



2025:DHC:8914



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Reserved on: 25th September, 2025*
Pronounced on: 08th October, 2025

+ **BAIL APPLN. 3065/2025**

NARENDER KUMAR

S/o Late Sh. Kishori Lal
R/o Mf-586, Lal Bhadur Shastri
Marg Rajnagar 2 Palam Colony,
Raj Nagar-11 So, South West
Delhi- 110077

.....Petitioner

Through: Mr. Anubhav Singh, Mr. Nitin Kumar
and Ms. Maria Mary Sunil, Advs.

versus

DIRECTORATE GENERAL OF GST INTELLIGENCE

Delhi Zonal Unit (Dggi, Dzu)
1st And 2nd) Floor, Mtnl Building
Dwarka, New Delhi

.....Respondent

Through: Ms. Vertika Sharma, Ms. Khushboo
and Mr. Kunal Goswami, Advs.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Regular Bail Application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (“BNSS”) read with Section 439 of the Code of Criminal Procedure (“Cr.P.C.”), has been filed on behalf of the Applicant, Narender Kumar, in File No. DGGI/INT/14/2024-Gr I-O/o Pr ADG-DGGI-ZU-



DELHIDGGI under Section 132(1)(c)(1) of the Central Goods and Services Tax Act, 2017 (“CGST Act”).

2. The Applicant submits that he was arrested on 04.06.2025 from his residence without any prior service of Summons or Notice under Section 41A Cr.P.C. or Section 35 BNSS, to join the investigation. He was forced to sign the summons after his arrest. However, the *Arrest Memo* and the *grounds of arrest* were provided to him after an inordinate delay of nearly 14 hours, in violation of the principles of natural justice and due process.

3. The Applicant further submits that the *grounds of arrest* do not disclose any role played by the Applicant in the alleged transaction. The Applicant’s arrest had occurred without any prior notice and with a significant delay in providing the arrest documents. The Respondent has not complied with the directions issued by the Apex Court in Arnesh Kumar v. State of Bihar, 2014 8 SCC 273.

4. Further, the details of the alleged transaction and the details of the alleged Firms were not provided at the time of arrest. According to the Applicant, the Officer of the Respondent has failed to comply with their own Departmental Instruction bearing Instruction No. 02/2022-23 [GST-Investigation] dated 17.08.2022 pertaining to the guidelines for arrest and bail in relation to offences punishable under the CGST Act.

5. The Applicant submits that there is nothing incriminating against the Applicant except his Statement under Section 70 CGST Act which he had signed under coercion and duress. He is not able to read and write English and merely knows how to sign. He was shown some words and made to copy them on some pages. Further, the Officers of the Department had gone to Tihar Jail with some printed pages and made him sign the same under



coercion and duress. The Applicant submits that it is settled law that self-incriminating statements without any corroborating material cannot be relied upon.

6. It has further been submitted by the Applicant that he was subjected to physical assault by some of the officers of DGGI at their Office situated in Dwarka during the course of investigation, and the Applicant was forced to sign and affirm the statement dated 04.06.2025 without being informed about the contents of the same. Similarly, for the statement dated 13.06.2025, the Senior Intelligence Officer had taken some printed pages and the Applicant was asked to sign the documents.

7. It is further submitted that Respondent Department has no corroborating material against the Applicant. Even the Proprietors had stated that the KYC documents were obtained by one Kartik Sikka @ Sharad Sikka, and there was no iota of evidence to show any relation between the Applicant and the Proprietors.

8. Furthermore, the alleged intelligence/information which was shared by the Commissioner of Customs, Thoothukudi (formerly called Tuticorin), Tamil Nadu with the Additional Director General of the Respondent, had no mention of the Applicant who had been arrested without any credible material and to show any urgency as to why the custody of the Applicant was required.

9. **Section 132 CGST Act** was amended *vide* Notification No. 92/2020 Central Tax dated 22.12.2020 w.e.f. 01.01.2021 whereby the words “Whoever commits any of the following offences” were substituted by “Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences, namely”. It is the case of the Applicant



that even if the allegations by the Respondent are taken to be true, the Applicant was only alleged to have '*retained the benefits*' which was not an offence on the date as alleged by the Respondents.

10. It is further submitted that the Applicant had preferred a First Regular Bail Application under Section 480 BNSS before Ld. CJM, Patiala House Court on 10.06.2025, wherein the Respondent failed to appear for three consecutive dates and filed its Reply only on 23.06.2025 after an undue delay. The said bail Application was dismissed *vide* Order dated 30.06.2025 without giving any reasons.

11. Further, the Applicant had preferred a First Regular Bail Application under Section 483 BNSS before the Ld. ASJ, which was dismissed by the Ld. ASJ, New Delhi *vide* Order dated 06.08.2025, despite the submissions of Ld. SPP for the Respondent that the prosecution Complaint was already filed on 30.07.2025.

12. It is submitted that Sanction Order on the basis of which the *Prosecution Complaint* is filed, has nothing incriminating against the Applicant.

13. The Applicant submits that he has been in custody since 04.06.2025, i.e. for more than 65 days and the prosecution Complaint-cum-Chargesheet has already been filed and the investigation is complete. Except for the statements of the Applicant, there is nothing in the prosecution Complaint to bring home the charges against the Applicant.

14. It is submitted by the Applicant that he has a fixed place of residence and deep roots in society, eliminating any flight risk. He has no criminal antecedents and is the sole breadwinner of the family. It is submitted that the



prosecution's general apprehension that he may misuse his liberty, cannot outweigh his fundamental right to liberty.

15. It is further submitted that the Applicant is suffering from hypertension and diabetes, which require regular medical supervision and continued incarceration in a custodial environment, could pose a serious risk to his health. The Applicant's mother is a senior citizen and suffering from several ailments and requires continuous medical attention. Additionally, his son is suffering from some *neurological disorder* and also requires continuous medical attention. The minimum medical expenses incurred in the treatment of his mother and son is Rs. 35,000/- per month. The Applicant is the only earning member in the family and it has become difficult for his family to survive. It is further submitted that the school fees of the Applicant's child has not been paid since May 2025 and his name may be struck from the school roll any time if the fees is not deposited.

16. The Ld. Counsel for the Respondent further submits that the accused persons in order to evade payment of Tax would create Input Tax Credit ("ITC") through other channels, such as the establishment of other Firms, for the availment and utilization of bogus ITC, without the actual receipt of goods. In the present case, there were three persons arrested, including the Applicant. The main mastermind behind the operation is still absconding. The DGGI is still in the process of identifying the trails of transactions in the present matter.

17. ***Ld. SPP on behalf of the Department*** has submitted that it is a case of creation of availment and utilization of fraudulent ITC amounting to approximately Rs. 11.50 crores, through the creation of fake Firms. The accused persons, including the Applicant are alleged to be involved in



forming bogus Firms using KYC details of different persons. Dummy Proprietors were created who filed GST Returns in order to receive the refund in the corresponding Bank Accounts. The accused persons are alleged to have prepared outward Invoices and e-way Bills while the goods which did not exist, were invoiced at inflated values, to maximize refund and duty drawbacks. Signatures of the dummy Proprietors were taken on blank cheque books.

18. The Applicant was arrested on 04.06.2025 at 11:30PM, as per the Arrest Memo. Grounds of arrest were supplied to the Applicant on the same date, setting out the allegations and offences against the Applicant.

19. As per the Sanction Order, the arrest has been made on the basis of statement under Section 70 of the CGST Act of the co-accused Mr. Kartik Sikka @ Sharad Sikka. Thereafter, statement of the Applicant was recorded under Section 70 of the CGST Act. The prosecution Complaint has been filed on 30.07.2025.

20. In response to the Applicant's submission regarding the inapplicability of Section 132 as it stood prior to the amendment w.e.f. 22.12.2020, it is submitted that Section 132(1)(b) and 132(1)(c) would be applicable.

21. It was further submitted that the conduct of the Applicant was of concern since he did not serve any advance Notice in the first Bail Application or in bail Application filed before the Ld. ASJ. Further, during the judicial custody of the Applicant, he had been asked if he had filed any Bail Application, to which he had categorically responded in the negative.

22. It is submitted that in view of the aforesaid conduct of the Applicant and the enormity of allegations, Bail be not granted.

**Submissions heard and Record perused.**

23. The Respondent has opposed the Bail on the ground that the investigation is ongoing *qua* one absconding person, but that cannot be a ground to deny bail to the Applicant against whom the investigations have been completed and the Complaint filed in the Court.

24. The fundamental principles for consideration in a Bail for the offences under Clauses (c), (f) and (h) of Section 132(1) of the CGST Act were explained by the Apex Court in Vineet Jain v. Union of India, Criminal Appeal No. 2269 of 2025 dated 28.04.2025, 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.”

25. Similarly, while dealing with bail under Section 132(1)(a), (h), (k) and (l) read with Section 132(5) of the CGST Act in the case of Ratnambar Kaushik v. Union of India, (2023) 2 SCC 621, the Apex Court held as follows –

“In considering the application for bail, it is noted that the petitioner was arrested on 21-7-2022 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)(l)(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.”*

26. Applying the aforesaid principles to the present case, the Applicant has been judicial custody since 04.06.2025 The Complaint has already been filed in the Court. The entire evidence has already been collected and is primarily be documentary. He has no criminal antecedents. There is little likelihood of tampering with the evidence or of influencing the witnesses, who are all official witnesses. Further, as observed in the aforesaid decisions of the Apex Court, there exist no extraordinary circumstances to deny the bail to the Applicant.

27. It is therefore, considered fit to grant regular Bail to the Applicant, Mr. Narender Kumar on the following conditions:

- I. The Applicant/Accused shall furnish a personal bond in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of the Trial Court;



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- II. The Applicant/Accused shall keep the Investigating Officer/Court about its address and the mobile phone and inform fresh address/mobile number, in case of change;
- III. The Applicant/Accused shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case; and
- IV. The Applicant/Accused shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial.
28. The Bail Application is accordingly, allowed. The pending Applications are disposed of accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

OCTOBER 08, 2025/R