



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

234

CRM-M-48645-2025

Date of Decision : 03.11.2025

GAURAV BABU JAIN

...Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Ms. Urvashi Dhugga, Advocate,
Mr. Harsh Sethi, Advocate and
Mr. Raghav Luthra, Advocate
for the petitioner.

Mr. Vishal Singh, AAG, Haryana.

Mr. Sunish Bindlish, Advocate and
Ms. Ridhi Bansal, Advocate
for respondent No.2- CGST.

AARADHNA SAWHNEY, J. (ORAL)

1. This petition for grant of bail under Section 483 BNSS, has been filed by petitioner, an accused in criminal complaint case bearing **COMA No.201/2025 dated 13.06.2025** titled "**Central Goods & Services Tax Vs. Gaurav Babu Jain**" registered against him for the commission of offence punishable under Clauses (b), (c) and (l) of Section 132 (1) of CGST Act, 2017.

2. In brief, the allegation against petitioner is that he created/setup and elaborate network of 11 tax paying bogus firms solely for the purpose of generating fake invoices and passing fraudulent Input Tax Credit. It has been alleged that petitioner defrauded the State Exchequer of over Rs.16 crores. In the complaint filed by the complainant-department, it has been averred that on



the basis of intelligence received from the Data Analytics and Research Cell (DARC), CGST, Gurugram, regarding suspicious firms, investigation was initiated against 09 firms registered in Gurugram that were involved in availing and passing of Fraudulent Input Tax Credit. In the complaint, the details of the above 09 taxpayers have been mentioned. It was noticed that these suspected firms shared a common email-id (summetenterprises@rediffmail.com). Further all 09 suspicious firms were non-existent, same electricity bill/meter number with modified particulars were used for obtaining GST registration of multiple firms, as well as fabricated rent agreements were used. Even call detail records of the mobile numbers registered with these fake firms, as per complainant-department, indicated that they were being used in the mobile handsets with specific IMEI numbers linked to petitioner's network.

On the basis of incriminating documents collected by the department, search was conducted on 17.04.2025 at the residential premises of petitioner and his associate, as also in his office. Statement of petitioner was recorded, who admitted his role in operating fake firm.

In crux, the allegation against petitioner is that he is the mastermind, who operated 11 bogus firms registered under the CGST in Gurugram, wrongfully availed ITC of Rs.15,68,43,188/- and further passed on the ITC amounting to Rs.16,71,14,146/-.

Petitioner, who was arrested on 18.04.2025 has been in custody since then. Complaint was filed before the competent Court after completion of necessary investigation/enquiry, the same is pending before the Court.



3. Twice applications for grant of bail moved by the petitioner before the learned Additional Chief Judicial Magistrate, Gurugram, were dismissed vide orders dated 08.05.2025 & 25.07.2025 (Annexures P-8 & P-10), respectively. Learned Additional Sessions Judge, Gurugram, as well dismissed the applications for grant of bail vide orders dated 21.06.2025 & 13.08.2025 (Annexures P-9 & P-11), respectively. Aggrieved of the same, present petition has been filed.

4. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. On 17.04.2025 at around 09.00 AM, CGST officials conducted search of the house of the petitioner, seized various documents, mobile phones, laptops etc., he was threatened to make incriminating statements and out of sheer fear, he suffered a statement. He was also summoned under Section 70 of the CGST Act to appear in the office of Principal Commissionerate, CGST, Gurugram. He duly cooperated in the investigation, but was wrongfully arrested on 18.04.2025. Learned counsel further submits that no ground of arrest or reasons to believe were supplied to the petitioner, who is not a signatory, director or beneficiary in either of the said firms, thus, did not get any benefit out of the alleged bogus ITC in his account.

The second leg of submission raised by learned counsel for petitioner is that investigations qua him are complete, challan has been filed. Considering his clean antecedents, as also the fact that completion of trial would take long time, the offences allegedly committed by him (being Magisterial triable) are punishable with imprisonment which may extend to



maximum period of 05 years, lenient view deserves to be taken in his favour by allowing the present petition.

In support of his submissions, learned counsel places reliance on following judgments:-

- (i) ***Ganga Ram Vs. State of Punjab, (2021 (44) GSTL 5) of this Court.***
- (ii) ***Ratnambar Kaushik Vs. Union of India, (2022) 1 Centax 278 (SC)*** of Hon'ble Supreme Court.
- (iii) ***Vishal Chauhan Vs. Haryana State GST (Intelligence Unit), Rohtak, ((2024) 21 Centax 434)*** of Punjab and Haryana High Court.
- (iv) ***Ashutosh Garg Vs. Union of India, ((2024) 20 Centax 595 (SC)).***
- (v) ***Sandeep Singhal Vs. DGGSTI, ((2024) 16 Centax 443)*** of Rajasthan High Court.
- (vi) ***Manish Kumar Vs. Directorate General, Goods and Services Tax Intelligence Zonal unit, Ludhiana, (2025-TIOL-1233-HC-P&H-GST).***
- (vii) ***Manoj Gupta Vs. Union of India and others, in CRM-M No.20320 of 2025*** of this Court, decided on 10.07.2025.

4. While opposing the petition, detailed reply has been filed by the respondent-department reiterating that petitioner is the mastermind of the entire network i.e. the activity of creating bogus firms under GST, Gurugram for the generating fake invoices, passing fraudulent Input Tax Credit without actual supply of goods causing huge loss of over Rs.16 crores to the State Exchequer. Learned counsel further submits that entire search proceedings were conducted in the presence of two independent witnesses in accordance with law, thus no question of any threat, coercion or intimidation against the petitioner arises and petitioner himself voluntarily admitted regarding his role



in operating various bogus firms, purchasing their credentials, issuing fake invoices and passing fraudulent ITC. Petitioner's statement fully corroborated with the statement of his accountant, namely, Vivek Kumar Pandey, who admitted that he was hired by the petitioner to generate bogus invoices, e-way bills and for filing returns for the fake firms. Further investigation reveals that all the major suppliers of bogus taxpayer firms were found to be non-existent and petitioner himself. The evidence collected during the course of investigations, statements recorded of various concerned persons, have also been referred to in the reply.

Learned counsel for Respondent-department has also referred to judgments of Hon'ble Supreme Court, as also that of the other High Courts, in support of his stand that petitioner, at whose instance these transactions of goods-less invoices occurred/created does not deserve the concession of bail, for if the relief sought for is extended, there is every likelihood of him (petitioner) indulging in same offence, fleeing from the process of justice by not appearing in the Court and to tamper with the evidence. Dismissal of the petition has been prayed for.

Learned counsel for the respondent-department has placed reliance on the following judgments:-

- 1) ***SFIO Vs. Nitin Johari and another, in Crl. Appeal No.1381/2019 dated 12.09.2019*** of Hon'ble Supreme Court.
- 2) ***Narain Popli Vs. CBI, (AIR 2003 SCC 3257)*** of Hon'ble Supreme Court.
- 3) ***P.V. Ramana Reddy Vs. Union of India in Writ Petition No.4764 of 2019*** of Telangana High Court.



4) ***Shailesh Rajpal Vs. Commissioner, (2020 (32) G.S.T.L. 336)*** of Madhya Pradesh High Court.

5. I have the learned counsel for the parties and with their able assistance also gone through the material available on record.

6. Before expressing any opinion on the merits of the rival contentions raised by both the learned counsel, it would be appropriate to carefully go through Section 132 CGST Act, which reads 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 year 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;”

A bare perusal of the aforesaid provision leaves no doubt that the offences alleged to have been committed by the petitioner are punishable with imprisonment for a term which may extend to 05 years and fine, meaning thereby that the maximum terms of imprisonment is 05 years.

Economic offences by their very nature pose threat to the State’s financial stability and deserve to be dealt with sternly. Question that arises is as to what criteria/factors/circumstances need to be kept in mind while dealing with the petition for grant of bail in such economic offences. At this stage, it would be most appropriate to refer to recent judgment of Hon’ble Supreme Court in **“Vineet Jain Vs. Union of India (Criminal Appeal No.2269 of 2025 (arising out of SLP(Crl.) No.4349 of 2025))**, wherein while discussing the current state of affairs with regard to grant of bail arising out of CGST cases, it was held as under: _

“The offences alleged against the appellant are under Clauses (c), (f) and (h) of Section 132(1) of the Central Goods and Services Tax Act, 2017. The maximum sentence is of 5 years with fine. A charge-sheet has been filed. The appellant is in custody for a period of almost 7 months. The case is triable by a Court of a Judicial Magistrate. The sentence is limited and in any case, the prosecution is based on documentary evidence. There are no antecedents.



*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.***

Appropriate here would also be to refer to judgment of Hon'ble Supreme Court in *Sanjay Chandra Vs. CBI, (2012(1) SCC 40)*, wherein the Sessions Court and the High Court had declined the bail applications of the accused, who had been alleged of committing forgery and cheating, on the ground that the offences are serious, involved deep rooted planning and huge loss had been caused to the Exchequer, as also that if allowed the relief of bail the possibility of accused tampering with the evidence could not be ruled out. In that context, Hon'ble Supreme Court held as under:-

*“43. When the undertrial prisoners are detained in jail custody to an indefinite period, Article 21 of the Constitution is violated. Every person, detained or arrested, is entitled to speedy trial, the question is: whether the same is possible in the present case. There are seventeen accused persons. Statement of the witnesses runs to several hundred pages and the documents on which reliance is placed by the prosecution, is voluminous. The trial may take considerable time and it looks to us that the appellants, who are in jail, have to remain in jail longer than the period of detention, had they been convicted. **It is not in the interest of justice that accused should be in jail for an indefinite period. No doubt, the offence alleged against the appellants is a serious one in terms of alleged huge loss to the State exchequer, that, by itself, should not deter us from enlarging the appellants on bail when there is no serious contention of the respondent that the accused, if released on bail, would interfere with the trial or tamper with evidence.** We do not see any good reason to detain*



the accused in custody, that too, after the completion of the investigation and filing of the charge-sheet.

44. This Court, in the case of ***State of Kerala v. Raneef, 2011(1) RCR (Criminal) 381 : 2011(1) Recent Apex Judgments (R.A.J.) 116 : (2011)1 SCC 784***, has stated :-

"15. In deciding bail applications an important factor which should certainly be taken into consideration by the court is the delay in concluding the trial. Often this takes several years, and if the accused is denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody? Is Article 21 of the Constitution, which is the most basic of all the fundamental rights in our Constitution, not violated in such a case? Of course this is not the only factor, but it is certainly one of the important factors in deciding whether to grant bail. In the present case the respondent has already spent 66 days in custody (as stated in Para 2 of his counter-affidavit), and we see no reason why he should be denied bail. A doctor incarcerated for a long period may end up like Dr. Manette in Charles Dicken's novel A Tale of Two Cities, who forgot his profession and even his name in the Bastille.

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39. Coming back to the facts of the present case, both the Courts have refused the request for grant of bail on two grounds :- The primary ground is that offence alleged against the accused persons is very serious involving deep rooted planning in which, huge financial loss is caused to the State exchequer ; the secondary ground is that the possibility of the accused persons tempering with the witnesses. In the present case, the charge is that of cheating and dishonestly inducing delivery of property, forgery for the purpose of cheating using as genuine a



forged document. The punishment of the offence is punishment for a term which may extend to seven years. It is, no doubt, true that the nature of the charge may be relevant, but at the same time, the punishment to which the party may be liable, if convicted, also bears upon the issue. Therefore, in determining whether to grant bail, both the seriousness of the charge and the severity of the punishment should be taken into consideration.

40. The grant or refusal to grant bail lies within the discretion of the Court . The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the Court , whether before or after conviction, to assure that he will submit to the jurisdiction of the Court and be in attendance thereon whenever his presence is required.

41. This Court in Gurcharan Singh and Ors. v. State, AIR 1978 Supreme Court 179 observed that two paramount considerations, while considering petition for grant of bail in non-bailable offence, apart from the seriousness of the offence, are the likelihood of the accused fleeing from justice and his tampering with the prosecution witnesses. Both of them relate to ensure of the fair trial of the case. Though, this aspect is dealt by the High Court in its impugned order, in our view, the same is not convincing.

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46. We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardise the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to allay the apprehension expressed by CBI.”

(emphasis added)

Further still, recently, in **Ashutosh Garg’s case (supra)**, Hon’ble Supreme Court granted bail in a matter where the accused defrauded the State exchequer of Rs.1032 crore as Input Tax Credit by creating 294 fake firms, citing long custody of 09 months as well as the fact that maximum punishment in the offence under Section 132 CGST Act is 05 years.

A two Judge bench of the Hon’ble Supreme Court in **Ratnambar Kaushik’s case (supra)**, deliberated upon the largely documentary and electronic nature of evidence as well as the prolonged trial in matters pertaining to tax evasion under the CGST Act, where the accused had undergone about 4 months of custody, and opined as follows:

“6. In considering the application for bail, it is noted that the petitioner was arrested on 21.07.2022 and while in custody, the investigation has been completed and the charge sheet has been filed. Even if it is taken note that the alleged evasion of tax by the petitioner is to the extent as provided under Section 132(1)(i), the punishment provided is, imprisonment which may extend to 5 years and fine. The petitioner has already



undergone incarceration for more than four months and completion of trial,

in any event, would take some time. Needless to mention that the petitioner if released on bail, is required to adhere to the conditions to be imposed and diligently participate in the trial.

Further, in a case of the present nature, the evidence to be tendered by the respondent would essentially be documentary and electronic. The ocular evidence will be through official witnesses, due to which there can be no apprehension of tampering, intimidating or influencing. Therefore, keeping all these aspects in perspective, in the facts and circumstances of the present case, we find it proper to grant the prayer made by the petitioner.

7. Hence, it is directed that the petitioner be released on bail subject to the conditions to be imposed by the trial Court, which among others, shall also include the condition to direct the petitioner to deposit his passport. Further, such other conditions shall also be imposed by the trial Court to secure the presence of the petitioner to diligently participate in the trial. It is further directed that the petitioner be produced before the trial Court forthwith, to ensure compliance of this order.”

(emphasis added)

It thus emerges that even in cases involving economic offences, the Court seized of the matter has to go through the gravity of the offence, the object of the Act, the attending circumstances, etc. Thus, economic offences cannot be categorized in one group and the Court should not proceed on the presumption that “Denial of Bail is the Rule and grant being the exception”.

In the case in hand, the allegations against petitioner are that he is key-person in creating/operating of 11 taxpayer firms and wrongfully availed/passed input tax credit amounting to Rs.16 crore, thus, causing loss to



the State Exchequer. These claims are yet to be proved. The fact that he has been in custody since 18.04.2025, has been admitted by the respondent department. His (petitioner's) further detention is not justified as the evidence to be rendered by complainant-department is primarily documentary and electronic. The same (further incarceration) would be violative of his rights under Article 21 of the Constitution of India, including right to speedy trial and would, thus, also be against the principle of "*Bail is a general rule and incarceration is an exception*" as held by Hon'ble Supreme Court in ***Dataram vs. State of Uttar Pradesh and another, 2018(2) R.C.R. (Criminal) 131.***

Resultantly, petitioner is granted the concession of bail subject to his furnishing bail/surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned. The petitioner shall abide by the following conditions:-

- (i) The petitioner will surrender his passport and will not leave the country without prior permission of the trial Court.
- (ii) The petitioner will not tamper with the evidence during the trial.
- (iii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iv) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (v) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
- (vi) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
- (vii) The petitioner shall not in any manner misuse his liberty.
- (viii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior

- intimation to the learned Trial Court, stating the reason for the same.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

Accordingly, the present petition is allowed and it is made clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AARADHNA SAWHNEY)
JUDGE

03.11.2025
Nisha Yadav

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No