

HIGH COURT OF JUDICATURE AT ALLAHABAD**Court No. - 75****CRIMINAL MISC. BAIL APPLICATION No. - 25547 of 2024**

Kanika Dhingra ----- Applicant
Vs.
State of U.P. ----- Opposite Party

With - Criminal Misc. Bail Application Nos. **27277/2024, 27447/2024, 27485/2024, 27549/2024 & 27693/2024.**

Appearance:

Mr. Anoop Trivedi Sr. Advocate
Mr. Nafees Ahmad, Advocate

... For Applicants

Mr. Manish Goel, Sr. Advocate/ Additional Advocate General, U.P.
Mr. Amit Singh Chauhan, AGA-I
Mr. Mayank Awasthi, Brief Holder
Mr. Rishi Kumar, Additional Chief Standing Counsel
Mr. Nitesh Srivastava, AGA

... For Opposite Party

Hon'ble Mrs. Manju Rani Chauhan,J.

1. This bunch of bail applications arises out of three first information reports, which are: **(i)** FIR /Case Crime No. 203 of 2023, dated 04.05.2023, under Sections 420, 467, 468, 471 IPC, Police Station Noida Sector-20, District Gautam Buddh Nagar **(ii)** FIR/Case Crime No. 248 of 2023, dated 01.06.2023, under Sections 420, 467, 468, 471 IPC, Police Station Noida Sector-20, District Gautam Buddh Nagar, and **(iii)** FIR/Case Crime No. 255 of 2023, dated 08.06.2003, under Sections 420, 467, 468, 471 & 120B IPC, Noida Sector-20, District Gautam Buddh Nagar.

2. As per prosecution version in **FIR/Case Crime No. 203/2023**, dated 04.05.2023 under Sections 420, 467, 468, 471 IPC, Police Station Noida Sector-20, Gautam Buddh Nagar, the informant Saurabh Dwivedi is a journalist and works as an Editor of the Lallantop internet news portal and India Today Hindi Magazine. He came across two GST registrations viz. 03AUSPD7067N1Z3 and 27AUSPD7067N1ZT obtained in the State of Punjab and Maharashtra respectively w.e.f. 20.03.2023. These have been applied on informant's PAN AUSPD7067N (Exhibit 1) and bear his name, Saurabh Dwivedi as legal name of the business entity. The details of both the registrations from GST portal are enclosed as Exhibit 2 to the complaint. The registered address mentioned for the given two registrations are as under – (a) 03AUSPD7067N1Z3 having registered address as 787, Ground Floor, Railway Office, ATI Road, Ludhiana, Punjab, 141008, (b) 27AUSPD7067N1ZT having registered address as 172, Sau Alakatal Uttamrao Nikalaje Path, Solapur, Solapur, Maharashtra, 413003. These have not been obtained with his consensus and he is totally unaware of the person who applied for these registrations and whose contact details are updated in these GST registrations. It is also mentioned that the two registrations are already authenticated for Aadhaar verification whereas as on date no email ID and mobile number is linked with his Aadhaar. Copy of Aadhaar Card along with screenshot showing the absence of any email ID or mobile number in Aadhaar details is enclosed as Exhibit. Further it has been learnt that similar registration has been applied in the UT of Delhi, however, the same got rejected by the GST authorities. The acknowledgement number generated after filing of GST registration application is AA070323054161Q. Hence, the FIR has been lodged.

3. As per prosecution version in **FIR/Case Crime No. 248/2023**, dated 01.06.2023 under Sections 420, 467, 468, 471 IPC, Police Station

Noida Sector-20, Gautam Buddha Nagar, the informant – Sumit Yadav came to know about registration of fake firm, Yadav Traders, against his PAN Card No. AHFPX9874Q and the address is recorded as Ground Floor JL No. 219 Khatian No. 2275 dag no. 1835, Sahibganj Road, near Sahibganj, High School, Kharimala, Khagrabari Cooch behar West Bengal – 736101. Said Firm is got registered fallaciously against informant's PAN Card AHFPX9874Q. It has been registered illegally by some unknown miscreants. Informant has mentioned his permanent address as K-11 Gyan Sarowar Colony, Ramghat Road, Aligarh, and present address as J-41, Senior Citizen Society, Greater Noida. Thus, the FIR has been lodged.

4. As per prosecution version in **FIR/Case Crime No. 255/2023**, dated 08.06.2023 under Sections 420, 467, 468, 471, 120-B IPC, Police Station Noida Sector-20, Gautam Buddha Nagar, the informant - Arvind Kumar Yadav, on being known about arrest of some persons who illegally got GST registration using PAN Card of the persons, checked on GSTSEARCH.in and found that three fake GST Numbers detailed in the FIR bearing: (1) GST No. 24ABBP43323J12N, (2) GST No. 24ABBPY43323J2ZM and (3) GST No. 06ABBPY3323J12L have been obtained by someone, whereas he or his family member never obtained any GST Number and has no concern with the firms. He has stated that his documents have been misused. Hence, the FIR has been lodged.

5. Learned counsel for the applicant while placing the fact in the case of Kanika Dhingra and Mayank Dhingra, submits that three first information reports have been lodged, for which investigation started and charge sheet was submitted against 8 accused persons on 29.08.2023. The applicants are neither named in the first information reports nor have been chargesheeted till 29.08.2023.

6. On 06.09.2023 CD Parcha No. 75 was forwarded, wherein the Investigating Officer has recorded that he has received information from DGGI Meerut, Zonal Unit, Ghaziabad regarding prosecution of Sanjay Dhingra conducted by DGGI, Meerut under the provisions of the GST Act, 2017. The Investigating Officer reduced into writing the complaint dated 04.08.2023 filed by DGGI, Meerut in the court of Special Chief Judicial Magistrate, Meerut bearing Case No. 1942 of 2023. In the said complaint it was alleged that M/s Good Health Industries Pvt. Ltd., the Company where husband of the applicant - Kanika Dhingra, works as a consultant, had transactions with M/s AKS Traders which in turn had transactions with M/s YOYO Traders.

7. Learned counsel for the applicants submits that the case-diary of Case Crime No. 203 of 2023 consists of 70 parchas, wherein investigation as conducted from 04.05.2023 to 29.08.2023 does not mention names of YOYO Traders and M/s AKS Traders. The same is situation in the case diary of Case Crime No. 248 of 2023, wherein investigation was conducted from 01.06.2023 to 29.08.2023 containing 63 parchas and also that in the case of Case Crime No. 255 of 2023, wherein 51 parchas were there, investigation has been conducted from 08.06.2023 to 29.08.2023.

8. It appears that taking a clue from the complaint of GST, the Investigating Officer has forwarded CD Parcha No. 59 wherein he records that M/s YOYO Traders passed on input tax credit to M/s AKS Traders and M/s AKS Traders passed on input tax credit to M/s Good Health Pvt. Ltd. It is for the first time in the entire case diary wherein names of M/s YOYO Traders and M/s AKS Traders have been included in the investigation and it has been alleged that M/s YOYO Traders had been registered using mobile phone having IMEI No. 862625043825695 which was allegedly shown to have been recovered from Deepak Murjani. Thus, it is evident that allegation of transactions

made by M/s Good Health Pvt. Ltd. with M/s AKS Traders which in turn transacted to M/s YOYO Traders, has already been investigated by the DGGI, Meerut and charge sheet in form of complaint under CGST Act, 2017 has been submitted before the Special Chief Judicial Magistrate, Meerut. However, the same allegation has been pressed into CD Parcha No. 57 of the instant case.

9. It is also relevant to mention that Sanjay Dhingra, against whom complaint is there under CGST Act, 2017, has already been released on bail in the aforesaid case by an order dated 03.08.2023 passed in **Criminal Misc. Bail Application No. 32951 of 2023**, Sanjay Dhingra v. Union of India and another.

10. Thus, for the offence under the GST Act, where provisions of the CGST Act are applicable, the proceedings have been drawn and Sanjay Dhingra had already been released on bail, for the said offence, Kanika Dhingra (wife of Sanjay Dhingra) and Mayank Dhingra (son of Sanjay Dhingra) cannot be prosecuted as there were some transactions between the companies of Sanjay Dhingra and Mayank Dhingra whereas only money has been transferred from the account of Mayank Dhingra to that of Kanika Dhingra.

11. It has also been submitted by learned counsel for the applicants that from CD Parcha No. 60 wherein Investigating Officer records statements of employees of M/s Good Health Pvt. Ltd., no such statement has come on behalf of the employees which suggests complicity of the applicants in the aforesaid case. The Investigating Officer further records that Rs. 16.35 crore have been transferred to Kanika Dhingra from M/s Radhey Krishna Marketing, which is the firm of son of Sanjay Dhingra. All transactions were through online mode i.e. bank to bank transactions and the amount has been returned / adjusted by the applicant as on 31.03.2024.

12. In CD Parcha No. 60, wherein statements of employees of M/s Good Health Pvt. Ltd., have been recorded, it has been alleged that Rs. 289.14 crores have been transferred from M/s Good Health Industries Pvt. Ltd. to M/s Radhey Krishna Marketing (firm of Mayank Dhingra). The aforesaid amount was paid by M/s Good Health to M/s Radhey Krishna Marketing against the supply of milk, which is an exempted item under GST, made by M/s Radhey Krishna Marketing which was in turn purchased by its own vendors. It is relevant to point out that payments made by applicant's (Mayank Dhingra's) firm to its vendors have already been demonstrated in the balance sheet annexed in bail application.

13. The Investigating Officer has recorded that Rs. 16.35 crore have been transferred to Kanika Dhingra from M/s Radhey Krishna Marketing, which is the firm of Mayank Dhingra, through on-line mode and Mayank Dhingra has received back the adjusted amount.

14. Except the aforesaid, there is no evidence against the applicant - Kanika Dhingra in the entire case diary constituting any offence of cheating anybody or forging/ manipulating any documents or hatching any conspiracy whatsoever. There being no evidence of cheating anybody or forging any document, the applicants are entitled to be released on bail.

15. The applicants have been arrested on 30.04.2024 without there being any credible evidence against them.

16. The Investigating Officer has falsely implicated the applicants in the present case, without there being any credible evidence against them. Neither any collusion of applicants was found with any of the fake firm nor disclosed any proof of forging or creating any such document. It is only money transaction from one account to another which has been taken into consideration for implicating the applicants

in the present case. Other basis of implication is the SIM used in registration of M/s YOYO Traders which belongs to Deepak Murjani.

17. From the aforesaid facts, it cannot be said that the applicants can be charged of criminal conspiracy under Section 120-B IPC as there is no direct evidence to establish conspiracy and there being no agreement or connection with fake GST firms. In support of his submissions, learned counsel for the applicants has placed reliance on a judgement of the Supreme Court in the case of **Maghavendra Pratap Singh @ Pankaj Singh v. State of Chhattisgarh**¹.

18. Learned counsel for the applicant has elaborated his arguments submitting that in the counter affidavit State has come with Parcha Nos. 77, 78, 79 and 87. It says that the husband of Kanika Dhingra, namely, Sanjay Dhingra happens to be owner of M/s Good Health Industries Pvt. Ltd.² and son of Kanika Dhingra, namely, Mayank Dhingra is the owner of Radhey Krishna Marketing Pvt. Ltd.³ Certain amount has been transferred from Good Health to the firm of Kanika Dhingra's son, and from Radhey Krishna Marketing to the personal account of Kanika Dhingra.

19. He further submits that as on date no charge sheet has been submitted in the matter of the applicant. Learned Senior Counsel further argued that allegation is against Good Health. As per allegations, there are two companies, namely, YOYO Traders and AKS Traders which are mentioned in the charge sheet, which have been formed by the accused persons who have been chargesheeted in the first charge sheet. Allegation is that from these traders, transactions were made to Good Health. Statements of employees show that M/s Good Health was controlled by Sanjay Dhingra. Perusal of record shows that some complaints have been filed against the applicant under

1 2023 Livelaw (SC) 358

2 For Short, "Good Health"

3 For Short, "Radhey Krishna Marketing"

GST Act. This allegation has already been investigated by GST Department. He has drawn attention of the court to bail order dated 03.08.2023 passed in the case of Sanjay Dhingra i.e. **Criminal Misc. Bail Application No. 32951 of 2023**, Sanjay Dhingra v. Union of India and another.

20. Insofar as transfer of money is concerned, money came from the company of applicant's son. Sanjay Dhingra's Company has 5000 vendors. Money was deposited in Mayank Dhingra's Company because milk was transacted by his Company. Transaction reveals that son gave money to his mother, which has been returned to Mayank Dhingra's account.

21. Learned Senior Advocate argues that transfer of money from Radhey Krishna Marketing to Kanika Dhingra's account and returning it back does not amount to any offence.

22. Sri Manish Goel, learned Additional Advocate General assisted by Sri Amit Singh Chauhan, AGA-I, Sri Nitesh Srivastava, learned AGA and Sri Mayank Awasthi, learned Brief Holder, appearing for the State submits that nucleus of the entire issue is that there is a Press Reporter. He says that his PAN Card was misused and on the basis of his PAN Card two Firms were registered. Thus, offence under the provisions of IPC stands committed. On the basis of these fake firms, a transaction is being done with the Company, of which Sanjay Dhingra is a Director. Each and every transaction is separate set, for this they have to submit separate return. Applicants have committed offence of separate nature, so GST Rule will not apply, but it will not take them out of the offence that has been committed under Indian Penal Code, 1860⁴.

4 IPC

23. Elaborating the points, learned Additional Advocate General has placed following arguments:

A. He submits, insofar as involvement of the applicants in the offence is concerned, that they formed a syndicate and their modus operandi configures four segments: (i) assignment of job of collection of SIM Cards and personal data of people that have been uploaded on the portal of Goods & Services Tax; (ii) to use personal data for creation of fake firms by uploading it on GST Portal; (iii) there will be one actual firm which will be working and money transaction will flow to this actual firm and the input tax credit will be availed; and (iv) distribution of monetary benefits amongst all. He has very strenuously argued that to divulge the involvement of the applicants, the dots are required to be joined to examine as to who has done it.

B. It is submitted by Mr. Goel that 2600 fake firms were found to be registered and the input tax credit availed with these 2600 firms was more than Rs. 40,00,00,00,000/- (Rupees Four Thousand Crore). In the present matter anticipatory bail application was filed by one of the co-accused persons and after due consideration the Court has rejected the said anticipatory bail application.

C. Learned Additional Advocate General has further contended that from the material as collected by the Investigating Officer including statements, as recorded, it is evident that it is a case where a number of SIM Cards have been utilized, therefore, it is a case where the entire family is involved and if the bail is granted to one person, it will perpetuate illegality.

D. The FIR was lodged by one Saurabh Dwivedi, who is a journalist and Editor of The Lallantop Internet News Portal, about unknown GST registrations applied on his PAN showing the

addresses of Punjab and Maharashtra. The said GST registrations have been obtained without consensus. It has also been alleged that two registrations are already authenticated for Aadhaar verification whereas as on date no email ID or mobile number is linked with the Aadhaar.

E. Learned Additional Advocate General submits that the informant finds his name as a business entity. There are already two registrations for which he has never applied and there are two different addresses which have been shown. The informant in the FIR has emphatically stated that he never applied for such registrations and there is no consensus on his part. It is also stated that similar registration has been applied in the UT of Delhi, however, same has been rejected by the GST authorities.

F. Mr. Goel submits that the argument with regard to applicability of the provisions of GST Act, the informant levelled allegations of misusing his Aadhaar and PAN Cards for GST registration, thus, FIR has rightly been lodged under the relevant Sections 420, 467, 468, 471 IPC.

G. With regard to arguments of learned counsel for the applicants that once chargesheet has been submitted in economic offence, the person should be released, learned AAG contends that each economic offence has distinct parameter while consideration of bail, which can be summarized in three counts: (i) Gravity of Economic Offence, (ii) Impact, if the person is released on bail or the person is detained, and (iii) Interest of the Nation. It is argued that economic offence is not possible at the hands of one person and the present case is an organized crime where crores of government money has been siphoned by registration of fake firms in which all applicants are connected in one or the other way.

H. With respect to consideration of bail in offences related to GST, learned AAG has placed reliance on various judgements of the Apex Court in the cases of **Yogesh Jagish Kanodia v. State of Maharashtra and another**,⁵ **Ajay Khanna v. State Tax Anti Evasion Bureau, Jabalpur (M.P.)**,⁶ **Rajesh Jindal v. Commissioner of Central Tax GST, Delhi (West)**,⁷ **Jagdish Kanani v. Commissioner of CGST & Central Excise, Indore**,⁸ **Ranjeet @ Ranjeet Singh v. Union of India**⁹.

I. It has also been argued that the Supreme Court has viewed the matters of economic offences and laid down law while considering bail applications in the cases of **Y.S. Jagan Mohan Reddy v. Central Bureau of Investigation; Central Bureau of Investigation**¹⁰, **Central Bureau of Investigation v. Ramendu Chattopadhyay**¹¹, **Tarun Kumar v. Assistant Director, Directorate of Enforcement**¹², **State of Bihar and another v. Amit Kumar alias Bachcha Rai**¹³, **Nimmagadda Prasad v. Central Bureau of Investigation**¹⁴, **Serious Fraud Investigation Office v. Nittin ohari and another**¹⁵, and **State of Gujarat v. Mohanlal Jitamalji Porwal and another**¹⁶.

24. As argued by Mr. Amit Singh Chauhan, learned AGA-I and Sri Mayank Awasthi, learned Brief Holder, for the State, the following material has been collected to show the involvement of the applicants in the present case:

5 (2021) 90 GSTR 402 : 2021 SCC OnLine Bom 154 : (2021) 2 Bom CR (Cri) 112

6 (2020) 73 GSTR 296 2019 SCC OnLine MP 2130 : (2019) 30 GSTL 44

7 2018 SCC OnLine Del 1344 : (2019) 21 GSTL 471

8 2019 SCC OnLine MP 7108 : (2019) 12 GSTL 460

9 2018 SCC OnLine All 6085 : (2018) 17 GSTL 381

10 (2013) 7 SCC 439

11 (2020) 14 SCC 396

12 2023 SCC OnLine SC 1486

13 (2017) 13 SCC 751

14 (2013) 7 SCC 466

15 (2019) 9 SCC 165

16 (1987) 2 SCC 364

(i) C.D. Parcha No. 2 bears details of Mobile No. 8800966916 which was used to register the GST firms mentioned in the FIR, its CDR¹⁷/ CAF¹⁸ reports were obtained from Surveillance Cell.

(ii) CDR/ CAF reports were received which reveal that accused's location is of Pitampura Delhi, said information forms part of C.D. Parcha No. 4, whereafter informer as per CD Parcha No. 5 disclosed the names of Deepak Murjhani and Yaseen Sheikh found to have been involved in the crime.

(iii) CD-Parcha No. 7 says that on the aforesaid information, police arrested Ashwani Pandey and Yaseen Sheikh along with the recovery of incriminating materials i.e. SIM Cards of different companies, laptops, Aadhaar Cards, PAN Cards. On being checked the laptop, a master file contained in folder at the desktop, names of 1891 GST firms in various names were found, and in another master sheet contained in a separate folder there were details of 680 GST firms. In the said sheet, name of firms mentioned in the FIR were also found. On the pointing out of Ashwani Pandey and Yaseen Sheikh, the investigating team reached at Madhu Vihar office, where accused Deepak Murjhani, Akash Saini, Vishal Singh, Atul Sengar, Rajiv, Vineet were found and arrested along with huge amount of money and documents relating to fake GST firms. Copy of recovery memo was duly received by the accused persons putting their signatures thereon. The arrested accused persons, in their confessional statements, disclosed names of Anchit Goyal, Pradeep Goyal, Archit Goyal, Mayur alias Mani Nagpal, Charu Nagpal and Deepak Singhal. Consequently, Section 120B IPC was added.

(iv) C.D. Parcha No. 11 shows supplementary statement of accused persons in judicial custody, who said to assist in recovery of incriminating articles from concerned place and persons.

(v) C.D. Parcha No. 14 contains majid-statement of Yaseen Sheikh, Rajiv Jindal and Deepak Murjhani, who disclosed names of Rajiv Maheshwari and Rahul Gupta. In the same parcha the aforesaid accused persons including accused Ashwani Pandey,

17 Call Details Report

18 Customer Acquisition Form

Vishal and Akash, all of them disclosed the complicity of Rajiv Maheshwari, Rahul Gupta, Gaurav Singhal and Gurmeet Singh Batra alias Sahil and confessed that they used to generate fake GST bills/ invoices in the names of registered fake firms on the basis of fake SIM and IDs.

(vi) C.D. Parcha No. 15 shows that at the instance and pointing out of Deepak Murjhani, Ashwani Pandey and Yaseen Sheikh, arrest of Gaurav Singhal and Gurmeet Singh Batra was effected on 10.06.2023 from the residence of Gaurav, i.e., House No. 2/214, Sector-16, Rohini, Delhi, along with huge recovery of incriminating articles. Whereafter, the investigating team reached at Gautam Buddha Nagar along with accused taken in police custody remand alongwith arrested accused persons Gurmeet Singh Batra and Gaurav Singhal, from where accused Rahul Gupta and Rajiv Maheshwari were arrested with several SIMs and other incriminating material and the recovery memo was handed over with consent to Rajiv.

(vii) C.D. Parcha No. 16 shows that the accused taken in police custody disclosed the names of Atul Gupta, Sumit Garg alias Sumit alias Chacha, Mannan Singhal, Baldev alias Balli, Ishwar, Praveen, Sanjay Garg, Banti, Archit Goyal. All of them confessed to prepare fake GST invoices against the names of fake firms at the office taken on rent by Deepak Murjhani and Archit Goyal.

(viii) On being reached at the office of Jiwalo India Pvt. Ltd. (Shop No. 1-F/A-16, Gurudwara Road, Madhu Vihar, Delhi), statement of property owner, namely, Sahil Gupta S/o Sri Prakash Chandra Gupta was recorded, which revealed that the shop was taken on rent by one Rajnish Kumar Jha along with Raj Kumar Jha, for which a rent agreement was executed in the name of Jiwalo India Pvt. Ltd. The landlord identified the photograph of accused Yaseen Sheikh to be of Rajnish Kumar Jha, which shows the accused impersonated himself to be Rajnish Kumar Jha, thus it is a connecting chain in the commission of present offence. The information forms the part of CD Parch No. 17 (12.06.2023).

(ix) In C.D. Parcha No. 18 (13.06.2023) the Investigating Officer found that fake GST firm - Tam Enterprises mentioned in

the FIR does not exist at given address of Ludhiyana, Punjab, whereas at the relevant place there exists a shop in the name of Kings Footwear being run by one Prabhujeet Singh.

(x) C.D. Parcha No. 22, dated 23.06.2023, shows arrest of Atul Gupta, Sumit Garg alias Chacha and Mannan Singhal along with recovery at two instance of various fake invoices and cars, from which documents relating to A.K. Enterprises were found. Two separate recovery memos were given to the arrested accused persons which bear their signatures. Statements of aforesaid accused persons were recorded, who revealed names of Goldi, Anchit, Anshul, Pradeep Goyal, Praveen, Banti, Puneet, Ishwar, Vikas Dabbas and Sanjay Garg, Mayur alias Mani Nagpal, Charu Nagpal, Rohit Nagpal, Deepak Singhal, Peetam, Mintu, Montu, Ashish, Nandlal, Mahesh, Gaurav Nagpal and Sahil, and admitted to have been working together in this GST fake registrations and for earning undue monetary benefit.

(xi) In C.D. Parcha No. 24 (29.06.2023) the Investigating Officer found that the fake mobile no. 8800966916, which has been used in registration of GST firms with PAN Number, mentioned in the FIR, was found to have been used in four different mobile sets bearing different IMEI Numbers, therefore, the CDR/CAF report reveals that one of the IMEI in which the aforesaid mobile number was used, it was recovered from the possession of accused Yaseen Sheikh on 01.06.2023 as mobile set Nokia 1423. CDR and CAF reports are enclosed in the parcha, making evident the complicity of accused Yaseen along with all other accused persons.

(xii) Parcha No. 25 shows (11.07.2023) the Investigating Officer found that fake GST firm - Tam Traders mentioned in the FIR does not exist at given address of Maharashtra and the documents shown were found to be forged.

(xiii) Parcha No. 29 shows (07.07.2023) the details of persons in whose names SIM Cards were procured, have been recovered from the accused Yaseen and Deepak Murjhani.

(xiv) Arrest of accused Ajay alias Mintu, Amit alias Montu and Mahesh was made, which is mentioned in C.D. Parcha No. 30 (09.07.2023). Recovery of 07 mobile phones, 06 tax invoices,

one car and 3 aadhaar cards was made from said accused persons.

(xv) In the C.D. Parcha No. 31 the Investigating Officer found that the registration of vehicle mentioned in the invoices were found to be fake and fabricated.

(xvi) In the C.D. Parcha No. 37 arrest of Preetam Garg alias Chacha is mentioned along with recovery of fake tax invoices, mobile, aadhaar and voter ID. In his statement, the accused Preetam Garg confessed that he along with his elder brother Sanjay Garg went to Rohini, New Delhi, where he was introduced with Gaurav Singhal, Pradeep, Atul, Mannan, Sumit, Vikas Dabas, Goldi and Nand Lal, at the office of Arjit and Anchit.

(xvii) In the C.D. Parcha No. 39 the Investigating Officer recorded arrest of Jatin Murjhani alias Rohit and Dolsy Murjhani. In their confessional statements, both have stated to have part of the entire transaction by getting commission.

(xviii) In the C.D. Parcha No. 44 the Investigating Officer recorded arrest of accused Nandlal alias Nandu father of co-accused Mahesh and recovery of tablet (notepad). They informed that said tablet and mobile belong to accused Deepak Murjhani and Dolsy Murjhani. During his confessional statement, he has stated that the mobile recovered was to be returned to Deepak Murjhani as it is used for the purposes of obtaining OTP in registration firms, as also used in collection of payment from the customers.

(xix) In the C.D. Parcha No. 49 the Investigating Officer mentioned details of bank accounts of accused persons.

(xx) In the C.D. Parcha No. 53 the Investigating Officer found the tax invoice of Gurmet Singh Batra to be fabricated.

(xxi) C.D. Parcha No. 55 mentions that DGI, Ghaziabad Unit has provided list of 1192 PAN Cards and on verification from the PAN Card holders they denied knowledge of any such registration of firms.

(xxii) C.D. Parcha Nos. 61 to 65 the Investigating Officer recorded statements of affected persons and victims, in whose names fake GST firms have been registered.

(xxiii) C.D. Parcha No. 69 shows that IMEI Numbers of recovered mobile phones from accused persons were sent to respective companies, namely, AirTel, Jio, Vodafone Idea and on being run it was found that said mobiles with certain IMEI numbers were used in registration of a number of fake firms. They provided information that the mobile (IMEI) recovered from accused Yaseen Sheikh was used in 92 GST registration firms, from Vishal Singh and Akash Saini in 53 GST firms, from Atul Sengar in 45 GST firms, and mobile (IMEI) recovered from Deepak Murjhani was used in 139 fake GST firms.

(xxiv) In C.D. Parcha No. 72 the Investigating Officer has referred the letter sent to DGGI¹⁹, Unit Ghaziabad, in response thereto he had relied that total 2528 GSTIN fake firms were identified which are involved in ITC of Rupees Four Thousand Crore, in respect to the same different Zonal Units have arrested accused, namely, Tushar Gupta, Sanjay Dhingra, Rishabh Jain, Shubham Jindal, Tarun Jindal, A. Suresh Kumar, Sanjay Jindal and Ajay Sharma.

(xxv) In C.D. Parcha No. 75 the Investigating Officer has requested DGGI, Meerut Unit, Ghaziabad to provide entire details along with charge sheet with regard to Sanjay Dhingra, controller of M/s Good Health Industries.

(xxvi) In C.D. Parcha No. 76, a report from DGGI, Meerut Unit was received along with charge sheet filed against Sanjay Dhingra, which reveals that Inspector, DGGI Office, Ghaziabad has informed that accused persons were arrested by the police of P.S. Sector-20 Noida, Gautam Buddha Nagar and from their possession list of 2600 fake GST registration firms was recovered. On thorough inquiry it was found that the forged GST firms YOYO Traders has transferred ITC to fake GST firm AKS Traders, from which it was transferred to M/s Good Health Industries Pvt. Ltd., and both YOYO Traders and AKS Traders were found to be registered on fake documents. A complete report of DGGI office containing 28 pages is enclosed along with

19 Director General of GST Intelligence

the parcha. In the said report it has been found that YOYO Traders and AKS Traders are non-existing firms and mobile numbers have been provided which are used in the registration of fake firms.

(xxvii) C.D. Parcha No. 77 shows that on physical verification Investigating Officer found that both firms, namely, YOYO Traders and AKS Traders are non-existent at the principle place of business.

(xxviii) In C.D. Parcha No. 78, the Investigating Officer mentions that mobile number used in the registration of GST firm YOYO Traders i.e. 9873797648 was found to be used in mobile having IMEI No. 862625043825695, the said mobile was recovered at the initial stage from the accused Deepak Murjani.

(xxix) C.D. Parcha No. 79 shows that I.O. verified about whereabouts of the company but found the company YOYO Traders non-existent, further it was revealed that at the office of M/s Good Health Industries Pvt. Ltd. situated at F-82, Shivaji Palace, Rajauri Garden, Delhi, accused Sanjay Dhingra is not present since 15-20 days and the name of the Company has been changed to Live Light. Thereafter, statements of employees of the Company were recorded. They stated to have never seen Sukhveer Yadav and Rajesh Yadav who are also said to be Director of M/s Good Health and they use to report to Sanjay Dhingra who is owner of the said firm. Further, the complicity of Kanika Dhingra and Mayank Dhingra came to light.

(xxx) In C.D. Parcha No. 81 the I.O. recorded arrest of Ashish Allavadi along with the recovery of driving licence of accused Mannan Singhal and voter I.D. of Baldev. In his statement, Ashish stated that he used to bring payment of GST commissions and he has confessed the names of his cousin brother Amit alias Montu, Arjit, Anchit, Atul, Mannan, Baldev, Nandlal, Ajay, Ishwar, Sanjay Garg, Gaurav Singhal, Preetam alias Chacha and others in the commission of the offence.

(xxxi) C.D. Parcha No. 82 shows the entry of bank account of accused persons wherein concerned GST ITC transaction was

found, as such the accounts were requested to be ceased by the Bank under Section 102(1) Cr.P.C.

(xxxii) In C.D. Parcha No. 84 the I.O. shows arrest of accused Praveen Kumar with the recovery of mobile phone, Debit Card of Atul Gupta and two tax invoices. In his confessional statement he admitted complicity in the offence with other accused persons including Rajiv Jindal. He further disclosed the fact that with regard to the fake invoices GST Department has initiated proceedings against the accused, in which penalty of Rs. 12 lacs was recovered from the company.

(xxxiii) C.D. Parcha No. 85 shows that IMEI of the mobile phones recovered from the accused persons was got run on surveillance of concerned service providers, from where it was found that those IMEI numbers were used in 83 mobile number/SIMs.

(xxxiv) C.D. Parcha No. 98 refers about the report of one of the DGGI Zonal Units i.e. DGGI Gurugram Zonal Unit. It reveals that from the list of about 2600 fake GST firms which was recovered from the accused persons, out of these 20 companies were found to be common, by which fake ITC claims were received. Further, Annexure-1 of the said report reveals that from these 20 firms, by way of fake tax invoices about Rs. 16,91,74,236/- was misappropriated as a tax claim as such huge loss to the State Exchequer was caused. From Annexure No. 2 it is revealed that fake ITC claims of Rs. 8,57,60,146/- were fraudulently claimed from the fake GST firms. Further, Annexure-3 discloses that fake ITC of Rs. 226.45 crores were claimed in collusion with the accused Sanjay Jindal and Ajay Sharma. The report of DGGI is enclosed along with the said Parcha.

(xxxv) C.D. Parcha No. 105 shows the arrest of accused Rahul Nigam, Piyush Kumar Gupta and Dilip Sharma. They confessed that they use to create fake GST firms and invoices for the accused persons Arjit Goyal alias Adarsh Goyal, Anchit, Pradeep, Vikas Dabas and told that they are somewhere outside but they create fake GST firms and fake invoices on the email

i.d. of adarshgoyal129@gmail.com which is still logged-in on his laptop, wherein many fake GST firms are uploaded. Whereafter, 2 boxes containing 40 stamps, 1 box with 2 bank passbooks and 19 various bank' cheque books, 1 box containing 17 smart mobile phones, 1 box with key-pad mobile phones, 1 box with 20 pendrives, 1 box with one POS machine, and 45 SIM Cards, 12 PAN Cards, 10 Aadhaar Cards and 29 Credit Cards, 1000 fake documents relating to GST firms were recovered and sealed. From the confessional statements of arrested accused, complicity of accused Sachin, Babar, Parmeshwar and Nishant Agarwal came into light.

(xxxvi) C.D. Parcha No. 107 shows the entry of bank account of accused persons wherein concerned GST ITC transaction was found, as such the accounts were requested to be ceased by the Bank under Section 102(1) Cr.P.C.

(xxxvii) C.D. Parcha No. 119 shows the arrest of accused Vikas Dabas and in his confessional statement he disclosed that he along with other persons, at the office of Arjit, Anchit and Pradeep Goyal, used to transfer the said GST firms bills to different places and receive commission thereof. Further, he disclosed the family of Archit and Anchit is mainly involved in this offence and all other accused are involved in different aspects of commission of crime.

(xxxviii) C.D. Parcha No. 125 (09.03.2024) reveals that against the absconding accused (1) Anchit Goyal, (2) Pradeep Goyal, (3) Arjit Goyal, (4) Baldev alias Balli, (5) Rohit Nagpal proceedings of Non-Bailable Warrants, declaration under Sections 82 and 83 Cr.P.C. have been completed and lookout circular (LOC) has been issued as such there is less chances of arrest of the mentioned accused so charge sheet was filed against them under Sections 420, 467, 468, 471, 120-B IPC. Meaning thereby that accused have fled away from the proceedings of law, hence, shows their guilt.

(xxxix) C.D. Parcha No. 126 (11.03.2024) shows that during the course of investigation accused Kunal Mehta was in judicial custody as such vide judicial permission the statement of accused

Kunal Mehta alias Goldi was recorded in jail, wherein he stated to effect the recovery of forged documents from the office of Balli situated in Rohini, Delhi.

(xl) C.D. Parcha No. 128 (15.03.2024) indicates the recovery of documents relating to fake GST firm from accused Kunal Mehta alias Goldi.

(xli) C.D. Parcha No. 131 (21.03.2024) shows that during investigation it was found that accused Ajay Sharma and Sanjay Jindal, who were arrested by DGGI, Gurugram Unit amongst 8 other persons and also involved in the registration of 2600 fake GST firms, whose information was provided to the police by DGGI Ghaziabad Unit, are in jail, as such the statement of the accused persons were recorded wherein they have confessed their complicity in the present offence and requested the court below for allowing the remand of the accused in the present case crime under Section 420, 467, 468, 471, 120B IPC.

(xlii) In C.D. Parcha No. 135, a letter from DGGI Delhi Unit is submitted by the IO which reveals that the accused Tushar Mehta who was arrested by DGGI Delhi Unit, was involved in recipient of fraudulent ITC to the tune of Rs. 24 crores on the strength of purported invoices issued by the fake GST firm M/s MKJ Enterprises which is a part of Noida fake invoice syndicate.

(xliii) In C.D. Parcha No. 139 (10.04.2024) shows that during investigation it was found that accused Tushar Gupta, who was arrested by DGGI, Delhi Unit amongst 8 persons and also involved in the registration of 2600 fake GST firms, is in jail, as such the statement of the accused persons were recorded wherein they have confessed their complicity in the present offence and requested the court below for allowing the remand of the accused in the present case crime under Section 420, 467, 468, 471 120B IPC.

(xliv) C.D. Parcha No. 146 (01.05.2024) indicates that the accused Sanjay Dhingra along with Mayank Dhingra & Kanika Dhingra were arrested by the police from Delhi on 30.04.2024. At their instance/ possession, 7 mobile phones, 1 tablet, 6 cars,

cash of Rs. 1,41,000/- were recovered. Subsequently, in their confessional statement, Sanjay Dhingra along with accused have confessed their guilt in the alleged offence. Moreover, accused Sanjay Dhingra disclosed that fake GST firms were prepared by him along with Deepak Murjhani and others and it is important to point out that Kanika Dhingra who is wife of Sanjay Dhingra has stated that through M/s Radha Krishna Marketing about Rs. 16,35,00,000/- were transferred to her saving bank account. Copy of recovery memo was served upon the accused receiving their signatures thereon.

(xlv) C.D. Parcha No.149 (03.05.2024) shows that mobile phones and tablet which were recovered from the daughter of Deepak Murjhani, namely, Dolsy Murjhani, were sent to Forensic Science Laboratory, Ghaziabad for examination.

(xlvi) C.D. Parcha No. 156 (13.05.2024) reveals that the data relating to fake GST firms was shared with DGGI Unit, Jaipur, Rajasthan, wherein on 30.08.2023 names of Rishabh Jain, Shubham Jindal and Tarun Jindal came to light in the present offence. The report of DGGI indicates that the computerised data obtained discloses that aforesaid accused persons have received ITC benefits by way of forged GST firms by creating fake bills and invoices.

(xlvii) C.D. Parcha No. 158 (19.05.2024) refers the arrest of accused Rishabh Jain and Tarun Jindal from House No. 105, Prashant Vihar, Rohini, Sector-14 and from their possession recovery of 2 mobile phones, 1 laptop and list of fake GST firms was made. In their confessional statement, said accused stated that they along with Deepak Murjhani, Yaseen, Anchit and Arjit and others have created these forged and fabricated GST firms. In the same parcha, it has been mentioned that accused Shubham Jindal was also arrested from Rajasthan by another team on 18.05.2024, from whose possession 3 mobile phones, 2 laptops and a list of fake GST firms were recovered. It is mentioned that copy of recovery memo was given to accused persons.

(xlviii) C.D. Parcha No. 161 (25.05.2024) shows that confessional statements of accused Anshul Goyal were recorded,

wherein he has stated the complicity of the accused persons naming them.

(xlix) C.D. Parcha No. 162 (26.05.2024) reveals that a report from DGGI, Coimbatore which reveals that names of Smt. Suganya Prabhu and Sri Prabhuparam Shivam came to the light in the complicity of offence, showing huge amount was misappropriated through ITC.

(l) C.D. Parcha No.167 (23.06.2024) details about the arrest of Smt. Suganya Prabhu, her confessional statement was recorded which discloses the complicity in the present case.

(li) C.D. Parcha No.172 (27.06.2024) shows the arrest of accused Babar Khan and recovery of forged tax invoices and other incriminating material and thereafter confessional statement of the accused was recorded.

25. Learned counsel for the State submits that in relation to the accused person, namely, Sanjay Dhingra, Mayank Dhingra and Kanika Dhingra, chargesheet was submitted on 26.07.2024 under Sections 420, 467, 468, 471, 120-B IPC in respective case crime numbers.

26. Learned counsel for the State has argued that the complicity of accused Sanjay Dhingra along with applicants Mayank Dhingra and Kanika Dhingra was unravelled by complete chain of evidence and the name of firms AKS Traders and YOYO Traders were disclosed which were connected with the firm M/s Good Health Industries Private Limited, which was ultimately involved in the entire scam. These firms, namely, AKS Traders and YOYO Traders, during investigation, were found to be non-existing and fake as they were registered by procuring fake and fabricated documents by the applicants along with other accused persons. On being asked, Ramkumar and Rajni Kumar who were found at the addresses of said firms, they stated that no such firm in the aforesaid names is being operated by them and their documents

have been misused and a written complaint along with aadhaar and electricity bill were given to the Investigating Officer.

27. It has also been argued that the mobile phones which were used in the registration of firms YOYO Traders and AKS Traders were used in mobile phone having IMEI No. 862625043825695. The same mobile having the said IMEI was recovered from accused Deepak Murjani who was initially arrested.

28. During investigation it was found that M/s Good Health Pvt. Ltd. was having Directors Sukhveer Singh Yadav and Rajesh Kumar Jha. These persons could not be traced out and it was found that they were dummy directors for the purpose of committing the offence and further during investigation when the statements of employees of the company were recorded they disclosed that they have never seen the said Directors but they used to report only to accused Sanjay Dhingra (husband of applicant-Kanika Dhingra and father of applicant-Mayank Dhingra), and he is said to be the chief controller of the company M/s Good Health Pvt. Ltd. as such complicity of the Director of the Company and that of the applicants was also found in the commission of said offence.

29. Further it was found that accused - Mayank Dhingra is the proprietor of M/s Radhey Krishna Marketing, in whose account a hefty transaction of crores of rupees was found to be made in a very short span from M/s Good Health Pvt. Ltd., and thereafter, from M/s Radhey Krishna Marketing to the saving bank accounts of applicants – Kanika Dhingra and Mayank Dhingra. It was found that there were 71 consecutive transactions in the account of applicant – Mayank Dhingra and 168 times in the account of applicant – Kanika Dhingra. The said transactions were of about Rs. 300 crores. These cumulative facts reveal that the applicants were involved in hatching up entire

conspiracy for gaining wrong financial benefits along with other accused persons, and it has not been appropriately replied by the accused persons.

30. While assisting the Court, Mr. Rishi Kumar, learned Additional Chief Standing Counsel submits that the present case begins with lodging of FIR by Saurabh Dwivedi, wherein allegations for fake GST registration applied in his name with PAN No. AUSPD7067N by anonymous person and got two GST firms registered, thus, the entire case begins with fake GST registration using PAN Card and Aadhaar Card of the informant. During the investigation it was found that larger nexus works for having benefit of input tax credit. The offence has been committed in an organized and synchronized manner, wherein fake and bogus invoices have been created to cover the money trail and goods supply as well as money transactions are there with forged firms. Establishing the entire chain, the accused persons have been found connected with each other and in one or the other way they have been benefited by fake GST registration shown by using PAN Card and Aadhaar Card of the informant.

31. The backbone of goods and services regime is input tax credit. Under the GST regime, ITC follows supply chain not only intrastate but also interstate supply.

32. It has been established through investigation that crime has been committed by the accused persons by making fraudulent firm by using PAN Card and Aadhaar Card, Mobile Number for creating fake firms and through fake invoices, they breached supply chain of ITC and got benefit through fake gains which have been created by them. Thus, in so many words, the said case is started with registration of fake firms using PAN Card and Aadhaar Card of the informant for consequential benefits of claiming ITC. Thus, it cannot be said that the proceedings

have to be initiated against the applicants under the special Act i.e. Goods and Services Tax Act, where the proper procedure has been laid down and FIR could not have been registered.

33. The next finding in the case of recovery and use of fake PAN Cards has to be understood by analysing the purpose of issuing a PAN Card. The PAN card is issued to keep a track of financial activity of a person and a PAN is integral for all forms of payments. A PAN Card number is located to a needful and contains information such as Aadhaar number, date of birth and address. Similar is the use of Aadhaar Card which is now linked with the account of individual in favour of whom it has been issued. The PAN Card contains details of Aadhaar also. The PAN Card can be used for availing utility connections like electricity, telephone, LPG and internet. Under GST, a registered taxable person is required to issue an invoice containing all relevant information, such as the GSTIN, tax divergence and so on. If a taxpayer issues an invoice that is missing critical information, the invoice may be considered a fake GST invoice. Thus, by forging fake GST number using PAN Card of the informant fake GST invoices have been created for financial benefit, thus, the very basis of the present case is forgery done by the accused persons, on the basis of which financial gains in terms of ITC have been availed by them.

34. The learned Additional Chief Standing Counsel, in order to show how use of PAN Card in such a manner, is detrimental not only to the interest of the person whose PAN Card has been used but is also detrimental in national interest, has relied upon a judgement of Bombay High Court in the case of **UTI Infrastructure Technology and Services Limited v. Extra Tech World and Ors.**²⁰, wherein the Court has observed thus:

²⁰ By Bombay High Court in Interim Application (L) No. 564 of 2024 in Commercial Intellectual Property Rights Suit (L) No. 537 of 2024

“It cannot be in dispute that the PAN system is of paramount importance on a national scale due to its multifaceted impact on governance, taxation, and financial integrity, and it can be said to be the cornerstone of a robust financial economic system. PAN related services are pivotal in fostering fiscal discipline and ensuring a transparent and accountable economic framework, as apart from being a unique identifier for individuals and entities, it also aims at streamlining the tax recovery and payment process. Government of India has made it mandatory for PAN card holders to link the same to Aadhar Card, which is an acceptable proof of identification in India, and therefore, any potential misuse of the licence/authorisation to issue PAN cards, would be highly detrimental not only to the interest.”

35. Thus, the offence in the present case is affecting the interest of public at large.

36. I have considered the submissions advanced by learned counsel for the parties and perused the record.

37. The main argument of learned counsel for the applicant is with respect to there being no direct evidence of being in any way connected with the fake GST firms and even if it is presumed that there were any transaction of the applicants with Company of Sanjay Dhingra, he has already been released on bail, this Court feels that unknowing involvement in such transactions which are fraudulent in nature, which benefited them and has aided in concealing the money trail in the commission of offence, the same was subject to investigation, where after collecting evidence, charge sheet has been submitted.

38. Learned counsel for the applicants, in order to prove innocence of Kanika Dhingra, has submitted that transaction of money in her account from her son's account would not hold her guilty of participating in the crime in criminal offence. This Court is of the opinion that if the relatives, mother and son in the present case, are knowingly benefitted from money/ transactions even without directly participating in the crime, they shall stand implicated in the legal proceedings as offence against them is made out. This Court has found

from the case diary, portion of which has been placed above, that the mother and son have personally gained from the illegal funds, thus, it cannot be said that as they are not directly involved in registration of fake firms, they are not guilty. In these transactions, suspicious financial activity, especially a large sum of money has been deposited in the account of Kanika Dhingra unexpectedly. Such financial activity has to be reported and failure to report deposition of huge amount of funds is an activity which might lead to legal consequence even if the person concerned being relative was not actively involved in fraud.

39. Nowadays, money laundering has become a frequent feature and if there is evidence that the recipient attempted to conceal source of funds or participated in transferring the money in ways that suggests intentional wrong doing, thus, create circumstantial evidence as in the present case to hold them involved in the criminal activity.

40. In the facts of the present case, the involvement, knowledge and actions following the deposit determines that the applicants were well connected with Sanjay Dhingra in respect of transactions which he had with GST firms which were registered by using PAN Card and Aadhaar Card of the informant.

41. As regards the submissions regarding no credible evidence that the applicants have conspired, planned or plotted, in any manner, with Sanjay Dhingra or any of the fake firms, this Court has found from case diary, as placed above, that the SIM which has been used by accused Deepak Murjani in whose name M/s YOYO Traders is registered, and the same has been done with intention of achieving some gain, thus, it is an organized crime where the money trail is involved.

42. Money trail/ financial transaction and the records that have been traced to track the flow of funds, detect illegal activity which can be

analyzed from the bank account of the applicants wherein it is not clear as to from where such huge amount of money came into accounts of the alleged accused persons and have been deposited in other accounts. The Investigating Officer has, while submitting the charge sheet, found unusual and unexplained transactions which indicate some illegal activity as showing involvement of the applicants in the criminal offence.

43. It is also clear that the illegal profits as made by the fake GST firms registered on the basis of PAN and Aadhaar Cards of the informant, were made to appear legitimate by moving money / funds to the Bank accounts of others, may be company or firm or relatives' accounts.

44. The intention of all the accused of having transactions with fake GST firms, was for claiming input tax credit. For the purposes, fake invoices are created for purchase of goods, a group of firms engaged in fictitious transactions and no actual goods or services are exchanged but ITC is claimed multiple times.

45. Fraudsters, like all the alleged accused in the present case set up companies only on paper to generate fake transactions and claim ITC. Such companies are abandoned or shutdown after a short period.

46. GST Department has blown a whistle to report the fraudulent activities like fake invoicing or ITC theft, thus, giving opportunity to the Investigating Agency to trace the conspiracy as planned which was the outcome of fake GST firm registered on the basis of Aadhaar and PAN cards of others as in the present case.

47. As regards the bail being granted to Sanjay Dhingra, the same is for an offence under the GST Act, which has no relevance in facts of the present case as the same involves offences under IPC.

48. The principal of "bail is the rule, jail is the exception" is a fundamental concept in criminal law, where the criminal justice system recognizes the importance of personal liberty and the presumption of innocence until proven guilty. This principal emphasizes that an accused should ordinarily be granted bail unless there are compelling reasons to detain him in custody. But there are exceptions to the aforesaid principal. While, the general rule favours granting bail, there are several exceptions where courts may deny bail due to specific circumstances. These exceptions are based on factors that indicate a potential risk to society, the judicial process, or the investigation. Some points that should be kept in mind while granting bail are; the nature and gravity of the offence, likelihood of flight risk, risk of tampering with the evidence of witnesses, repeated offenders or habitual criminals, danger to society or the victim, possibility of committing another offence while on bail, interference with justice, specific statutory provisions like the Narcotic Drugs and Psychotropic Substances Act, 1985, Unlawful Activities (Prevention) Act (UAPA) and the Prevention of Money Laundering Act, 2002 (PMLA), lastly economic offence and white collar crimes.

49. The present case relates to economic offences. Such offence like large scale fraud, money laundering and corruption, are often viewed seriously because they affect the economic fabric of the society. The Courts may deny bail in such cases especially if the accused holds a position of influence or power. In the present case, money trail of crores, which affects the society at large scale, is involved which

started from registration of fake firms by using Aadhaar and PAN Cards of the informant who had not applied for such registration.

50. The Apex Court in the case of **Manish Sisodia v. Central Bureau of Investigation, 2023 SCC OnLine SC 1393**, has discussed about the constitutional mandate which is higher law and accordingly it is the basic right of person charged of offence and not convicted be ensured and given a speedy trial, thus, where the trial is not proceeding for the reasons not attributed to the accused, the Court unless there are good reasons may well be guided by exercising power to grant bail. This would be true, the trial would take years.

51. As discussed while rejecting bail of other accused persons in **Criminal Misc. Bail Application No. 53010 of 2023**, Rajiv Jindal v. State of U.P., and connected bail applications, from the report of the concerned District Judge/ Chief Judicial Magistrate, it is clear that the co-accused have avoided coming to the court and discharge application of one of the accused has been rejected. One or the other grounds are being taken by the accused persons in getting the matter adjourned so that the charge is not framed, therefore, they are trying to cause deliberate delay so that the charges may not be framed, hence, interfering in judicial process, thus, giving ample reason of not enlarging them on bail.

52. From the report also it is clear that the discharge application of one of the accused has been rejected and it shows that the charges are proved and once on the basis of material collected chargesheet has been submitted, discharge is rejected, the case of bail is not made out in economic offence where money trail of crores has been found which is a result of registration of fake firms. Offence under the IPC is made out and such accused cannot be dealt with easy hands. The applicants are also chargesheeted hence to be dealt with the same rod. In the case of

Y.S. Jagan Mohan Reddy v. Central Bureau of Investigation, (2013)

7 SCC 439, the Supreme Court has held thus:

“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 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.

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.”

53. The Apex Court in the case of **Nimmagadda Prasad v. Central Bureau of Investigation, (2013) 7 SCC 466** has formulated some important factors to be taken into consideration while considering bail applications. Relevant paragraph of the said judgement is quoted herein below:

“24. 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. It has also to be kept in mind that for the purpose of granting bail, the legislature has used the words “*reasonable grounds for believing*” instead of “*the evidence*” which means the court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.”

54. Hon'ble Apex Court in the case of **Directorate of Enforcement v. M. Gopal Reddy and another, 2022 SCC OnLine SC 1862** has held that in the economic offences which are having great impact on the society, the court must be slow in exercising discretion under Section 438 of Cr.P.C.

55. Insofar as the argument of learned counsel for the applicants that the cases where the accused are females, they are entitled to be released on bail giving benefit of Section 437 Cr.P.C., the court is of the opinion that the benefit can be given to women who do not have agency and not who themselves are powerful or connected with such powerful persons and the offence is such which is affecting the public at large.

56. In the case of **Tahir Hussain v. The Assistant Director Enforcement Directorate**²¹, the Court has observed that the accused Tahir Hussain was involved in the acts of cheating/ falsification/ forgery of documents which resulted in fraudulent removal of money from the accounts of the three companies (M/s SEAPL, ECPL and EGSP). On the directions and instructions of Tahir Hussain, huge amount of money was withdrawn from the accounts of the said three companies by way of transfer of funds to entry operators and bogus companies. Tahir Hussain was ultimate beneficiary of the laundered money which he used for fulfilment of ulterior motives. Fake and bogus invoices were created to cover the money trail.

57. The same situation is there in the facts of this case where the crime has started with registration of fake GST firms by using Aadhaar and PAN Card of the informant which amounts to forgery, therefore, offence under the relevant sections is made out and these offences have been properly investigated by the Investigating Officer after lodging of FIRs. The evidences have been collected from the GST Department also.

58. While considering an appeal against the bail cancellation order, the Apex Court in the case of **Gurcharan Singh v. State (Delhi Administration)**²², has held that there cannot be an inexorable formula

21 Order dated 24.11.2022, CrI. Rev. P. 775/2022 and CrI. M.A. No. 23452/2022

22 (1978) 1 SCC 118

in the matter of granting bail. Paragraph-29 of the said judgement is thus:

“29. We may repeat the two paramount considerations, viz. likelihood of the accused fleeing from justice and his tampering with prosecution evidence relate to ensuring a fair trial of the case in a Court of Justice. It is essential that due and proper weight should be bestowed on these two factors apart from others. There cannot be an inexorable formula in the matter of granting bail. The facts and circumstances of each case will govern the exercise of judicial discretion in granting or cancelling bail.”

59. The Apex Court in the case of **Prahlad Singh Bhati v. NCT, Delhi and another**²³, has held that while granting bail, the court has to keep in mind nature of accusations, nature of evidence in support thereof, severity of punishment which conviction will entail, the character, behaviour, means and standing 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, larger interest of the public or State and similar other considerations. Relevant paragraph no. 8 of the said judgement is reproduced hereunder:

“8. The jurisdiction to grant bail has to be exercised on the basis of well-settled principles having regard to the circumstances of each case and not in an arbitrary manner. While granting the 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, behaviour, means and standing 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 or State and similar other considerations. It has also to be kept in mind that for the purposes of granting the bail the legislature has used the words “reasonable grounds for believing” instead of “the evidence” which means the court dealing with the grant of bail can only satisfy it (*sic* itself) as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.”

23 (2001) 4 SCC 280

60. Law on consideration of the Court to grant or refusal of bail has been settled by the Apex Court in a catena of decisions. In the case of **Kalyan Chandra Sarkar v. Rajesh Ranjan**²⁴, the Supreme Court has held that the court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Paragraph-11 of the said judgement is being quoted below:

“11. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:

(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.

(b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

(c) Prima facie satisfaction of the court in support of the charge. (See *Ram Govind Upadhyay v. Sudarshan Singh*²⁵ and *Puran v. Rambilas*²⁶.)”.

61. In the case of **State of U.P. Through CBI v. Amarmani Tripathi**²⁷, the Supreme Court has formulated eight points for consideration of bail application. It would be apposite to quote the relevant paragraph no. 18 of the said judgement:

“18. It is well settled that the matters to be considered in an application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses

24 (2004) 7 SCC 528 : 2004 SCC (Cri) 1977

25 (2002) 3 SCC 598 : 2002 SCC (Cri) 688

26 (2001) 6 SCC 338 : 2001 SCC (Cri) 1124

27 (2005) 8 SCC 21

being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail. ...”

62. The Apex Court has, in the case of **P. Chidambaram v. Directorate of Enforcement**²⁸, held that precedent of another case alone will not be the basis for either grant or refusal of bail though it may have bearing on principle and the consideration will have to be on case-to-case basis on facts involved therein and securing the presence of the accused to stand trial. Paragraph-23 of the said judgement reads thus:

“23. Thus, from cumulative perusal of the judgments cited on either side including the one rendered by the Constitution Bench of this Court, it could be deduced that the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial. However, while considering the same the gravity of the offence is an aspect which is required to be kept in view by the Court. The gravity for the said purpose will have to be gathered from the facts and circumstances arising in each case. Keeping in view the consequences that would befall on the society in cases of financial irregularities, it has been held that even economic offences would fall under the category of “grave offence” and in such circumstance while considering the application for bail in such matters, the Court will have to deal with the same, being sensitive to the nature of allegation made against the accused. One of the circumstances to consider the gravity of the offence is also the term of sentence that is prescribed for the offence the accused is alleged to have committed. Such consideration with regard to the gravity of offence is a factor which is in addition to the triple test or the tripod test that would be normally applied. In that regard what is also to be kept in perspective is that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case since there is no such bar created in the relevant enactment passed by the legislature nor does the bail jurisprudence provide so. Therefore, the underlining conclusion is that irrespective of the nature and gravity of charge, the precedent of another case alone will not be the basis for either grant or refusal of bail though it may have a bearing on principle. But ultimately the consideration will have to be on case-to-case basis on the facts involved therein and securing the presence of the accused to stand trial.”

28 (2020) 13 SCC 791 : (2020) 4 SCC (Cri) 646

63. Recently the Apex Court in the case of **Satendra Kumar Antil v. Central Bureau of Investigation and another**²⁹, has outlined the considerations by the Court in the matter of grant or refusal of bail.

64. In the matter of other accused persons, this Court has rejected the bail applications vide judgement dated 31.08.2024 passed in **Criminal Misc. Bail Application No. 53010 of 2023**³⁰.

65. Having gone through the submissions of learned counsel for the parties, nature of accusation of offence, role of the applicants as well as reasons given in judgement passed in Bail Application No. 53010 of 2023, I do not find it a fit case for granting bail.

66. The bail applications preferred by the applicants - Kanika Dhingra and Mayank Dhingra are rejected.

Order Date :-02.09.2024

Rahul

29 (2022) 10 SCC 51

30 Rajiv Jindal v. State of U.P.