petitioner has claimed ITC on the basis of invoices raised by 38 fake entities which have been cancelled *suo-moto*. It is submitted that the Officers of DGGI, Ludhiana Zonal Unit by making use of data analytics tools like BIFA, ADVAIT, e-Way Bill Portal, GST Prime and local intelligence which further developed the case. It is submitted that as per the analysis of data, Sarthak Jain i.e. the petitioner is the proprietor of M/s Sarthak Enterprises, partner and authorized signatory of M/s Disha Enterprises and controller/operator of all business and financial activities of M/s Kashbhi Accessories point. He submits that the petitioner was the key person for the fraudulent availment, utilization and passed on ITC of Rs.8.36 crores without any physical receipt of goods from non-existent firms. He has drawn attention of this Court to the reply filed wherein the total ineligible ITC availed by the 03 firms is summarized as follows:-

Sr.No.	GSTIN	Trade Name	Prop./Partner	Ineligible ITC availed as per GST RETURNS
1	M/s Sarthak Enterprises	03APYPJ2569Q1ZY	Sarthak Jain	Rs.2,75,23,442
2	M/s Disha Enterprises	03AAQFD2947K1Z6	Sarthak Jain & Disha Jain	Rs.3,98,33,986



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3	M/s Kashibhi Accessories Point	03CFDPJ7189F1ZF	Vansh Jain	Rs.1,62,78,163
Total				Rs.8,36,35,591/-

He submits that it has been found during investigation that the petitioner is proprietor of Firm-M/s Sarthak Enterprises and proprietor of M/s Disha Enterprises along with his wife. He has further drawn attention of this Court to the reply filed and submitted that the petitioner is the mastermind in committing the offence and with his malafide actions has actively commissioned the offence and he defrauded the govt. exchequer to the tune of Rs.8.36 crores. He submits that in the facts and circumstances, wife of the petitioner-Disha Jain has not joined the investigation so far. He thus, submits that no case for grant of bail to the petitioner, is made out.

5. The Court has heard counsel for the parties and perused the record. It is deciphered that the petitioner has been prosecuted for the offence under Section 132(1)(b) & 132(1)(c) of Central Goods and Services Tax Act. The allegation against the petitioner is that he has illegally evaded paying of tax. As per the reply filed, the petitioner has availed an amount of Rs.2,75,23,442/- as per GST Returns pertaining to Firm-M/s Sarthak Enterprises. So far, M/s Disha Enterprises is concerned, he along with his wife has availed the ITC Returns of Rs.3,98,33,986/-. The investigation already stands completed as the complaint has been filed. The allegations and counter allegations made are entirely the matter of trial. Custody certificate of the petitioner has been filed which would show that he has no criminal antecedents. He is behind bars since the date of his arrest and thus, has completed an incarceration of about 05 months. The judgments relied upon by the learned Senior counsel for the petitioner are relevant for the appreciation of the bail petition filed by the petitioner.

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6. In view of the facts and circumstances of the case and on the anvil of the law settled, finds that the learned Senior counsel for the petitioner succeeds in making out a case for bail.

7. The veracity of the allegations would be assessed only after conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

15.07.2025
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(RAJESH BHARDWAJ)
JUDGE

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