

**IN THE COURT OF SH. ANIL ANTIL, ASJ-04, PHC, NDD,  
NEW DELHI**

Bail Application No. 1676/21  
FIR No. DZU/INV/GST/A894/2021  
PS: DGGI, R.K. Puram  
U/s. 132 (1) (b) & (c) CGST Act 2017  
**State Vs. Yogesh Kumar Goyal**

31.08.2021

Matter taken up through Video Conferencing from residence.

Present : Sh. Ramesh Gupta, learned Senior counsel alongwith Sh. Shailendra Singh, learned counsel for the applicant /accused Yogesh Kumar Goyal (through V/C).

Sh. Harpreet Singh, learned Senior Standing Counsel along with IO for the Department DGGI (through V/C).

1. By virtue of filing the present application under Section 439 Cr.P.C, regular bail is prayed on behalf of the applicant/accused Yogesh Kumar Goyal.

2. On receipt of the present application, notice of the application was issued to the respondent/ Department DGGI and after appearance through counsel on Video Conferencing, department choose to file reply to the application and accordingly a detailed reply to the same has been filed by opposing the grounds taken in the application.

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3. The copy of the reply to the application u/s 439 Cr.P.C filed by the department was supplied to learned Senior counsel for the applicant/accused through electronic mode.

4. On completion of the pleadings, arguments were addressed on behalf both the parties. Sh. Ramesh Gupta, learned Senior counsel addressed his submissions on behalf of applicant/accused and Sh. Harpreet Singh, learned Senior Standing counsel on behalf of the DGGI department.

5. It is argued by learned senior counsel that applicant has been associated as Director of M/s Urja Global Limited for the last eight years, it is a public listed company on stock market for the last 29 years, having more than 3 lakhs shareholders ; is improved Channel Partners of Ministry of New & Renewable Energy (MNRE) ; is important player in the filed of renewable energy and development of new technologies, engaged in designing, consultancy, integration, supply, installation, commissioning and maintenance of off-grid and grid connected Solar Power Plants concerning solar product.

6. It is further argued that M/s Urja Global Limited cannot be termed as non-operational or non-existing company ; the department has failed to understand that company is not a manufacturing company, it is only a trading company, no manufacturing activities was done at the premises of the company and at present the firm had shifted its registered office and functioning from 487/63, 1st Floor, National Market, Peeragarhi, New Delhi 87, this address has duly been acknowledged to the department by taking necessary steps as per law.

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7. It is further argued that accused company used to buy Batteries Panel, Solar Panel, Inverters etc from the different companies, used to sell them directly to M/s Jetibai Grandsons Pvt Ltd and there is no questions to pass on the input credit to the buyers which they used to receive from the service, however, the accused company used to deposit the additional tax on their gross income as per law ; that all the transactions of input and output tax claims are uploaded on the website by directly uploading on the GST portal since the dealings were with the registered company ; that no invoices ever issued by M/s Jetibai Grandsons Pvt Ltd in order to claim any input tax credit on the strength of invoices generated from said company and importantly the remand application did not mention details of even a single invoice on the basis of which ITC claim was sought.

8. It is argued further that the arrest of the applicant/accused is illegal, without complying the requirements of law by the officials of the GST, even the grounds of the arrest was not disclosed which is a serious infirmity and would make the arrest and detention illegal ; that the applicant do not have any business relationship or dealings with the suppliers L-1, which are bogus and have been mentioned deliberately by the department in the remand application to implicate the applicant /accused falsely.

9. It is further submitted that all the proceedings were conducted by the department in a malafide manner with the intentions to falsely implicate the accused in the present case after introducing bogus invoices and income tax credit to show that he has caused loss of Rs. 17.21 crores.

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It is further argued that the requisite GST has already been paid and no revenue loss to the government exchequer has been caused by the acts of the applicant/accused till date. It is thus forcefully submitted that the applicant has no connection whatsoever with the other two firms/companies, which have also been made co-accused in the present case. It is stated that the other two said firms/companies are separate and they have been made accused in the present case merely to inflate and exaggerate the alleged tax inputs in dispute.

10. It is vehemently argued by the Id. Senior counsel that any criminal proceedings initiated by the department prior to adjudication proceedings is bad in law. In support of his contentions a strong reliance is placed upon the judgment of Make My Trip Vs. UOI 2016 (44) STR 481 (Delhi). M/s Jayachandra Alloys Private Limited v/s Supdt. Of GST & Ors Writ Petition No. 5501 of 2019. AND Ritesh Aggarwal v/s DGST wherein cancellation of bail has been stayed by the Hon'ble High Court.

11. It was also urged that maximum punishment provided in the act is about 5 years i.e less than 7 years and the department has failed to comply with the mandatory provisions of section 41 and 41A of Cr.P.C. In support of his submissions he has relied upon the judgment of Arnesh Kumar v. State of Bihar & Anr., Criminal Appeal No. 1277 of 2014 , wherein it was held that the mandate of Sections 41 and 41A of the Code of Criminal Procedure, 1973 (CrPC) should be taken care of for offences alleged under the CGST/Finance Act which is required to be followed in the case of the Applicant as well.

12. Next, it is further urged that applicant/accused is a man of

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young age, is in J.C since 23.07.2021 ; has already provided the true and correct information available with him bonafidely during the course of investigation ; has not concealed or suppressed any material piece of evidence available with him and fully co-operated the Officers of the concerned department ; is not required for further investigation or custodial interrogation and same is complete qua him and no useful purpose would be served by keeping him behind the bars.

13. Lastly, it is argued that applicant/accused belongs to a respectable family and there is no reasons or apprehension that he would flee from justice, tamper the evidence or influence the witnesses of the prosecution ; that in case he is ordered to be released on bail, he undertakes to abide by any terms and conditions, if imposed, by the learned court or deems fit to safeguard the right of liberty of the applicant/accused provided to him as per law.

14. **Per Contra**, the bail application is strongly opposed by the learned Senior Standing counsel for the department submitting that applicant has concealed the material facts, is connected with four other companies, procured bogus bills from the non existent companies, utilized the same to claim ITC from the department and has caused a huge loss to the government exchequer ; the investigations are at initial stage and exact amount of loss is yet to be ascertained and there is possibility that it may be in hundreds of crores.

15. It is argued that investigations were conducted at the premises of various firms at Delhi and Chennai related to the applicant/accused and it was discovered that M/s Microlyte Energy (P) Ltd

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and M/s Urja Global Limited have availed and utilized ITC of Rs. 55.10 Crores and Rs. 17.21 Crores on the strength of invoices procured from the non-existent and cancelled firms at L1 and L2 stage fraudulently ; and from his own statements, it is revealed that accused company had issued invoices without actual supply of goods or services to pass on fake ITC of GST on bogus invoices to the fictitious, non- existent or non-functional firms/companies without actual movement of goods.

16. Learned Senior Standing counsel further stated that M/s Microlyte Energy (P) Ltd issued invoices for the value of Rs.184 Crores involving ITC of Rs. 46.76 Crores through a non existent firm M/s Sun Automation Ltd to M/s Jetibai Grandsons Services (P) Ltd and MEPL directly issued service-less bills for the value of Rs. 48 crores involving GST of Rs. 8.6 crores to JGSPL and similarly M/s Urja Global Limited also issued invoices for the value of Rs. 83.46 crores involving ITC of Rs.18.5 crores directly issued good less invoices to M/s Jetibai Grandson Services P Ltd. and as per the investigation carried out so far has committed the offence u/s 132(1)(b) of the CGST Act, 2017.

17. Learned Sr. Standing counsel further argued that during the investigations, applicant/accused has failed to co-operate with the department, has not provided the complete, comprehensive and valuable information and records of the case crime which are relevant and necessary to conclude the investigation of the case.

18. Learned senior Standing counsel further argued that even applicant/accused had failed to provide the address of the fictitious and non existent firms/companies, the names of which have revealed during

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their investigations, or the name of their owners, contact numbers, or the addresses and places where goods were supplied, which are of vital aspects for the progress of the investigation of the matter.

19. Further, Learned Senior Standing counsel traversed through the Chart in a table form in his reply, to show that the names and the details of the firms mentioned in it are non existent and fictitious firms and the entire offence has been committed through a well planned conspiracy.

20. Learned Senior Standing counsel also submitted that efforts were made by the department to serve notice to the said firms with which the company of the applicant/accused allegedly carried out his business and has claimed ITC refund, but despite sincere efforts all went in vain. That efforts were also made by the IO by visiting the addresses of the said firms to make queries qua the status of said firms but most of them were found to be non existent at the given addresses.

21. It is further argued that investigation is at nascent stage, statement of accused persons recorded wherein they admitted the commission of the offence ; and importantly, the persons/owners of the alleged vehicles used in transportation have totally denied their knowledge about the transactions, nor the said vehicles were used to deliver the goods as claimed ; number of other accused persons are yet to be apprehended, interrogated and arrested ; accused alongwith his accomplice is the mastermind of creating the fake firms and is responsible for availing/passing off Input Tax Credit from the fake/bogus firms, highlighted in the table form of the reply filed on record ; and there is a strong apprehension that if the applicant/accused is enlarged on bail, at

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this stage, he may influence the prosecution witnesses and hamper or tamper the investigation of the case by exerting his influence. There is also every likelihood that the applicant/accused may flee from justice as substantial amount of incriminating material has surfaced against him in the present case.

22. It is, thus prayed that in the circumstances explained above, the further judicial custody of the applicant/accused is warranted, therefore, his application for grant of bail be dismissed.

23. Heard and record perused and I have also meticulously gone through the documents produced by the parties for consideration of bail application.

24. At the very outset, it is stated that there is no hard and fast rule nor any precedent that completion of 30 days in judicial custody entitles the applicant/accused to be released on bail, as was argued by learned senior counsel.

25. And importantly, the material placed on record by the prosecution, which has surfaced on record during investigation conducted so far, the factum of existent of such firms is seriously under cloud. As was rightly highlighted by the learned Senior Standing Counsel, the said firms appears to exist only on papers and the entire so called business transactions seems to have been manipulated by the applicant himself. Prima facie complicity of the applicant/accused in the present case is evident from the records of the case.

26. So far as judgment of MakeMyTrip is concerned, as rightly submitted by the Id. Counsel, the issue therein primarily was regarding

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classification of goods under Service Tax ; secondly and importantly, the Hon'ble Court was of the view that there is no prima facie material on record against the accused persons therein and hence relief was granted. But in the present case, the entire act of the applicant/accused indicates cheating and forgery on his part, based upon false, fabricated and forged documents wherein the Input tax credit in crores of rupees have been claimed by floating fictitious companies. The raising of false and forged bills without actual supply of goods or services to the said fictitious, non-operational and non-existing firms to avail fake input tax credit of GST is a grave offence causing loss to the government exchequer.

27. Additionally, reliance is placed on the judgment of **Y.S. Jagan Mohan Reddy Vs. CBI (2013) 7 SCC 439** wherein it was held : *“Economic offences constitute a class apart and needs 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 need to be viewed seriously and considered as grave offence affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.”*

28. Further, it is evident from the record that one of the main accused/Managing Director of applicant's ( M/s Urja ) is absconding, is evading the process of law which is hampering the further investigation of the case ; and if the applicant is enlarged on bail at this stage there is strong possibility of him influencing the prosecution witnesses and / or hampering the investigation of the case.

29. Thus, in light of my above discussion and taking note of the

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nature of accusations and severity of the offences alleged ( economic offences ), and that investigation is still at nascent stage ; number of accused persons are absconding and evading the process of law ; the entire incriminating material is yet to be recovered, additionally, as noted above, the Managing Director of the company is absconding and there is strong possibility of the applicant interfering in the investigation and/or influencing the witnesses of the case, if enlarged on bail, at this stage of the case, hence, no grounds for grant of bail is made out. Accordingly, the bail application under section 439 Cr.P.C of applicant/accused **Yogesh Kumar Goyal** stands disposed off as dismissed.

30. Ordered accordingly.

31. Copy of order be given to all the concerned parties through electronic mode as well as dasti.

32. The order be also uploaded on the official website of the court.

33. Proceedings were conducted through video conference and there was complaint of any technical glitches nor there was any grievance regarding the audio and video transmission.

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Addl. Sessions Judge-04,  
New Delhi District, Patiala House Courts  
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