



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

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Reserved on: 10th November, 2025
Pronounced on: 12th January, 2026

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CRL.M.C. 1242/2021

CGST, DELHI WEST

Through

Shri Pankaj Verma,
Intelligence Officer,
New Delhi

.....Petitioner

Through: Mr. Gagan Vaswani, Advocate and
Mr. Satish Aggarwala, Senior
Standing Counsel.

versus

VISHAL GOYAL

S/o Shri Kishan Goyal
House No.2273, Hudson Line,
Mall Road, Kingsway Camp,
G.T.B. Nagar,
Delhi 110009

.....Respondent

Through: Mr. Shadman Ahmed Siddiqui and
Mr. Vaibhav Prasad Singh,
Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.P.C.'*), has been filed on behalf of the **Petitioner/CGST, West Delhi** challenging the Order dated 17.03.2021 of the learned CMM and seeking cancellation of Bail granted to Vishal Goyal, the Respondent.



2. The **brief facts** of the case are that on 29.12.2020, an information was received about an unregistered unit of *gutka* factory running at *CR place, Rohini, Sector 20, Delhi* and that this unregistered Unit had more than 10 speed manufacturing machines, which were working 24x7 at the top floor of the premises and around 40-50 labourers were working. The finished goods were being supplied to Chhattisgarh and Odisha. The raid was conducted under Section 67(2) of the CGST Act, 2017 on 01.01.2021. During the search, the premises was found covered in dust, with a strong pungent smell emanating from several wall machines operating in the right-side hall on the second floor. Fourteen *gutka* pouch making machines were functioning in the hall.

3. 75 labourers were found working and were engaged in different activities like pouring filled plastic bags into machine hoppers, collecting pouches and making multi-pouch packs, etc. On being asked about the 60-70 plastic bags kept near 14 machines, Supervisor *Manoj alias Meghraj* told the CGST Officers that these bags contained ready-to-pack feed for the pouch making machines, while the bigger bags on the outer side contained ready-to-dispatch material. The material being packed in the pouches was *Gutka*, branded as “*Suhana Pasand*” and “*SHK*,” which was written on the pouches.

4. **Manoj** further disclosed that the left-side hall on the second floor, was used to store raw materials like *Kattha, Supari*, perfume tins, etc. On the third floor, there was a small room which housed a mixing machine for mixing the ingredients for mixing *gutka*. He disclosed that the premises belonged to Ranbir Singh, but the business was operated by *A.K. Yadav* with the help of *Vishal Goyal*. The team also met *Rohit*, who was a friend of *A.K.*



Yadav. During the search, Manoj was unable to produce any stock records. The documents and mobile phones were taken for investigation. Since no stock register was available, the Officers seized goods as per Form GST INS-02. Copy was given to Pradeep with instructions for safe custody. Incriminating documents and diary, were seized.

5. Detailed Statements of various labourers, were recorded. **Rohit**, who was found present in the premises, stated that he is a labour contractor and proprietor of Om Sai Enterprises (GSTINs in Delhi and Haryana). He had Accounts in HDFC, Kotak, and Axis Bank, and his Haryana Firm did *Supari* cutting on commission. He further disclosed that he and Mr. A.K. Yadav, had earlier worked together at *Shikhar Pan Masala* but had no business partnership.

6. The CGST Team visited the house of *Ranbir Singh* and served him the Summons. His son, *Mr. Pradeep Kumar*, who received the Summons stated that the premises had been rented out to *Avdhesh Kumar* for *gutka* manufacturing, and that all the setup was arranged by Avdhesh Kumar.

7. The Statement of the Respondent Vishal Goyal was recorded on 15.02.2021 wherein he admitted being involved in the manufacture of *Gutka* and *Pan Masala* under the brand name ‘Suhana Pasand’ and that his other Firm M/s Balaji Traders dealt in supari trading. He disclosed that he first met Avdhesh Kumar in 2013 at his Raipur Tobacco Unit, Raja Perfume, for labour supply, and later, met him again in June 2019, after which they had started manufacturing *Suhana Pasand Gutka* at *Plot No. 26, C.R. Palace, Budh Vihar, Delhi*. According to him, Avdhesh Yadav handled all the work relating to receipt of inputs, production, labour, packaging, and sale of SHK brand *Gutka*, which was supplied in Chhattisgarh and other regions. He also



stated that Avdhesh was paid Rs.1.5 lakhs per month. He admitted he knew *Gutka* manufacturing was banned across India. He further revealed that he and *Avdhesh invested around Rs.50 lakh of the illegally earned money from this Gutka business into starting a cold storage venture in Uttar Pradesh.*

8. Statement of ***Avdhesh Kumar*** was recorded on 15.02.2021 wherein he confirmed and acknowledged that he was aware of *Gutka* manufacturing be illegal.

9. In the subsequent Statement of **Rohit** recorded on 15.02.2021, he disclosed that he knew Vishal Goyal (Respondent) for two years and that Firm Om Sai Enterprises was actually opened by Vishal Goyal in his name and all transactions were done by him, who had placed Aakash, his trusted man, to handle the work.

10. During the investigations, it was found that Vishal Goyal, the Respondent, had created a network of multiple Firms, including *M/s Lambodar Buildwell Pvt. Ltd.*, to launder money earned from illegal *Gutka* manufacturing and sales.

11. This was supported by the voluntary ***statement of Rohit Srivastava recorded on 12.01.2021***, who admitted that Vishal Goyal had transferred Rs.13 Lakhs from *Lambodar Buildwell Pvt. Ltd.*, to his Axis Bank Account to help him to purchase a Creta car, which was meant for use and benefit of Avdhesh Yadav, who was operating the illegal *Gutka* Factory for Vishal Goyal.

12. As no bills or invoices were found, the Department applied the Best Judgment Assessment Clause. The Department calculated approximate Custom Duty evasion by the unregistered *Gutka/Pan Masala/Tobacco* manufacturers based on the seized finished goods for a 16-month period,



using the applicable combined duty rate of 198.5%, as recorded during the search conducted on 01.01.2021. 87,51,336 pouches seized during the search on 01.01.2021, was multiplied with Rs. 4/-. *The total Value of the Gutka pouches, was calculated as Rs.3,50,05,344/-*. The reverse duty was calculated and it came to Rs.1.73 Crores duty for one day.

13. The duty evasion in respect of Avdhesh Kumar and Vishal Goyal, for 16 months, was calculated as under:-

| | |
|--|---------------------|
| one day duty (calculations provide din detail) | 17327645.28 approx. |
| So, one-month duty (i.e. 30 days) | 519829358.4 approx. |
| 16-month duty | 8317269734 approx. |

14. While the challenged this calculation, the Department asserted that the calculation was made only for 16 months, whereas the evidence including the voluntary statement of Vishal Goyal, dated 15/16.02.2021 and that of Avdhesh Kumar and Manoj Kumar's Statement dated 01.01.2021, reflected that manufacture of sale and *Gutka*, was ongoing for nearly 36 months. Since *Gutka* is a banned activity, which was being carried out secretly, there were no purchase or sales records being maintained. The production and sales were thus, computed on a pro-rata basis using daily production capacity. Vishal Goyal had thus, committed acts, which came under Section 132(1)(a) of the CGST Act read with Section 20 of the IGST Act, which are cognizable and non-bailable offences under Section 132(5).

15. Respondent was arrested on 16.02.2021 with the Commissioner's approval and thereafter, remanded to Judicial Custody. His Bail Application was allowed Bail *vide* Order dated 17.03.2021 by learned CMM, New Delhi.



16. **The Department being aggrieved by the Bail Order, has filed the present Petition to challenge the same on the ground** that there was an evasion of duty of approximately *Rs. 831.72 Crores in 16 months*. The Bail had been granted within 29 days of custody despite the *seriousness of the offense*, considering that manufacturing and sale of *Gutka* was prohibited in Delhi. The Respondent owned the ‘*Suhana Pasand*’ brand since August 2011, with no proof of closure. In his voluntary Statement dated 15.02.2021 under Sections 70 and 174 of CGST Act 2017, he admitted to clandestine manufacturing and supply of *Gutka* with the assistance of Avdhesh Kumar Yadav and Sudheer Gupta. *Suhana Pasand* pouches were recovered during the search of his residence on 15.01.2021. The premises owner, Shri Ranbir Singh also knew Avdhesh Kumar, who had set up the factory for and on behalf of the Respondent.

17. It is submitted that considering the huge revenue involved, the liability of the Respondent, cannot be reduced unless evaded duty is repaid to the Government, which he had assured in his Statement dated 15.02.2021.

18. It is further submitted that there were reasonable grounds to believe that the Respondent would *tamper with evidence and create false evidence*, if granted Bail.

19. The Respondent had absconded for over a month. His residence was searched on 15.01.2021 and his wife was summoned for 18.01.2021, but she claimed ignorance about his whereabouts. The Respondent appeared on 15.02.2021 on receiving Summons under Section 70 of the CGST Act, 2017 but such appearance cannot be deemed as voluntary. No retraction was reported by the Department or Special Public Prosecutor. When his Statement was recorded on 27.02.2021 in Jail, he did not inform the Officers



or record any retraction of his earlier Statement, indicating an afterthought based on legal advice.

20. Further, the Respondent *did not cooperate in the investigations* as he failed to deposit Government dues and provide information about other culprits, identify delivery routes and destinations, explain collection and recovery of proceeds or provide lead to Sudhir Gupta.

21. The investigations were at the initial stage; in such economic offences, the grant of Bail, has been deprecated by this Court in *Crl. M.C. No.187/2014* dated 26.03.2014. Socio-economic offences require different treatment in Bail matters as they involved deep-rooted conspiracies affecting society's moral fiber and cause irreparable harm, as held in the case of *State of Bihar & Another vs. Amit Kumar*, (2017) 13 SCC 751. Reliance has also been placed on the Case of *Vinod Bhandari vs. State of M.P.*, 2015 Cri. LJ 1547 and *Ram Narain Popli vs. CBI*, AIR 2003 SCC 3257.

22. Further, Reliance is also placed on *Nimmagadda Prasad vs. CBI*, Criminal Appeal No. 728/2013, decided on 09.05.2013; *State of Maharashtra vs. Nainmal Punjaji Shah; Toofan Singh Vs. State of Tamil Nadu*, Crl. Appeal No.152/2013; *K.I. Pavunny vs. Asstt. Collector, Central Excise*, 1997 (90) ELT 241 (S.C.); *Commissioner of Central Excise, Mumbai vs. Kalvert Foods India Pvt. Ltd.*; *Malwinder Mohan Singh vs. State of NCT of Delhi*, decided on 10.08.2020 (DHC); *Vimal Yashwant Giri Goswami vs. State of Gujarat*, R/Special Civil Application No.13679/2019, decided on 20.10.2020 by the Hon'ble Gujarat High Court; *P. Chidambaram vs. Enforcement of Directorate*, Criminal Appeal No.1340/2019, decided by the Apex Court on 05.09.2019.



23. *It is, therefore, submitted that the Bail granted vide Order dated 17.03.2021, be recalled.*

24. The **Respondent in his Reply** asserted that the present Petition for cancellation of Bail, is devoid of merits and is misplaced in law and is liable to be dismissed *in limine*. He denied all the allegations, averments made in the Application.

25. The **preliminary submissions** are that he had been enlarged on Bail *vide* Order dated 17.03.2021 of learned CMM, which is a well-reasoned and legally tenable Order and does not suffer from any illegal infirmity. While granting Bail, the learned CMM had considered his period of custody of almost one month and had also noted the figure of Rs.831.72 Crores as alleged by the Petitioner Department to be an imaginative figure. Learned CMM also observed that documentary evidence was already in possession of the Department and nothing more was required to be recovered from the Respondent. Further, the Respondent was not the main accused and had clean antecedents. After considering all the relevant material, the Bail has been rightly granted to the Respondent. Reliance is placed on Prabhakar Tewari vs. State of U.P. & Anr., SLP (Crl.) 9207/2019

26. It is asserted that the entire Case of the Petitioner/Department hinges on the Statements of the individuals recorded during the investigations. The veracity and authenticity of such Statements has to be tested during the trial. Aside from the Statements, no concrete or incriminating material exists against the Respondent. Insofar as, the Statement of the Respondent is considered, he had retracted his Statement through the Superintendent, Tihar Jail. Furthermore, it has no evidentiary value in view of the dicta laid by the Hon'ble Supreme Court of India in Toofan Singh vs. The State of Tamil



Nadu, Crl. Appeal No. 152/2013, decided on 29.10.2020 wherein it was held that confessional Statement made before an Officer designated under Section 42 or Section 53, can be a basis to convict a person under NDPS Act, without any non obstante clause doing away with Section 25 of the Evidence Act. Therefore, no salutary purpose would be served by keeping the Respondent in Jail.

27. It is further contended that the alleged Tax evasion of Rs.831.72 Crores calculated by the Petitioner/Department, is absurd as it is *ex-facie* baseless and purely imaginative. The falsity of the figure is apparent from the alleged calculations made by the Petitioner/Department on assumptions, hunches, whims and fancies. The Petitioner is not in possession of any Invoices, details of the buyers to whom the *Gutka(s)* had been sold, ledgers, Bank Statements or any other document to show that the payments had been made by the buyers as alleged by the Petitioner. The figure of Rs.831 Crores is wholly delusional.

28. The investigations were initiated by the Petitioner on 01.01.2021 and the same is still pending. The Petitioner had already given the Statements and the documents have been seized during the raid. The Police custody of the Respondent was never sought nor any recovery was to be made from him. Even when he was in judicial custody, his presence was never sought by the Department for any recovery or discovery. The co-accused, Manoj and Avdesh Kumar have been granted statutory Bail on 06.03.2021 and 19.04.2021 respectively by the learned CMM.

29. It is further submitted that the Respondent had wound up his business under the name of Suhana Pasand in 2013. However, the co-accused, Mr. Avdhesh Kumar misused the name by manufacturing and clandestine supply



of *Gutka*. The Respondent had nothing to do with the business being run from *Rohini, Sector-20*, New Delhi. There is no concrete or incriminating document connecting the Respondent to the alleged premises or proving his involvement in the alleged business.

30. Furthermore, the Statements of several persons recorded during the investigation indicate that not only Mr. Avdhesh Kumar Yadav, is mastermind behind the alleged illegal activity, it was he who took the premises in question for rent. It was Avdhesh Kumar Yadav, who was involved in manufacturing of pan masala/*gutka* and the Respondent had no involvement whatsoever in it.

31. Reliance is also placed on *Arnesh Kumar vs. State of Bihar & Another*, 2014 8 SCC 273 to say that the arrest must not be made casually and mechanically. There is no violation of the Bail condition by the Respondent. Indirectly, the Petitioner is seeking cancellation of Bail, which is not maintainable in law.

32. Furthermore, it has been held in various Judgments by the Apex Court and the High Court that once a Bail has been granted, it should not be cancelled in a mechanical manner, without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of Bail during the trial. Bail cannot be cancelled merely on a request of the Complainant or investigating agency unless it is established that it has been misused and is no longer conducive in the interest of justice to allow the accused to remain on Bail.



33. Reliance is placed on *X vs. State of Telangana & Anr.*, (2018) 16 SCC 511; *Dolan Ram vs. State of Haryana*, (1955) 1 SCC 349 and *Directorate of Enforcement vs. Ratul Puri*, 2020 SCC OnLine Del 97.

34. It is submitted that the instant case is not a one where the cancellation of Bail is justified.

35. ***On merits***, all the assertions made in the Application, have been denied. It is further submitted that the Statement of the Respondent before the Investigating Agency on 15.02.2021, was made under threat, pressure, duress for which, he had made a comprehensive retraction through the Superintendent, Tihar Jail and thus, the same cannot be relied upon. This fact has also been recorded by the learned CMM in its Order dated 17.03.2021.

36. *It is, therefore, submitted that the present Bail Application is without merits and is liable to be dismissed.*

Submissions heard and the record perused.

37. The Petitioner/CGST Delhi West seeks recall of the Order dated 17.03.2021 granting Bail to Respondent No.2/Vishal Goyal on the grounds that, ***firstly***, the offence is a *serious economic offence* involving clandestine manufacture and sale of banned *gutka* with alleged GST evasion of about Rs. 831.72 Crores. ***Secondly***, the *offence under Section 132 CGST Act is cognizable and non-bailable*, and the learned CMM failed to appreciate the gravity and societal impact of the offence. ***Thirdly***, Respondent No.2 had an *active and central role* in the illegal activity, including ownership of the brand and laundering of proceeds. ***Fourthly***, there is a *real apprehension of tampering with evidence and influencing witnesses*, as the investigation is



still ongoing. **Lastly**, the Respondent *had absconded and did not cooperate with the investigation*, warranting recall of the Bail in the interest of justice.

38. Before considering the contentions on merit, it is significant to understand the distinction between *challenging the Bail Order on merits* and *cancellation of Bail*. While **recall** can be made only if it is established that Bail has been granted by not considering the relevant facts on merits, **cancellation** is prompted by subsequent events and violation of terms of Bail by the Respondent.

39. The Apex Court in *Y vs. State of Rajasthan*, (2022) 9 SCC 269 underscored that an order granting bail can be tested on *illegality, perversity, arbitrariness and being based on unjustified material*. While setting aside the order granting bail, the Court made the following observations highlighting the *distinction between recall and cancellation of bail*:

“15. It is worth noting that what is being considered in this case relates to whether the High Court has exercised the discretionary power under Section 439CrPC in granting bail appropriately. Such an assessment is different from deciding whether circumstances subsequent to the grant of bail have made it necessary to cancel the same. The first situation requires the Court to analyse whether the order granting bail was illegal, perverse, unjustified or arbitrary. On the other hand, an application for cancellation of bail looks at whether supervening circumstances have occurred warranting cancellation.

16. In *Neeru Yadav vs. State of U.P.* (2014) 16 SCC, Apex Court held as follows:

“12.It is well settled in law that cancellation of bail after it is granted because the accused has misconducted himself or of some supervening circumstances warranting such cancellation have



occurred is in a different compartment altogether than an order granting bail which is unjustified, illegal and perverse.

If in a case, the relevant factors which should have been taken into consideration while dealing with the application for bail have not been taken note of, or bail is founded on irrelevant considerations, indisputably the superior court can set aside the order of such a grant of bail. Such a case belongs to a different category and is in a separate realm. While dealing with a case of second nature, the court does not dwell upon the violation of conditions by the accused or the supervening circumstances that have happened subsequently. It, on the contrary, delves into the justifiability and the soundness of the order passed by the court.”

40. This distinction is succinctly brought forth in the case of Mahipal vs. Rajesh Kumar @ Polia and Anr., (2020) 2 SCC 118, wherein the Apex Court observed that the considerations that guide the power of an Appellate Court in assessing the correctness of an order granting Bail stand on a different footing from an assessment of an application for the cancellation of Bail. The correctness of an order granting Bail is tested on the anvil of whether there was an improper or arbitrary exercise of the discretion in the grant of bail. *The test is whether the Order granting Bail is perverse, illegal or unjustified.*

41. In recent judgement of Ashok Dhankad vs. State of NCT of Delhi and Another, 2025 SCC OnLine SC 1690, Apex Court reiterated that while considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like *the nature of the accusations made against the accused, the manner in which*



the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on Bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on Bail.

42. Apex Court has succinctly explained and summarized the factors for consideration for setting aside of Bail Orders as under:

“19. The principles which emerge as a result of the above discussion are as follows:

- (i) An appeal against grant of bail cannot be considered to be on the same footing as an application for cancellation of bail;*
- (ii) The Court concerned must not venture into a threadbare analysis of the evidence adduced by prosecution. The merits of such evidence must not be adjudicated at the stage of bail;*
- (iii) An order granting bail must reflect application of mind and assessment of the relevant factors for grant of bail that have been elucidated by this Court.*
- (iv) An appeal against grant of bail may be entertained by a superior Court on grounds such as perversity; illegality; inconsistency with law; relevant factors not been taken into consideration including gravity of the offence and impact of the crime;*
- (v) However, the Court may not take the conduct of an accused subsequent to the grant bail into consideration while considering an appeal against the grant of such bail. Such grounds must be taken in an application for cancellation of bail; and*



(vi) *An appeal against grant of bail must not be allowed to be used as a retaliatory measure. Such an appeal must be confined only to the grounds discussed above.”*

43. The circumstances and consideration of both is therefore, distinct and must not be confused, when the Bail Order is sought to be **recalled**. The present case is of the former category wherein Bail granted *vide* Order dated 17.03.2021, is sought to be recalled on the ground of the discretion having been erroneously exercised in favour of the Respondent.

44. The learned CMM after due consideration of the relevant factors governing grant of Bail, has exercised the discretion judiciously. A perusal of the impugned Order dated 17.03.2021 shows that the learned CMM has taken note of the nature of allegations, the role attributed to the Respondent, the period of custody undergone, the stage of investigation and the material collected by the Department.

45. The contention of the Petitioner regarding the alleged duty evasion of Rs. 831.72 crores was expressly noted by the learned CMM, who found that prolonged incarceration was not warranted solely on the basis of such allegation, particularly when the computation was based on assumptions and the investigation was documentary in nature.

46. It cannot be overlooked that the evidence is essentially documentary/electronic and there is no likelihood of the same being tampered by the Respondent after having been admitted to Bail. There is nothing to show that he is a *flight Risk* or there is *any likelihood of his influencing the witnesses or tampering the evidence*.

47. Furthermore, it cannot be ignored that the Bail was granted *vide* Order dated 17.03.2021 and there is no averment of any misuse or abuse of the



2026:DHC:222



liberty of Bail as granted to the Respondent. There is no ground which is existing to show that the discretion of grant of Bail has not been exercised judiciously by the learned CMM or that there is any misuse or abuse of liberty so granted by the Respondent. There is also nothing on record to show that the trial has been hampered on account of grant of Bail.

48. Thus, there is no merit in the present Petition for setting aside of the Bail Order dated 17.03.2021.

49. The Petition is hereby, **dismissed** along with pending Applications(s), if any.

(NEENA BANSAL KRISHNA)
JUDGE

JANUARY 12, 2026/RS