

GAHC010110152021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH) Case

No. : Bail Appln./1718/2021

SOURAV BAJORIA
S/O LATE PRADEEP BAJORIA
R/O FLAT NO. 1-D
ORCHID HILL VIEW
MANPARA
GUWAHATI 25
DIST. KAMRUP (M)
ASSAM.

VERSUS

UNION OF INDIA
CENTRAL GOODS AND SERVICE
REPRESENTED BY SC
G.S.T.

Advocates for the Petitioner :: Mr. HRA Choudhury, Senior Counsel,
Mr. S Agarwal, Counsel.

Advocate for Respondent :: Mr. SC Keyal, Standing Counsel,
GST

Date of hearing :: 19.08.2021.

Date of Order :: **23rd August, 2021**

**BEFORE
HONOURABLE MR. JUSTICE HITESH KUMAR SARMA**

ORDER(CAV)

Heard Mr. HRA Choudhury, learned senior counsel assisted by Mr. S Agarwal, learned counsel for the petitioner. Also heard Mr. SC Keyal, learned Standing Counsel, GST.

[2] This is an application, filed under Section 439 of the Cr.PC. seeking bail of the accused-petitioner, namely, ***Shri Sourav Bajoria***, in connection with ***GST Case No. CGST/DGGI/GST/1928/2021***, under Section 132(5) of Central Goods and Service Act, 2017.

[3] Perused the record of the case produced before this Court.

[4] The facts leading to this complaint is that one Amit Kumar is involved in generation of invoices without actual supply of goods. He has been operating under the trade name, M/s Maruti Traders, bearing GSTIN No. 18AKGPK7676Q1Z4. He has been engaged in fraudulent practices of availing as well as passing on Input Tax Credit (ITC) accumulated through issuance of fake Goods and Service Tax (GST) invoices and corroborating the same through issuance of E-way bills without actual supply of goods. The declared principal place of business of M/s Maruti Traders 18AKGPK7676Q174, NH-37 Beltola, near Kamrup Weigh Bridge, Assam is vague and fictitious and does not exist.

However, during the search in the undeclared premises, Vision (an interior decoration hub) building Jayanagar, Tripura Road, Guwahati, a huge quantity of incriminating documents belonging to M/s Maruti Traders bearing GSTIN No. 18AKGPK7676Q1Z4 like E-way bills, invoices, kaccha cash exchange details, bank cheque books used for running the racket, etc were found. Thereafter, search at multiple places related to M/s Maruti Traders and said Amit Kumar led to further recovery and seizure of incriminating documents like E-way bills, invoices, kaccha cash exchange details, bank cheque books used for running the racket, etc. The present petitioner is the Tax Consultant of the aforesaid M/s Maruti Traders. While search was conducted in the office of the Tax Consultant, i.e., the present petitioner, incriminating documents, such as E-way bills, invoices were found. It has also come out during investigation that sale of coal in the name of M/s Maruti Traders is only on paper and similarly purchase of coal from places like Delhi, Gandhudham and Ludhiana, etc are also fake and no movement of stock of coal infact took place from Gujarat to Guwahati. It has also come out from the materials so far collected that he has been arranging fake invoices, acted as a connection with various clients of the M/s Maruti Traders of aforesaid Amit Kumar. He is found from the materials on record to have even managed/arranged fake invoices, bills, etc and prepared accounts of the M/s Maruti Traders on such false and fabricated documents.

[5] Mr. HRA Choudhury, learned senior counsel for the petitioner while praying for bail of the petitioner has submitted that the allegation against the present petitioner is that he had managed/collected the fake invoices and facilitated commission of the offence by the co-accused Amit Kumar. He has further submitted that the petitioner is a Tax Consultant and he has no individual role in the commission of the offence. According to him, the petitioner has done his duty as a Tax Consultant only on the basis of the materials given to him

[6] It has further been submitted by Mr. HRA Choudhury, learned senior counsel for the petitioner that the accused petitioner has been in custody for a month, as on date, w.e.f. 19.07.2021, and therefore, his further custodial detention is absolutely not necessary in the interest of investigation of the case.

[7] Mr. Keyal, learned Standing Counsel, CGST has objected to the prayer for bail with reference to the materials in the record to the effect, that the petitioner had collected from the concerned firms/individuals fake invoices, E-way bills, etc and he was in complete league and connivance with the co-accused Amit Kumar in commission of the alleged offence. The investigation so far carried out reveals that the petitioner had collected fake invoices, etc from the following firm/individuals as indicated in the table below:-

State from where fake/bogus bills procured	Name of the entity from whom fake/bogus bills procured	Remarks	Concerned persons
Assam	M/s B.L. Mineral Pvt. Ltd	Fake invoices	Davinder Hasija
	Ajay Kumar Goyal	Fake invoices	Don't know
	Kavita Jain	Fake invoices	Shubham Jain
	M/s M.D. Hasija Pvt. Ltd.	Fake invoices	Davinder Hasija
	Subham Jain	Fake invoices	Subham Jain
	Vikash Bansal	Fake invoices	Don't know
	Vinod Kumar Garg	Fake invoices	Don't know
	Haryana	Vikash Bansal	Fake invoices
Mukesh Goyal		Fake invoices	Don't know
Purushotam Dass		Fake invoices	Don't know
B.L. Minerals Pvt. Ltd.		Fake invoices	Davinder Hasija
Radhey Sham		Fake invoices	Don't know
Devender Hasija		Fake invoices	Davinder Hasija
Mukesh Goyal		Fake invoices	Don't know

Therefore, the materials available in the record of the case, as of now, is clearly suggestive of his active involvement. He has further submitted that the investigation is still on and some vital clues have been collected requiring further detail investigation into the matter, involved in this case. It is his further submission that this is a huge economic offence committed against the State to the tune of Rs. 28,97,85,917/- by availing irregular ITC by co-accused.

[8] Mr. Keyal has also referred to the materials on record and submitted specifically on the basis of a statement prepared in connection with this case in respect of ***interstate inward EWB details with movement of vehicle for Jan-21 as verified from E-way bill portal*** and pointed out that the vehicle allegedly carrying coals did not originate from the place and reached the place, as indicated in the respective E-way bills.

[9] I have gone through the records placed before this Court to verify such submissions made by Mr. Keyal, learned Standing Counsel, CGST and the same is found to have been subscribed by the statement, referred to above. Instead of detailing what has been found recorded in the aforesaid statement, this Court would like to refer to atleast two E-way bills, out of many, to record that the submissions made by Mr. Keyal, on this count, is based on materials on

record.

***Interstate inward EWB details with movement of vehicle for
Jan-21 as verified from E-way bill portal.***

Month	Place	EWB No.	From GSTIN & Name	To GSTIN & Name	From Place & Pin	To Place & Pin	EWB No. & Dt.	Doc. No. & Dt.	Assess Val.	Tax Val	HSN Code	HSN Desc.	Latest Vehicle No.	Movem ent of Vehicle
Jan-21	Ludhiana	301272 229743	06CEPP B5183L 1Z4/BA NSAL ASSOCI ATES	18AKGP K7676Q 1Z4/MA RUTI TRADE RS	Panchk ula/133 302	BELTOL A/7810 28	301272 229743 - 02/01/2 021 20:57:0 0	Ba/K/0 47- 02/01/2 021	309028	15451	2701		HR69C 0649	No Record Availabl e for MOVEM ENT OF VEHICL E
Jan-21	Ludhiana	301272 230815	06CEPP B5183L 1Z4/BA NSAL ASSOCI ATES	18AKGP K7676Q 1Z4/MA RUTI TRADE RS	Panchk ula/133 302	BELTOL A/7810 28	301272 223081 5 - 02/01/2 021 21:07:0 0	Ba/K/0 50- 02/01/2 021	323932	16197	2701		HR46E0 239	Lasedi Toll Plaza Rajasth an To Samakh iali Toll Plaza, Gujarat 370147

It appears from the statement above that atleast in one case there was no record that the truck reached Beltola and in the other one, although

the destination of the truck was Beltola, the truck went to Gujarat.

[10] It has further been submitted by Mr. Keyal, that considering the huge amount of alleged tax evasion, involvement of a chain of persons and also the materials so far collected with regard to connivance and active participation of the present petitioner, as indicated above, and a huge number of documents/papers to enable the concerned authority to conduct a thoroughly detail investigation, prayer for bail be rejected.

[11] The Hon'ble Supreme Court, in the case of ***Y.S. Jagan Mohan Reddy -vs- Central Bureau of Investigation***, reported in ***(2013) 7 SCC 439***, held as follows:-

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

[12] I have considered the materials on record and found that this complaint alleged a huge economic offence and therefore, a thorough and detail investigation is essential. Further, considering the materials so far collected by the Investigating Agency in respect of manipulation of invoices, etc and the role of this petitioner in facilitating commission of the offence of huge

tax evasion of Rs. 28,97,85,917/-, the enlargement of the petitioner on bail, at this stage, is likely to hamper the investigation and tamper evidence which may amount to compromising with the entire investigation of the case.

[13] This Court has also taken note of the fact that the investigation of the case, involves a huge number of documents to be examined at different levels and at different places necessitating reasonably sufficient time to the Investigating Agency.

[14] In view of the observations made in para 12 and 13 above, the prayer for bail of the petitioner stands ***rejected***, at this stage.

[15] The petition stands disposed of accordingly.

[16] Return the records produced before this Court.

JUDGE

Comparing Assistant