

Court No. - 84

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 3080 of 2024

Applicant :- Mukesh Kumar Jha

Opposite Party :- Union of India

Counsel for Applicant :- D.M.Tripathi,Rahul Tiwari

Counsel for Opposite Party :- Parv Agarwal

with

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 2991 of 2024

Applicant :- Amit Kumar Jha

Opposite Party :- Union of India

Counsel for Applicant :- D.M.Tripathi,Rahul Tiwari

Counsel for Opposite Party :- Parv Agarwal

with

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 2103 of 2024

Applicant :- Roshan Chaudhary

Opposite Party :- Union of India

Counsel for Applicant :- D.M.Tripathi,Rahul Tiwari

Counsel for Opposite Party :- G.A.

with

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 2920 of 2024

Applicant :- Vansh Pratap Singh

Opposite Party :- Union of India

Counsel for Applicant :- D.M.Tripathi,Rahul Tiwari

Counsel for Opposite Party :- Parv Agarwal

Hon'ble Nalin Kumar Srivastava,J.

1. Since these bail applications arise out of the same case number, they have been heard together and are being decided by a common

order.

2. These bail applications have been moved on behalf of the applicants **Mukesh Kumar Jha, Amit Kumar Jha, Roshan Chaudhary** and **Vansh Pratap Singh** with the prayer to release them on bail in Case No. 2821 of 2023, under Sections 132(1)(b) and 132(1)(i) of C.G.S.T. Act, 2017, Department D.G.G.I., Meerut Unit., Meerut.

3. Heard Shri D.M. Tripathi, learned counsel for the applicants, Shri Parv Agarwal, learned Advocate appearing for the CGST department and perused the record.

4. The prosecution story, in nutshell, is that during search at the office-cum-residence of applicant Mukesh Kumar Jha at RZ 1/82, 3rd Floor, Near Shakuntala Hospital, Vest Sagarpur, New Delhi several articles viz. forged rubber stamp, cheque books, Aadhaar Card, PAN Card, Mobile Phones alongwith SIM cards etc. were recovered. Apart from the said articles, several electronic devices i.e. laptop, external hard disk, mini CPU, pen drives and personal mobile phone of accused Mukesh Jha was also recovered and panchana dated 2.11.2023 was done in the premises itself. On further enquiry, it was gathered that all the work at the said office-cum-residence was being done on the direction of other persons, who have their office at 425-A, Ground Floor, Lal Dora Village, Hastal, Uttam Nagar, Delhi. During visit to the said premises, applicants Amit Kumar Jha, Roshan Chaudhary and Vansh Pratap Singh were found present there and various incriminating documents including cheque books of various bank accounts, KYC (i.e. PAN and Aadhaar Cards) of various persons were resumed through INS-02 dated 2.11.2023. The data retrieval of these devices revealed a list of 102 firms being operated by the syndicate consisting of the aforesaid accused persons. Forensic examination also led to the retrieval of ledgers, invoices, e-way bills, bilties, etc. of these bogus firms being maintained in BG Accounting software. WhatsApp chats retrieved from the mobile phones of the accused persons revealed numerous WhatsApp groups that were being used for works related to the demand and supply of fake GST bills. Apart from this, WhatsApp chat with Aangadiyas revealed RTGS transfers and subsequent sharing of currency notes as tokens for cash transactions. In numerous chats the accused persons have shared the invoices, e-way bills, bank account details and currency notes to the middlemen/other persons of various fake firms. 102 fake firms have been unearthed till date which were created and managed by the syndicate. Out of 102 fake firms unearthed as on date, physical verification of 9 firms i.e. M/s

Aasim Trading Co. (07BYGPA361 INIZJ), M/s Muzahir Trading Co (07BYGPA3611N2ZI), M/s Unique Enterprizes (07BMUPN7397A1ZG), M/s J.R. International Services (07IYEPS6394R1Z), M/s Imran Traders (07AFJPI 1806EIZU), M/s R.K. Enterprizes (07HSCPS4467N1ZV), M/s Reshma Enterprises (07BAKPR8049D1ZE), M/ Jagdamba Enterprizes (07CBCPJ5443H1ZR), M/s Galaxy Trading Co. (07HANPM4273F1ZC) was performed on sample basis. The aforesaid firms were found non-operational at their registered place of business. Landowners of these premises informed that they have never rented-out their premises to any such firms. It reveals that the syndicate was issuing invoices from bogus GST firms. The applicants in their statements dated 2.11.2023, 3.11.2023 and 4.11.2023 confessed that they used to create and operate fake GST firms and issued fake GST invoices from these firms and they are involved in the passing of fake ITC from 102 non-existent firms to the tune of Rs. 274.89 Cr. by way of issuing invoices without any actual supply of goods.

5. It is submitted by the learned counsel for the applicants that the applicants are innocent and they have been falsely implicated in this case by the concerned department. It is further submitted that while the applicants were looking for employment, they met Naveen Aggarwal, a chartered accountant, who offered them employment/ job and asked them to provide their Aadhaar Card, PAN Card and bank details etc. Since they were looking for job for a long time, they gave all their documents to Naveen Aggarwal on the basis of which he cheated them and got many bank accounts opened. It is also submitted that they have been shown to be indulged in unauthorized money transactions falsely. Though the applicants were not aware of said type of work, they used to work for the said Naveen Aggarwal for Rs. 15,000/- each. It is further submitted that neither the applicants own any firm nor have any connection with any firm. The said Naveen Aggarwal has misused the Aadhaar Cards, PAN Cards and other documents of the applicants and falsely implicated the applicants by forming forged firms on the basis of the said documents. They have not issued any fake bills / invoices. Applicants have not caused revenue loss to the exchequer and evaded payment of tax. They have been languishing in jail since 4.11.2023 and in case they are released on bail, they will not misuse the liberty of bail and will cooperate with the trial.

6. On the other hand, learned counsel appearing for the CGST department has submitted that the applicants run fake firms and

issued fake bills / invoices and caused great revenue loss to the government exchequer. They are involved in passing of fake ITC from 102 non-existent firms to the tune of Rs. 274.89 Cr. by way of issuing invoices only without any actual supply of goods. They are involved in illegal financial transactions causing huge loss of public money.

7. I have considered the rival submissions made by the learned counsel for the parties and have gone through the entire record carefully.

8. From the perusal of the record it reveals that when search was made upon the office-cum-residence of the applicant Mukesh Kumar Jha and other accused applicants Amit Kumar Jha, Roshan Chaudhary and Vansh Pratap Singh several objectionable items and incriminating evidence like forged rubber stamps, Aadhaar Cards, PAN Cards, Mobile Phones, cheque books relating to various bank accounts alongwith electronic devices i.e. laptop, external hard disk, mini CPU, pen drives, KYC relating to various persons were retrieved. It was also revealed from the data retrieval of the devices that a number of 102 fake firms were running which were found non-operational at their registered places of business. The accused applicants also confessed in their statements that they are involved in operating fake GST firms and they actually issued fake GST invoices from these firms, which were non-existent without any actual supply of goods or providing services. It also reveals from the perusal of the record that by blaming Naveen Aggarwal the accused persons want to escape from liability whereas there is sufficient and ample evidence to the effect that they themselves were managing the affairs of illegal activities and fake ITC (Income Tax Credit) was availed by them and they were engaged in a number of illegal financial transactions and in such circumstances if they are granted bail, as rightly held by the learned Sessions Judge while rejecting their bail applications, there is a strong possibility of applicants fleeing from justice and also they may tamper with the crucial evidence or make influence to the witnesses. This Court is also of the view that the present matter relates to serious economic offence, which may affect the economy of the country. The applicants have committed gross violation of the provisions of the GST Act. Wrongful availment / utilization of input tax credit amounting to Rs. 315 Cr. has been made by them and this amount will increase a lot with the advancement of the investigation. The Court genuinely feels that at this stage there is no possibility of false implication of the applicants. The maximum period of imprisonment provided for such offence under the GST

Act, which is five years, causes no hindrance in rejection of bail applications in such type of cases relating to economic offences.

9. Before parting, it is pertinent to mention here that the factors for consideration for grant of bail, particularly in the cases relating to economic offences, have been dealt with by the Hon'ble Apex Court recently in **Tarun Kumar vs. Assistant Director Directorate of Enforcement, 2023 SCC OnLine SC 1486** and it has been explicitly held that :

"22. Lastly, it may be noted that as held in catena of decisions, the economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need 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. Undoubtedly, economic offences have serious repercussions on the development of the country as a whole. To cite a few judgments in this regard are Y.S. Jagan Mohan Reddy vs. Central Bureau of Investigation⁸, Nimmagadda Prasad vs. Central Bureau of Investigation⁹, Gautam Kundu vs. Directorate of Enforcement (supra), State of Bihar and Another vs. Amit Kumar alias Bachcha Rai¹⁰. This court taking a serious note with regard to the economic offences had observed as back as in 1987 in case of State of Gujarat vs. Mohanlal Jitmalji Porwal and Another¹¹ as under:-

"5... 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..."

23. With the advancement of technology and Artificial Intelligence, the economic offences like money laundering have become a real threat to the functioning of the financial system of the country and have become a great challenge for the investigating agencies to detect and comprehend the intricate nature of transactions, as also the role of the persons involved therein....."

10. The aforesaid view has been reiterated by the Hon'ble Apex Court in the cases of **Serious Fraud Investigation Office vs. Nittin Johari and another, (2019) 9 SCC 165** and **Nimmagadda Prasad vs. CBI, (2013) 7 SCC 466**.

11. Hence, considering the entire facts and circumstances of the case and keeping in view the nature and gravity of offence, which is an economic offence in nature, complicity of accused, role of the

applicants and without expressing any opinion on the merits of the case, the Court is of the view that the applicants have not made out a case for bail. The bail applications are liable to be rejected and the same are accordingly **rejected**.

Order Date :- 15.3.2024

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