



2025:DHC:11868



\$~21

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of Decision: December 17th, 2025***

+ **CRL.M.C. 1786/2020**
DIRECTORATE GENERAL OF
GST INTELLIGENCE

.....Petitioner

Through: Mr. Satish Aggarwala,
SSC with Mr. Gagan
Vaswani, Adv.

versus

KAMAL KISHORE AGGARWALRespondent

Through: Mr. Ankit Acharya,
Ms. Pratiksha Sharma, Ms.
Ritu Chaudhary, Mr.
Ayush Jain & Mr. Mukesh
Kuamr, Advs.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

AMIT MAHAJAN, J. (Oral)

1. The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') challenging the order dated 17.08.2020 (hereafter '**impugned order**'), passed by the learned Chief Metropolitan Magistrate ('CMM'), Patiala House Courts, New Delhi, whereby the respondent was granted bail in the proceedings under Section 132 of the Central Goods and Services Act, 2017 ('CGST Act').

2. It is the case of the prosecution that the respondent was deeply involved in evasion of GST to the tune of approximately ₹72 crores by clandestine supply of cigarettes. The respondent was arrested in the present case on 20.07.2020.



3. By the impugned order, the respondent was granted bail by the learned CMM considering that the claim of the respondent of depositing an amount of ₹1.35 crores towards GST had not been disputed by the department. It was noted that the final adjudication of liability of the respondent towards GST deposit was yet to be done and the filing of complaint was likely going to take some time. It was also noted that there was no justification in keeping the accused in custody till commencement of trial and details of the companies which had allegedly evaded GST and other taxes was within knowledge of the department.

4. The learned Senior Standing Counsel ('SSC') for the petitioner submits that the learned CMM erred by granting bail to the respondent at the initial stage of the investigation in a financial crime of such magnitude.

5. He submits that the learned CMM ought to have appreciated the fact that the respondent had allegedly evaded GST to a tune of ₹72 crores. He submits that the respondent was not entitled to bail by depositing merely an amount of ₹1.35 crores.

6. *Per contra*, the learned counsel for the respondent vehemently opposes the arguments as raised by the learned counsel for the petitioner and consequently prays that the present petition be dismissed. He submits that the complaint is yet to be filed and no purpose will be served by subjecting the applicant to undergo incarceration.

7. I have heard the learned counsel for the parties and perused the record.



8. In the impugned order, the learned CMM has noted that the department in its reply has failed to mention as to whether any further custodial interrogation of the respondent was required. Persuaded by the undisputed claim of the respondent depositing a sum of ₹1.35 crores towards GST and the respondent suffering from some kidney ailment, the Court proceeded to grant bail as the complaint was yet to be filed and trial was likely going to take considerable amount of time owing to COVID – 19.

9. The petitioner department is aggrieved that the Trial Court has failed to duly appreciate the magnitude and graveness of the alleged crime.

10. This Court finds some merit in the said argument advanced by the learned SSC for the petitioner department as the learned CMM appears to have failed to take a *prima facie* view of the allegations and given undue consideration to deposit of a paltry sum that pales in comparison to the actual scope of the offence, which is alleged to be around ₹72 crores. The learned CMM fell in error in granting bail at the nascent stage in a case of such nature, when the investigation was admittedly not complete and possibility of the accused tampering with evidence could not be ruled out. It is undisputed that financial offences are serious in nature and have wide repercussions on the economy of the nation. Economic offences are to be treated with a different approach as the same stem out of cool calculation and deliberate design with flagrant disregard for the interest of community at large [Ref. *State of Gujarat v. Mohanlal Jitmalji Porwal and*



others : (1987) 2 SCC 364; Y.S. Jagan Mohan Reddy v. CBI: (2013) 7 SCC 439; etc].

11. The Hon'ble Apex Court in the case of ***Y.S. Jagan Mohan Reddy v. Central Bureau of Investigation : (2013) 7 SCC 439*** held that financial offences ought to be considered as grave and serious and have to be approached differently at the time of bail. The relevant portion of the judgment is reproduced hereunder:

“34. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deeprooted 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.

35. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations.”

12. Thus, the learned CMM made an error in taking an insouciant attitude towards the nature of the crime and treating the case as a routine one for grant of bail. Be that as it may, it is imperative to note that on being asked, it is stated that investigation is still not complete and even after a lapse of more than five years, no complaint has been filed against the respondent till date. Despite the fact that the investigation was taken up by the petitioner department way back in the year 2020, no criminal complaint has been filed till date. Even today, it is stated that the department is still in the process of filing the complaint.



13. In such circumstances, even if the respondent had remained in custody, he would have undoubtedly been entitled for default bail on the department not completing the investigation in the stipulated time. Although the learned CMM ought to have given more deference to the gravity of offence, the lackadaisical and lethargic approach of the department do not merit interference in the liberty granted to the respondent at this juncture.

14. It is not the case of the petitioner department that the respondent has misused the liberty pursuant to being admitted on bail. It is apparent that the only interest of the department is in the custody of the respondent and not in the adjudication of the case. The respondent cannot be subjected to unending incarceration merely at the whims of the petitioner department when the department itself has taken no active steps in the case.

15. In view of the same, this Court finds no reason to cancel the bail granted to the respondent after more than five years.

16. The present petition is dismissed in the aforesaid terms.

AMIT MAHAJAN, J

DECEMBER 17, 2025

“SS”