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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.20320 of 2025
Date of Decision: 14.07.2025
Reserved on: 10.07.2025

Manoj Gupta ... Petitioner

Versus

Union of India and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. A.P.S. Deol, Senior Advocate with
Mr. H.S. Deol, Advocate,
for the petitioner.

Ms. Amrita Singh, Advocate,
for respondent No.1.

Ms. Sharmila Sharma, Senior Standing Counsel,
for respondents No.2 and 3.

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MANISHA BATRA, J.

1. Prayer in this petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (For short "BNSS") is for grant of regular bail to the petitioner in complaint case bearing CIS No.COMI/2613/2025 titled as *Directorate General of GST Intelligence v. Sh. Manoj Gupta* filed under Section 132(1) (b) and (c) of the Central Goods and Services Tax Act, 2017 (For short "CGST Act") which is

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punishable under Section 132 (1) (i) of the CGST Act.

2. Adumbrated facts as emanating from the record are that the aforementioned complaint has been filed against the petitioner by the complainant Directorate General of Goods and Services Tax Intelligence (For short "DGGI") on the allegations that he had been operating two firms under the name of Pammik Enterprises and Pammik Importers which were registered in his own name and two firms namely, Balak Enterprises and Nath Enterprises created in the names of fictitious proprietors. These firms were involved in bogus supplies of goods consisting of taxable value of Rs.271.06 crores. He had received and issued invoices without the actual receipt or supply of goods, resulting into the wrongful availment and utilization of the Input Tax Credit (For short "ITC") to the tune of Rs.35.27 crores in case of M/s Pammik Enterprises and M/s Pammik Importers. That apart, he had also availed and passed on fraudulent ITC amounting to Rs.13.52 crores in the firms created by him in the names of fake and fictitious proprietors. The firms so created by him had availed ineligible ITC based on invoices raised by various non-existent/bogus firms without the actual receipt of goods. After conducting investigation, complaint was filed. The petitioner was arrested on 21.12.2024. He moved application for grant of regular bail which was dismissed by the Court of learned Additional Sessions Judge, Ludhiana vide order dated 20.03.2025.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case by circumventing the mandatory

provisions of law. No authorization had been obtained by the competent officer before effecting his arrest on 21.12.2024. The procedure prescribed under Section 73 of the CGST Act had not been followed. Neither grounds of arrest were supplied to him. Nor reasons of arrest were given. His arrest was not on any tangible ground. No notice under Section 73 of the CGST Act was issued to him by the proper officer to afford opportunity of hearing before quantifying the ITC which was alleged to be wrongly availed by him. The proper officer had no reason to believe the allegations as levelled against him. Allegations with regard to availing of fraudulent ITC are totally misfounded. The fictitious firms had wrongly been connected with the firms of the petitioner. The petitioner has been regularly paying GST. The provisions of Section 132(1) of CGST Act had been wrongly invoked against him. His detention is in violation of Articles 14 and 21 of the Constitution of India and has been affected without following due procedure of law. The trial would take considerable time to conclude.

4. It is further argued that the punishment provided under Section 132(1) (i) is imprisonment which might extend to maximum period of five years and he is in custody for a period of about 6 months and 24 days. The subject offence is triable by Magistrate. The evidence to be tendered by the respondent is documentary and electronic in nature and there can be no apprehension of his tampering with the same or intimidating the witnesses. He has been arrested only on the basis of suspicion. He has no criminal antecedents. He has permanent place of business and abode. There is no

flight risk as he is ready to surrender his passport and is ready to abide by the other terms and conditions of bail as imposed upon him. It is, therefore, stressed that the petition deserves to be allowed and he deserves to be released on bail. To fortify his argument, learned counsel for the petitioner placed reliance upon authorities cited as ***Vineet Jain v. Union of India, Criminal Appeal No.2269 of 2025 decided on 28.04.2025; Yash Goyal v. Union of India, Criminal Appeal No.2784 of 2024 decided on 28.06.2024; Satveer Singh Sekhon v. Directorate General of GST Intelligence, Ludhiana and another, CRM-M-59017-2024 decided on 07.02.2025; Ratnambar Kaushik vs. Union of India, 2022 INSC 1254; Ashutosh Garg vs. Union of India, 2024 (105) GST 572; Vipin Garg alias Bindu vs. State of Haryana, 2023(69) GSTL 3; Deepak Sharma vs. State of Punjab, 2024 NCPHHC 104729; Parteek Das Gupta vs. State of Haryana, 2024 NCPHHC 46670; Amit Bansal vs. State of Haryana, 2024 NCPHHC 19173; Tejpal Singh vs. Director General of G.S.T. Intelligence, 2024(83) GSTL 247 and Sunil Mahlawat vs. Central Goods and Services Tax, 2023(68) GSTL 31***.

5. Reply on behalf of respondents No.2 and 3 has been filed. It is argued by Ms. Amrita Singh, learned counsel for respondent No.1 and Ms. Sharmila Sharma, learned Senior Standing counsel for respondents No.2 and 3 that the petitioner evaded tax liability of huge amount of money and passed fake ITC. He has caused huge loss to the Government Exchequer by creating two fake and fictitious firms. The allegations against him are

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serious in nature. His active involvement in the commission of the subject crime is made out. There is strong apprehension that if he is set free, he might influence the beneficiaries and other accomplices involved in the racket of fake invoicing. It is, therefore, argued that under the given circumstances, the petitioner is not entitled to get indulgence of bail by this Court. Therefore, it is argued that the petition is liable to be dismissed.

6. The rival submissions addressed by both the parties have been heard and considered and record has been carefully perused.

7. Before proceeding to decide the prayer made by the petitioner for grant of bail, it would be apt to have a look at the relevant statutory provision contained in Section 132 of CGST Act, which read as under :

> **132. Punishment for certain offences.—**
> **(1) Whoever commits any of the following offences, namely:—**
> **(a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;**
> **(b) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;**
> **(c) avails input tax credit using such invoice or bill referred to in clause (b); shall be punishable—**
> **(i) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to**

five years and with fine.

(ii) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds two hundred lakh rupees but does not exceed five hundred lakh rupees, with imprisonment for a term which may extend to three years and with fine;

(iii) in the case of any other offence where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one hundred lakh rupees but does not exceed two hundred lakh rupees, with imprisonment for a term which may extend to one year and with fine;

8. A bare perusal of the above mentioned provision leaves no room to doubt that the offences alleged carry minimum punishment of 06 months and a maximum punishment of 05 years of imprisonment. Further, Section 138 of the CGST Act is relevant, as per which, the offences under Section 132 of the Act are compoundable.

9. The law regarding grant of bail has been discussed in several pronouncements of Hon'ble Supreme Court. It will be apposite to refer to some of them. Reference can firstly be made to ***Dataram Singh vs. State of U.P. and another, (2018)3 SCC 22***, wherein Hon'ble Supreme Court had reiterated the law of bail as follows:

> "2. A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a

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reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society.

5. The historical background of the provision for bail has been elaborately and lucidly explained in a recent decision delivered in ***Nikesh Tarachand Shah v. Union of India [(2018) 11 SCC 1]*** going back to the days of the Magna Carta. In that decision, reference was made to ***Gurbaksh Singh Sibbia v. State of Punjab [(1980) 2 SCC 565]*** in which it is observed that it was held way back in ***Nagendra v. King-Emperor [AIR 1924 Cal 476]*** that bail is not to be withheld as a punishment. Reference was also made to ***Emperor v. Hutchinson [AIR 1931 All 356]*** wherein it was observed that grant of bail is the rule and refusal is the exception. The provision for bail is therefore age-old and the liberal interpretation to the provision for bail is almost a century old, going back to colonial days."

10. Reference must also be made to ***P. Chidambaram vs. Directorate of Enforcement, (2020) 13 SCC 791***, wherein Hon'ble Supreme

Court observed that even economic offences would fall under the category of 'grave offence' and while considering the application for bail in such matters, the Court has to be sensitive to the nature of the allegations made against the accused as well as the term of sentence i.e. prescribed for the offence that the accused is alleged to have committed. It was also observed that the reasonable apprehension of tampering with evidence or apprehension of threat to the complainant or the witnesses as well as character, behavior and standing of the accused and the circumstances that are peculiar to the accused and the larger interest of the public should also be taken into consideration.

11. In view of the above discussion, it emerges that the position of law regarding grant of bail is that the basic jurisprudence relating to bail in economic offences remains the same in as much as the grant of bail is the rule and its refusal is the exception, so as to ensure that an accused has the opportunity to get fair trial. However, at the same time, it is not advisable to categorize all the economic offences into one group and deny bail on that basis. While considering the question of grant of bail, the gravity of offences is an aspect, which is required to be taken into consideration. The gravity has to be gathered from the facts and circumstances arisen in each case. One of such circumstances is also the term of sentence that is prescribed for the offence the accused is alleged to have committed. While considering the prayer for grant of bail in any offence, including economic offences, it is not a rule that bail should be denied in every case where the allegation is one of

grave economic offences since there is not such bar created in the relevant enactment passed by the Legislature nor does the jurisprudence provide so. The broad parameters to be considered while deciding prayer of an accused for grant of bail can be enumerated as under :

> (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
> (ii) nature and gravity of the charge;
> (iii) severity of the punishment in the event of conviction;
> (iv) danger of accused absconding or fleeing if released on bail;
> (v) character, behaviour, means, position and standing of the accused;
> (vi) likelihood of the offence being repeated;
> (vii) reasonable apprehension of the witnesses being tampered with; and
> (viii) danger, of course, of justice being thwarted by grant of bail.

12. Now, let us refer to the citations relied upon by the petitioner in support of his prayer for grant of bail. In ***Ratnambar Kaushik***'s case (supra), the High Court had dismissed an application filed by the accused for grant of regular bail in the proceedings for the offences alleged against him under Sections 132(1) read with Section 132(5) of the CGST Act. While observing that the alleged evasion of tax by the accused was to the extent as provided under Section 132(1)(i) and the punishment provided was imprisonment which might extend to 05 years and fine, the fact that the accused had already undergone incarceration for 04 months and completion of trial was

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likely to take time and further that the evidence to be tendered was of documentary nature, the Hon'ble Supreme Court had passed an order for release of the accused on bail. In ***Ashutosh Garg***'s case (supra), the High Court of Judicature for Rajasthan at Jaipur had dismissed the prayer made by the petitioner, who was accused of creating and operating 294 fake firms and evaded tax liability of Rs.1032 crores. The Hon'ble Supreme Court allowed the Special Leave Petition filed by the accused by taking into consideration the fact that he was in custody for a period of 09 months and that the offence carried maximum punishment for 05 years of imprisonment. It was observed that it was not appropriate to keep him in custody any further.

13. Further, in ***Vipin Garg alias Bindu***'s case (supra), there was allegation of misuse of ITC leading to loss of State exchequer. Chargesheet had been submitted. It was observed by Hon'ble Supreme Court that though heavy loss to the exchequer was alleged to be caused by the accused and no recovery had been effected but further detention of the accused during trial was not necessary and he was extended benefit of bail. In ***Yash Goyal'***s case (supra), the petitioner was in custody for a period of 06 months for commission of offence punishable under Section 132 of the CGST Act. While considering that the maximum sentence which would be awarded was 05 years and that the trial was likely to take time, Hon'ble Supreme Court directed the appellant to be released on bail. Reliance can also be placed upon a recent pronouncement of Hon'ble Supreme Court in ***Vineet Jain***'s case (supra), wherein a person accused of committing offence under Section

132(1) of the CGST Act was denied grant of bail. The Hon'ble Supreme Court allowed the appeal filed by the accused by taking into consideration the fact that he was in custody for a period of 07 months, chargehseet had been filed and that the offence carried maximum punishment for 05 years of imprisonment. While granting bail to the accused, the Hon'ble Supreme Court had made following observations:

> **"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."**

14. Similar observations were made by the co-ordinate Benches of this Court in ***Deepak Sharma***'s case (supra), ***Parteek Das Gupta***'s case (supra), ***Amit Bansal***'s case (supra), ***Tejpal Singh***'s case (supra) and ***Sunil Mahlawat***'s case (supra).

15. On consideration of the above discussed facts and circumstances and also considering that the alleged offences are punishable with maximum punishment up to 05 years and also keeping in view that in such circumstances, the further detention of the petitioner may not at all be justified since in case of this nature, the evidence to be rendered by the respondent would essentially be documentary and electronic, which will be through official witnesses, due to which, there cannot be any apprehension of tampering, intimidating or influencing the witnesses and further as it

appears justified to strike a fine balance between the need for further detention of the petitioner when no custodial interrogation has been claimed at all by the department, this Court considers that the petitioner is entitled to be released on bail but subject to certain conditions.

16. As a result of above discussion, the petition moved by the petitioner is hereby allowed and he is ordered to be released on regular bail on his furnishing personal bonds with two sureties in the like amount each to the satisfaction of the Court concerned/Duty Magistrate. The concession of bail granted to the petitioner shall be further subject to following conditions:

(a) He shall deposit his passport, if any, before the learned trial Court;

(b) He shall cooperate in trial without seeking any unnecessary adjournments;

(c) He shall not tamper with the prosecution evidence by intimidating or pressurizing the witnesses during trial;

(d) He shall not dispose of any of his property or of the firms/companies in which he has substantial interest and which are also under investigation;

(e) He shall not indulge in any criminal activity or in commission of any crime after being released on bail.

(f) He shall provide the details of his Aadhar Card as well as his contact numbers to the trial Court.

17. Breach of any of the above conditions shall be a ground for cancellation of bail granted to the petitioner.

18. It is made clear that the observations made herein above are only for the purpose of deciding the present petition and the same shall not

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be construed as an expression of opinion by this Court on the merits of the case.

(MANISHA BATRA)
JUDGE

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