

IN THE COURT OF ASJ-03/SPECIAL JUDGE
PATIALA HOUSE COURTS, NEW DELHI

Presided by : Chander Jit Singh, DHJS

Bail Matter No. 776/2025
CGST Vs Liyakat
U/s 132 of CGST

28.05.2025

Present:- Sh. P.C. Aggarwal, Ld. Ld. Counsel for Department.
Sh. Rahul Ranjan, Ld. Counsel for applicant/accused.

ORDER

1. This order shall dispose of application filed on behalf of applicants/accused Liyakat in the present matter seeking bail.

CONTENTIONS IN APPLICATION:-

2. It is contended in the application that present bail application has been filed aggrieved of the order dated 17.05.2025 passed by Ld. Chief Judicial Magistrate rejecting his bail application without considering the material facts. That arrest of applicant/accused has been made in the most arbitrary way possible and in complete disregard to the law established by the court of law. That respondent department before making the formal arrest of the applicant/accused, illegally detained the applicant/accused for more than 24 hours at the office of CGST.

2.1. It is further contended that applicant/accused is the proprietor of M/s Bharti Traders and is engaged in legitimate business activities. That applicant/accused is law abiding citizen and has no



prior criminal record. That applicant has been operating his business under supervision of the department and has acquired the GST registration after due compliance of the all the regulatory requirements. That present arrest of the applicant is a classical example of misuse of power given to the department. That applicant/accused has been arrested without any substantive basis and without any reasoning. That not a single piece of evidence is found against the accused even to make a prima facie case against him.

2.2. That applicant/accused has been falsely implicated in this case without any substantive evidence and solely on the basis of third party statement of third persons. That the applicant/accused has duly received the goods from his suppliers and has made due payments against proper invoices. That it is well established principle of the CGST Act 2017 that buyer cannot be penalized on the default of his supplier. That the arrest of the applicant/accused has been made in complete disregard to the consistent cooperation of the applicant with respondent department in regard to their investigation in the impugned case. That it is evident to note that the applicant/accused has produced all the documents asked by the respondents department and has also time and again produced himself before the respondent department in order to tender his statement in regard to the investigation initiated by the respondent department.

2.3. That on receipt of summons issued by Department, applicant/accused immediately informed the respondent about his



willingness to join the investigation and visited the respondent office on several dates. That on 01.04.2025 around 7.00am, the officers of the respondent department along with local police visited the premises of the applicant/accused to conduct search wherein the officers seized the mobile phone and the CCTV DVR of the applicant/accused. That thereafter, applicant/accused along with his brother was taken into custody and all their movements and all modes of communications were restricted. That on the same day, statement of applicant/accused and his brother were recorded. That any statement recorded under section 70 of the Act is ipso Facto not admissible. That reason of arrest, arrest memo, and Jama Talasahi were not provided to the applicant or his representatives directly and were only given to another detainee.

2.4. That the copy of the arrest memo, reason of arrest and jama-talashi was kept in his pocket just before entering the court premises by the respondent officials just to ensure that the arrest memo, reason of arrest was communicated to the applicant/accused. That reasons to believe in writing was not supplied to him at the time of detention as well as arrest and were only supplied at the time of remand. That the arrest of the applicant/accused subsequent remand order undermines the fundamental and statutory rights of the applicant/accused and are against the mandate of law. That arrest of the applicant/accused in the manner as conducted in the present case is in flagrant disregard of law, fairness and equity. That all the alleged



documentary evidence relied upon by the respondent department is in possession of the department itself, therefore, there is no question of possible tampering of evidence if the applicant/accused is released on bail. That in judicial remand application, department failed to demonstrate apprehensions of tampering of evidence, influence of witnesses and flight risk. That there is no absolutely no likelihood of the applicant absconding and/or tampering with the evidence or fleeing from the justice, which are the paramount considerations for the grant of bail. That applicant/accused has not been alleged with similar kind of allegations in past and applicant has clean antecedent and has not convicted in similar kind of other case in past and having deep root in society. Hence, present application.

REPLY OF DEPARTMENT

3. Notice of this application was issued to Department/CGST and detailed reply was filed on behalf of CGST contending that on issuance of summons to Mohd. Kaif, Mohd. Kaif stated that he got in touch with Sh. Liyakat who is his cousin brother. That mobile phone of Sh. Mohd. Kaif was thoroughly checked and photos of multiple PAN cards and AADHAR card were found in the mobile. That in view of the findings, it appeared that Sh. Liyakat, Sumit and Omkar are the key person behind creation of fake firms and generating bogus bills with the help of Mohd. Kaif, Proprietor of M/s M.K Traders.

It is further contended that accordingly, search was



conducted at the house of accused/applicant and during the search, 03 mobile phones were found available at the premises and two other mobiles as well as some documents were found in a car parked in the premises. That during the course of investigation and examination of electronic evidence, it has been revealed that many fake firms were controlled and managed by applicant/accused through his brothers/cousins. That statement of accused/applicant was recorded on 01.04.2025 in which he denied to answer most of the questions and his behaviour was non cooperative during the procedure of statement.

3.2. That during the further investigation, it was revealed that accused/applicant has received and availed ineligible/fraudulent Input Tax Credit total amounting to Rs. 17,41,37, 269 from various bogus firms. That from the evidence collected during the investigation, it is established that accused/applicant has evaded more than Rs. 5 crores and committed offence u/s 132 (1) (b) & (c) of the Act. That grounds of arrest have been provided to accused/applicant at the time of arrest of applicant/accused. That all the three accused persons arrested has voluntarily accepted in their statements that accused/applicant is the master mind in create and manage to all fake firms. That electronic and documentary evidence seized during the searches and all the evidence is under investigation. That applicant/accused has not submitted any document to the department and not cooperating in the investigation. That all the proceedings regarding arrest were within the



stipulated time limits. Other contentions made in the application have been denied submitting that present application be dismissed.

SUBMISSIONS

4. It is argued on behalf of accused that earlier accused was granted interim protection by Hon'ble Supreme Court of India. However, the said protection got vacated after pronouncement of judgment of Hon'ble Supreme Court of India in the celebrated case titled as Radhika Aggarwal. It is submitted that search was conducted in the premises of accused but nothing was recovered. It is submitted that accused has joined investigation as and when he was called upon and as a proof thereof copy of entry passes in the office of applicant/accused are placed on record.

4.1. It is argued that arrest of accused in the present case is illegal as he was produced after more than 24 hours since his detention. It is also argued that accused went to the office of respondent and his arrest was shown at around 3.03pm whereas he had gone much prior to that and counting the period from the time of time of accused having gone to the office, his detention will start and he should have been produced within 24 hours since then. It is further submitted as per the arrest memo, accused was arrested on 2.4.2025 but the Din number which is generated for mentioning on the arrest memo, as per the website of Central Board of Indirect Tax and customs, was generated at 3.08pm. It is also submitted that arrest memo also mentions before arresting the jama talashi of accused was



taken and details of his belonging is as per the memo annexure A. That the documents of Jama Talashi shows to direct t having found from the possession of accused and one of them is arrest memo. It is also argued that once the jama talashi was before arrest, as to how accused could have be arrested memo with him. It is submitted that there has been a gross violation of the law laid down in this regard as even the grounds of arrest were supplied in the court and not forthwith as directed and mandated under various judgments of Hon'ble Supreme Court of India and Hon'ble High Court of Delhi.

4.2. It is also argued that accused is in custody for the last 57 days and investigation is complete. It is submitted that accused clearly passes the triple test and there is no apprehension of his fleeing away which gets strength from the conduct of accused or having joined the investigation on each and every date of hearing. It is also submitted that the intimation of arrest of accused was also formality as it was given to relative who was detained with accused. It is submitted that no purpose would be served by keeping the accused in custody further. It is submitted that accused be admitted in bail. Reliance is placed upon judgment titled as *Vineet Jain Vs Union of India Criminal Appeal No. 2269/2025, Directorate of Enforcement Vs Subash Sharma SLP Crl 1136/2023, Ashak Hussain Allah Detha Vs The Assistant Collector of Custom, 1990 SCC Online Bom 3 : (1990) Bom CR 451; (1990) 92 Bom LR122: (1991) 1 AP LJ (DNC 2) 29 : 1990 Cri LJ 2201, Smt. T. Ramadevi Vs The State of Telangana,*



Writ Petition No. 21912/2024, Marfing Tamang Vs State of Haryana, CRL. M.C. 4391/2024 & CRL. MA 19329/2024, Vihaan Kumar Vs State of Haryana, Criminal Appeal No. 13320/2024, Kshitij Ghildiya Vs DGGI Delhi, W.P (CRL) 3770/2024, Pankaj Bansal Vs Union of India, (2024) 7 Supreme Court Cases 576, Prabir Purkayastha Vs State SLP (Crl) No. 42896/2023 and Radhika Agarwal Vs Union of India, 2025 SCC Online SC 449.

5. On behalf of State, it is submitted that writ petition raising the grounds regarding alleged anomaly regarding arrest is filed before Hon'ble High Court. It is submitted that investigation of the present case started in December 2023. It is submitted that there were searches in the premises of concerned company which was registered in the name of Mohd. Kaif who told that the real owner and beneficiary is accused Liyakat. It is submitted that statement of various persons were recorded including statement of accountant and everyone has named the accused as beneficiary and real owner. It is submitted that at the time of search of premises of accused, he did not open the gates and those locked opened with great difficulty. That great amount of incriminating material and documents have been recovered in that search. It is submitted that the digital devices recovered were having excel sheet of multiple companies which are not in existence. Investigation in the present matter is still going on. The conduct of accused is remained non cooperative. It is submitted that multiple pan cards and Aadhar cards were recovered which were



used by accused. It is submitted that accused is witty criminal who has caused loss to the exchequer. It is submitted that present bail application be dismissed.

FINDINGS/DISCUSSION

6. I have heard the contentions on behalf of both the parties and perused the record. The allegations against the accused are of being creating web of multiple fake firms whereby accused has created facade of non existent transaction with intention to illegally take advantage of input credit. That by indulging in such illegal activities, accused has caused loss of Rs. 17 crore to Government Exchequer.

6.1. Among others, one arguments taken on behalf of accused is of arrest being illegal. In that regard, various points have been raised. On behalf of State, it was argued that writ petition was filed in this regard but Ld. Defence counsel has produced the copy/print out of order of Hon'ble High Court of Delhi recording withdrawal of that petition by accused. It was contended on behalf of State accused is produced within 24 hours of arrest. On behalf of accused, it is submitted that they are disputing or contesting this claim of accused having been produced in 24 hours since arrest rather that they are raising the arguments that the period should be counted from time of detention i.e. when accused reached at the office of respondent and was not entered into court.

Besides this, from the documents on record, multiple



anomalies have been point out. For instance the time of arrest in arrest memo is 3.03pm and this also mentions Din number which is 20250451ZK0000854300. Print out of page about generation Din number, from Web of Central Board of Indirect Tax and Customs is placed on record and as per that paper said Din number was generated at 15.08.49 on 02.4.2025. To dispel this anomaly nothing could be shown from the Department regrading the said time difference. The Din number can only be mentioned after it is generated and the time difference especially document reflects the generation of Din number after the time of arrest of accused is self speaking on the aspect of arrest. It is also contended that in the arrest memo, it is stated that before arresting, jamatalashi was taken. The copy of jamatalasi has been placed on record and it mentions two documents one of which is arrest memo dated 02.4.2025 of Sh. Liyakat. Once document of CGST itself says that before arresting Jamatalashi was taken, it was incumbent on Department to explain how the arrest could have been recovered from the person of accused but this remains unexplained.

8. Further, it is contended that applicant/accused is real beneficiary and owner of the web of firms by use of which loss is caused to the exchequer and committed the offence under CGST act. A detailed reply has been filed on behalf of Department. At point VII of para NO. 4 of the reply, it is stated that from the mobile of Mohd. Kaif, photos of multiple Pan Card and Aadhar card were found and checking, some GST registration were obtained by using them. An



argument has been raised regarding recovery of various pan card and Aadhar card. As per the case/reply of CGST, such recovery has been made from the mobile phone of Mohd. Kaif and not of Liyakat, accused/applicant herein. In respect of accused Liyakat, it was stated that during recording of the statement, he has mostly answered that he intends to exercise as right to silence. Further, it was argued on behalf of accused that after the interim protection granted by Hon'ble Supreme Court of India, HE had always joined the investigation. As per the case of prosecution itself, accused did not make any attempt to evade at the time of arrest. It is not the case of prosecution that accused did not appear when summoned.

9. Specific query was put in respect of summoning of accused after vacation of withdrawal of protection to accused. It was submitted that no summons were issued. Therefore, there is substance in the arguments on behalf of accused that he is not flight risk.

10. The accused is in custody from last about 57 days. It was argued on behalf of accused that in 60 days complaint is to be filed but same has not been filed till date. In this regard also, on query, it is submitted on behalf of Department that they are trying to file the complaint within time framed. However, another submission was also made that investigation is going on. Though, it was argued on behalf of State that admitting accused on bail may hamper the investigation.

Yet it was not explained how the accused will hamper the investigation. It is not reported or argued that accused is involved in



any other criminal case of similar kind or any kind. It implies that accused is first offender.

11. Further, in the case *Vineet Jain Vs Union of India*, Criminal Appeal No. 22692025, arising out of SLP (Criminal) No. 4349/2025, Hon'ble Supreme Court has held that list of documents and list of witnesses shows that the evidence is documentary and even if there is an ocular statement has already been recorded in this regard. Complaint having been filed, is primarily indicator that investigation is being complete qua applicant/accused. No purpose seems to be served by keeping applicant/accused in custody any further.

12. Hence, in view of the facts and circumstances, established position of law and above discussion, applicant/accused Liyakat is admitted in bail subject to furnishing bail bond of Rs. 2,00,000/- **with one surety who should be family member of accused** subject to following conditions:-

1. ***The applicant/accused person shall appear before Ld. Trial court and IO as and when directed to appear;***
2. ***The applicant/accused person shall furnish his address where accused actually resides and any change in the address shall be notified to Court and IO within five days of such change;***
3. ***The applicant/accused person shall not leave country without prior intimation to Ld. Trial court. Authorities concerned be informed in this regard.***
4. ***The applicant/accused person shall not tamper with evidence***



nor otherwise indulge in any act or commission that is unlawful or that would prejudice the proceedings in the pending matter;

5. *That accused shall not tamper or influence the witnesses.*

13. Nothing expressed herein above shall tantamount to an expression of opinion on the merits of the case.

14. With these observations, **the application u/s 480 BNSS, 2023 moved on behalf of applicant/accused person, namely, Liyakat stands disposed of accordingly.**

15. Copy of this order be given dasti to the applicant/accused. Copy of this order be sent to Jail concerned for informing accused/applicant accordingly.

Announced in open court.

Dated:- 28.05.2025

SL

(Chander Jit Singh)

Roster Judge/ASJ-03/PHC/ND/28.05.2025

**Addl. Sessions Judge-03
New Delhi District, N.D**

*True copy
Attached
for
29/5/25*

