



2025:DHC:5145



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

%

*Reserved on: 04th March, 2025
Pronounced on: 27th June, 2025*

+

CRL.M.C. 2666/2021

DIRECTORATE GENERAL OF GST INTELLIGENCE

Represented by Deputy Director, DGGI

West Block-9, Wing No.6

R.K. Puram, New Delhi - 110066

.....Petitioner

Through: Mr. Aditya Shekhar, Sr. Standing Counsel.

versus

SUDHIR GULATI

S/o Late Ram Narain Gulati

R/o H-23, 1st Floor, Kirti Nagar

New Delhi – 110015.

.....Respondent

Through: Mr. Tushar Agarwal, Mr. Arun Kumar and
Ms. Tripti Roy, Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The Petition under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*) has been filed against the Order dated 17.10.2020 *vide* which **Bail has been granted** to the Respondent/Sudhir Gulati in the Complaint filed against him for offences punishable under Section 132 (1) (b) & (c) of the Central Goods and Services Tax Act, 2017 (*hereinafter referred to as CGST Act, 2017*), on account of evasion of CGST running into crores of Rupees.



2. ***Briefly stated***, the Petitioner herein is the Directorate General of Goods and Services Tax Intelligence (DGGI), the Apex Investigative Agency under the Ministry of Finance, Government of India, responsible for enforcing compliance with indirect tax laws including GST, Central Excise, and Service Tax. The Respondent/Sudhir Gulati is the Director of a Company, namely, M/s Anmol Tradex Pvt. Ltd.

3. The officers of DGGI developed an intelligence that M/s Anmol Tradex Pvt. Ltd. has been found to be engaged in the fraudulent availing of Input Tax Credit (ITC) on the basis of ineligible or non-genuine Invoices issued by entities that on verification, appear to have no actual purchases or legitimate business operations. The fraudulently availed ITC has been utilized primarily for the payment of Integrated Goods and Services Tax (IGST) on export of goods, which are categorized as “*zero-rated supplies*” under the IGST Act, 2017.

4. It has been further submitted that M/s Anmol Tradex Pvt. Ltd. has availed ITC to the tune of approximately Rs. 29 Crores, out of which Rs. 25.01 Crore pertains to Invoices issued by entities owned or controlled by Mr. Rakesh Kumar Goyal. These entities have been found to be involved in circular trading and the issuance of fake Invoices, thereby passing on fraudulent ITC to multiple Companies, including those allegedly owned or controlled by Mr. Vikas Chowdhary.

5. Search operations were conducted on 06.03.2020 at the premises of various Supplier entities owned or controlled by Mr. Rakesh Kumar Goyal, which were identified as having supplied a significant portion of ITC availed by M/s Anmol Tradex Pvt. Ltd. It was found that the Respondent along with



other co-accused persons, had been involved in the acts amounting to offences under Section 132 CGST Act, 2017.

6. ***The Respondent was granted Bail by the learned CMM vide Order dated 17.10.2020.***

7. ***The Order of grant of Bail has been challenged by way of present Petition.*** The first ground of challenge is that *Bail has been granted to the Respondent without taking into consideration whether a prima facie case exists against the Respondent.*

8. The involvement of the Respondent is evident from his Statement dated 21.09.2020 before DGGI, wherein he had stated that the control and day to day management of M/s Anmol Tradex Pvt. Ltd. lay with the Respondent. The Respondent has never retracted this incriminating statement made before Investigating Officers.

9. Reliance has been placed on the case of Commissioner of Central Excise, Mumbai vs. Kalvert Foods India Ltd., (2011) 12 SCC 243, wherein it was held that the Statements made to Central Excise Officers by the Managing Directors of the Company and other persons containing all the details that could only be made with personal knowledge are admissible and reliable, particularly when not obtained through coercion or duress or through dictation.

10. **Secondly**, Respondent had remained *non-cooperative during the investigation.*

11. **Thirdly**, the Respondent is an *influential person* with money and financial power and there is a grave possibility that *he will obstruct the*



investigation, intimidate crucial witnesses, and manipulate or destroy evidence.

12. The Respondent on the pretext of health issues, was never properly examined by the officers of the Petitioner, Department.

13. It is, therefore, submitted that the Bail granted to the Respondent by learned CMM *vide* Order dated 17.10.2020, be set aside.

14. The ***Respondent in his detailed Reply*** has stated that the instant Petition has been filed by the Petitioner on false, vexatious and capricious grounds. The Petitioner/Department has filed the present Petition on 08.10.2021 i.e. after an unexplainable and unjustified lapse of one year since the Order granting Bail, has been passed by learned CMM on 17.10.2020.

15. Reliance has been placed on the case of *Daulat Ram and others vs. State of Haryana*, (1995) 1 SCC 349) wherein the Apex Court has held that very cogent and overwhelming circumstances are necessary for cancellation of Bail which once granted should not be cancelled in a mechanical manner.

16. It is submitted that the Respondent has always cooperated in the investigations. There is no likelihood of the Respondent absconding or tampering with the evidence, as has also been observed by the learned CMM in the impugned Order.

17. Furthermore, the Respondent is a 64 year old citizen and underwent a bypass surgery in 2001, and has been suffering from diabetes and high blood pressure. During the time of investigation in 2020, he underwent certain Tests and the Respondent's HbIAc was very high and he was prone to getting infected by Covid-19. Moreover, considering that the Respondent's



wife was diagnosed with cancer, it would have been callous to incarcerate the Respondent in such circumstances, especially since both he and his wife, are elderly.

18. Reliance has been placed on the case of State (Delhi Administration) vs. Sanjay Gandhi, 1978 (2) SCC 411 wherein the Apex Court observed that it is easier to reject a Bail Application in a non-bailable case than to cancel a Bail already granted in such a case. Cancellation of Bail necessarily involves the review of a decision already made and can by and large be permitted only if by reason of *supervening circumstances*, it would be no longer conducive to a fair trial to allow the accused to retain his freedom during the trial.

19. Similar observations have been made in the case of Nityanand Rai vs. State of Bihar, (2005) 4 SCC 178 and Ranjitsing Brahmajeetsing vs State Of Maharashtra & Anr, (2005) 5 SCC 294.

20. It is further submitted that the Respondent has neither violated any Bail conditions nor has he done anything to influence any witness or to tamper with any evidence.

21. *It is submitted that there are no grounds for quashing of the Bail Order.*

22. **Rejoinder** has been filed by the Petitioner/Department reiterating the grounds raised in the Petition. It is submitted that the Respondent has shown non-cooperation and deliberately attempted to evade taxes through unlawful means. Learned CMM did not consider the seriousness of the offence and the risk of Respondent fleeing. Furthermore, no recent medical records have



been provided by the Respondent which is indicative of his health conditions.

23. Reliance has been placed on the case of *Amit Beriwal vs. State of Odisha*, 2020 SCC Online Ori 546 wherein the Hon'ble Orissa High Court rejected a Bail Application, while observing that each case has to be considered on the touchstone of its own generic facts and individual merits. In said case, the alleged GST fraud committed by the accused had humongous ramification on the Revenue collection by the State. In that backdrop, the possibility of the accused tampering the evidence and/or influencing/intimidating the witnesses could not be ruled out.

24. Submissions heard and record perused.

25. The case against the Respondent/Sudhir Gulati stems from an intelligence received by the Petitioner/DGGI, revealing that M/s Anmol Tradex Pvt. Ltd., a company under the control of the Respondent, was involved in the fraudulent availing of ITC amounting to approximately Rs. 29 crores. This ITC was claimed on the basis of fake Invoices issued by Companies, primarily controlled by one Rakesh Kumar Goyal, which were engaged in circular trading without any actual business activity. The fraudulently availed ITC, was then utilized to discharge IGST liability on zero-rated export supplies. Further allegations were that the Petitioner's web of transactions extended to other Companies linked to Vikas Chowdhary and accomplices, arrests of whom have already been made in connection to the case. Thus, ITC was passed on from one Company of Rakesh Kumar Goyal to his another Company and finally to M/s Anmol Tradex Pvt. Ltd., i.e. Company of the Respondent/Sudhir Gulati.



26. The **main ground raised by the Petitioners** seeking setting aside of the Bail Order is that the Respondent himself in his statement dated 21.09.2020 stated that the control and day to day management of M/s Anmol Tradex Pvt. Ltd. lies with him only. Thus, being the key accused person, granting him Bail would lead to obstruction during the investigation, and to the probability of the Respondent influencing the witnesses and tampering with evidence.

27. The first aspect which needs to be highlighted is the distinction between challenging the Bail Order on merits and cancellation of Bail. The Recall of bail Order essentially on the ground that the requisite factors have not been considered and discretion to grant Bail has been exercised incorrectly. However, while seeking *Cancellation*, it is on the ground of violation of the conditions imposed while granting Bail.

28. 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.*

29. Reference may also be made to the case of *Deepak Yadav vs. State of U.P.*, (2022) 8 SCC 559, wherein the Apex Court emphasised that Bail once



granted, should not be cancelled in a mechanical manner. Cancellation of Bail must be on very cogent and overwhelming circumstances.

30. 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 17.10.2020, is sought to be recalled on the ground of the discretion having been erroneously exercised in favour of the Respondent.

31. **In the present case**, 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*.

32. Learned CMM had categorically observed that the accused has already remained in judicial custody for 28 days since 21.09.2020 and no further *custodial interrogation* was required. It was further noted that DGGI has yet to file a Complaint for offences under Section 132 of the CGST Act, 2017. Thus, the discretion has been rightly exercised by the learned CMM, while granting the Bail.

33. The legal position is well-established that once Bail has been granted through a well-reasoned Order, it cannot be revoked lightly or without substantial new evidence against the accused. The Petitioner has failed to demonstrate any “*cogent and overwhelming circumstances*” as mandated for Bail cancellation.



2025:DHC:5145



34. Furthermore, it cannot be ignored that the Bail was granted *vide* Order dated 17.10.2020 and there is no averment of any misuse or abuse of the 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.

35. Thus, there is no merit in the present Petition for recall of the Bail Order dated 17.10.2020.

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

**(NEENA BANSAL KRISHNA)
JUDGE**

JUNE 27, 2025/pp