# Vardhman Jain v. Union of India

CRIMINAL MISC. BAIL APPLICATION No. 9017 of 2023 | Decision: 2023-05-17 | Allahabad High Court

This PDF is a faithful local rendition of the full text returned by the issuing court's official e-AHCR judgment database. It is not represented as the court's original-layout PDF. Verify the neutral citation and official source before professional reliance.

Neutral Citation No. - 2023:AHC:127068

Court No. - 92

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 9017 of 2023

Applicant :- Vardhman Jain Opposite Party :- Union of India Counsel for Applicant :- Atul Kumar Singh Counsel for Opposite Party :- A.S.G.I.

Hon'ble Mohd. Azhar Husain Idrisi,J.

1. Heard learned counsel for the applicant, learned counsel for the opposite party and the learned A.G.A.

2. This is an application for bail on behalf of the applicant- Vardhman Jain in Case No. 4294 of 2022 under Section 132(1) (b) & 132(1)(i) of the C.G.S.T. Act 2017, P.S./Department DGGI Meerut, District Meerut.

2. In short, the prosecution case is that an intelligence report was received by the Meerut Zonal Unit of DGGI that the accused- applicant is involved in creation and operation of various non-existent/fictitious firms to supply fake invoices to various beneficiaries for fraudulently passing on the benefit of Input Tax Credit without supply of any underlying goods/services. Based on above information and inquiry, summon was issued to the applicant-accused and his statement was recorded on 23.12.2022 and 24.12.2022 wherein he accepted the creation and operation of various non- existent/fictitious firms. A search was also conducted at the office address of the accused- applicant and during search of office premises, 174 stamps, 49 mobile phones, 41 cheque books and 31 pass- books were seized in presence of the accused- applicant. It is said that the during the course of investigation, the accused-applicant admitted that he had created and operated 87 non-existence/fictitious/non-operational firms to fraudulently pass on the benefit of Input Tax Credit (in short referred to as "ITC') to the tune of Rs. 3,13,67,44,364/- to various beneficiaries on the strength of fake invoices without making supply of any good/services and also accepted his GST liability of aforesaid amount i.e. 3,12,67,44,364/-.

3. Learned Counsel for the applicant has vehemently argued that the applicant is an innocent person having no criminal antecedents, who has falsely been implicated in the aforesaid case without there being any incriminating material against him and was illegally arrested at the behest of some influential person. It has also been urged that the applicant-accused has

fully cooperated with the investigating agency and it is not the case of prosecution that the accused during the period of remand or on any earlier occasion had not cooperated. There is not a flight risk and chances of ever absconding or fleeing the prosecution as he is a permanent resident of Loni Ghaiziabad and is presently residing at Delhi.

4. Learned Counsel for the accused-applicant has also urged that the alleged offences cannot be said to be heinous offences but are of financial in nature for which the maximum punishment is upto 5 years. There are no chances of tampering the evidence or influencing the prosecution witnesses in any manner.

5. Lastly, learned Counsel for the applicant has argued that looking to the gravity of the offense and involvement of huge amount in the matter cannot be the sole ground for denial of bail and in this regard has invited my attention towards the judgment rendered by the Hon'ble Supreme Court in the case of Sanjay Chandra Versus CBI (20122)1 SCC 40.

6. Denying the allegations of the applicant, learned Counsel for the Department has submitted that the accused-applicant in his statement recorded on 5.1.2023 has stated that all the 72 cheque books and

passbooks seized from his office premises were maintained by him only to carry out banking/financial transactions in respect of the various non-existent/fictitious firms created and operated by him and all these cheque books and pass books are either in the name of various non- existent/fictitious firms created and operated by him or in the name of the proprietors of these non-/existent/fictitious firms. It has also been submitted that during the course of investigation, statements of various proprietors of these non-existent firms were recorded, who had stated that their documents such as PAN card, Aadhar card etc. were gathered from them by giving a loan offer or by telling them that their documents are required to register them in a Government Scheme and they would get Rs. 2000-3000/ per month and had showed their ignorance about running of any proprietorship firm under their name. It has also been submitted that these proprietors are poor people, who worked as cobbler, house-keeper, cleaners or house wives and they gave their documents in lure of getting Rs. 2000-3000/- per month. Thus, it is established from the evidence on record that the applicant-accused is a kingpin, who himself created and operated 87 non-existent/fictitious firms which the help of employees hired by him.

7. Elaborating his submissions, learned Counsel for the Union of India has submitted that after issuance of summon, the

accused-applicant appeared in the office and his statement under Section 70 of the CGST Act, 2017 was recorded on 23.12.2022 in which he admitted regarding creation and operation of 87 non-existent/fictitious/non-operational firms to fraudulently pass on the benefit of ITC to the tune of Rs. 3,13,67,44,364/- to various beneficiaries on the strength of fake invoices without supply of any underlying goods/services and the accused-applicant also admitted his GST liability of the aforesaid amount. Therefore, after due approval of the competent authority, the applicant-accused was arrested on 24.12.2022. In these circumstances, the applicant is not entitled for bail at this stage as it is apprehended that in case the applicant is enlarged on bail, he may adversely affect the investigation of the case inasmuch as he may tamper with the evidence or induce, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts during the course of investigation.

8. Opposing the prayer for grant of bail, the learned counsel appearing for the Union of India has submitted that the applicant is an economic offender and he has caused huge amount of loss of Government Revenue to the tune of Rs. 3,13,67,44,364/- by creating fake firms and by issuing bogus invoices and by wrongly claiming input tax credit.

9. Learned counsel for the Union of India has submitted that from the material recovered from the premises of the applicant during the search and from the analysis of the data available on the mobile phone recovered during the search, it is established that the applicant was the master-mind behind the large scale evasion of GST by issuing fake invoices and thereby wrongly claiming Input Tax Credit and that he was in control of 87 bogus firms that had been created by him for issuing fake invoices.

10. At this juncture, it would be relevant to mention that Hon'ble Supreme Court in the case of State of Bihar Vs. Amit Kumar, 2017 (13) SCC 751 has held that "socio-economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. Usually socio-economic offence has deep rooted conspiracies affecting the moral fiber of the society and causing irreparable harm, needs to be considered seriously.

11. In the case of Chhaya Devi Vs. Union of India, 2021 (52) GSTL 390 (Alld.), a coordinate Bench of this Court has held as under:-

"14. The offence alleged against the applicant is economic offence in

which the evasion of duty amounting Rs. 62,10,28,165/- is made against the applicant. Although the offence is punishable with imprisonment of five years yet the evasion of huge amount of duty is a great loss to the Government Exchequer. As such the alleged offence is economic.

15. The Hon'ble Apex Court in State of Gujrat Vs. Mohanlal Jitamalji porwal and others (1987) 2 SCC 364 in para-5 held that the entire Community is aggrieved if the economic offenders who ruin the economy of the State are not brought to books. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate

design with an eye on personal profit regardless of the consequence to the Community. A disregard for the interest of the Community can be manifested only at the cost of forfeiting the trust and faith of the Community in the system to administer justice in an even handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the National Economy and National Interest .......

12. It is relevant to mention that in various judgments of this Court as well as Hon'ble the Apex Court it has been held that in economic offence, the view point is to be taken differently with different approach in case of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be taken 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 as has been held by Hon'ble Apex Court in judgments rendered in Nimmagadda Prasad Vs. Central Bureau of Investigation, (2013) AIR SC 2821, Ram Narayan Popli versus CBI 2003(1)SCR and Serious Fraud Investigation versus Nitin Johri,AIR 2018 SC 4380.

13. Having considered the submissions made by the Counsel for the parties and perusal of the material on record, I am of the view that the applicant-accused has been found with serious allegations as the main accused along with others in claiming false and bogus bills etc and adjusting the same as Input Tax Credit without making any actual transportation of goods or sale of goods and has constituted non-existent/fictitious firms which were operated by him. The amount involved is huge as the accused-applicant has wrongly claimed a relief of more than Rs. 3,13,67,44,364/- and only paper transaction were done without any actual sale.

14. Keeping in view the fact that in the present case the applicant-accused has been charged with economic offence of huge magnitude and the gravity and serious nature of crime committed and applying the proposition as laid down in in the case of State of Bihar and another Vs. Amit Kumar @ Bacha Rai, 2017(3) R.C.R.(Criminal) 690 and in other cases, referred

to above, the accused-applicant is not entitled for bail at this stage. It may be added that for the reasons aforesaid, the case laws relied upon by the learned Counsel for the applicant are of no avail to him.

15. Accordingly, application for bail is rejected. However, considering the fact that the investigation is still going on as indicated in paragraph 16 of the counter affidavit filed by the respondent, the Investigating Agency is directed to complete the investigation as expeditiously as possible i.e. to say within a period of four months. In the event, investigation is not completed within the period prescribed above, the applicant- accused would be free to move the trial court afresh, if he so chooses. It is further provided that in case applicant-accused files a fresh application for bail after expiry of the aforesaid period, the same shall be considered and disposed on merits without being guided by any of the observations made hereinabove, which have been made only for the disposal of the present bail application.

Order Date :- 17.5.2023 M. Tarik

2023-07-03T12:59:12+0530 High Court of Judicature at Allahabad