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MCRC-19184-2026

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE RAJESH KUMAR GUPTA

MISC. CRIMINAL CASE No. 19184 of 2026*VIKASH GUPTA**Versus**UNION OF INDIA*

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Appearance:

Shri D.M. Bhalla with Shri Shivam Gupta- Advocates for the applicant.

Shri Praveen Surange- Advocate for the respondent/GST.

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HEARD ON: 28.04.2026

DELIVERED ON : 12.05.2026

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ORDER

1. The instant bail application has been filed by the applicant under Section 483 of the BNSS. The applicant has been arrested in connection with Crime No.156/2026, registered at Police Station- The Principal Commissioner, Central GST & Excise Headquarters, Bhopal, Branch- Gwalior for the offence punishable under Sections 9(1)(B) of the Central Excise Act, 1944, Section 174(2) of the Central Goods and Services Act, 2017 and Rule 22 of Chewing Tobacco Zarda, Sentenced Tobacco and Gutkha Packing Machines (Determination and Collection of Duty) Rules, 2006. The applicant is under custody since 21.03.2026.

2. As per the prosecution case, acting upon intelligence received by the C.G.S.T. Department, a search was conducted on 19.03.2026 at the business premises of M/s Hunka Traders, a proprietorship concern of the applicant



situated at AB Road, Purani Chhawani, Shankarpur Tal, Industrial Area Motijheel, Gwalior, Madhya Pradesh, in exercise of powers under Section 67(2) of the C.G.S.T. Act read with Section 12F of the Central Excise Act, 1944.

3. During search proceedings conducted in the presence of independent *panch* witnesses, it was found that the applicant, while portraying himself as a trader of detergent and scented tobacco, was engaged in illegal manufacture and packing of chewing tobacco, zarda and scented tobacco pouches through packing machines installed in the premises. It is alleged that two electricity-operated single-track packing machines were found installed in the premises. One machine bearing Motor No. PGD 65315 was operational having packing capacity of approximately 105 pouches per minute and the second machine, though claimed by the applicant to be non-functional, was installed with electric panel switch VFD-L RS-485 and allegedly capable of production at 115-120 pouches per minute.

4. The raw tobacco, perfume/flavour and menthol were mixed in a mixer machine to manufacture scented tobacco which was thereafter packed and supplied in local markets as well as outside districts. It is alleged that pouches bearing MRP of Rs.2 and Rs.5 were found during the search and that manual packing activities were also being carried out.

5. Though the applicant had obtained registration under the Central Excise Act in the year 2020 bearing Registration No. BODPG3070AEM001, he had failed to pay central excise duty in terms of Notification No. 04/2025-Central Excise dated 31.12.2025 and the provisions of the Chewing Tobacco,



Zarda, Scented Tobacco and Gutkha Packing Machines (Capacity Determination and Collection of Duty) Rules, 2026 effective from 01.02.2026. According to the department, under the said notification and rules, duty liability of Rs.83,00,000/- per month per machine was payable and for two machines the total duty liability for February and March 2026 was assessed at approximately Rs.3.32 Crores. This is a deliberate evasion of central excise duty and cess by non-disclosure of packing machines and clandestine manufacture and removal of goods. Accordingly, the offence was registered against the present applicant and he is under custody since 21.03.2026.

6. Learned counsel for the applicant submitted that the applicant is innocent and has been falsely implicated in this case on hyper technical grounds only. The alleged duty liability is hypothetical, inflated and based merely upon presumed machine capacity and not actual production. At the time of inspection, only one machine was operational and the second machine was non-functional, which fact is recorded in the Panchnama itself. Despite the said fact, the department has arbitrarily computed liability for both machines and thereby inflated the alleged duty demand to Rs.3.32 Crores. The liability under the notification and rules is a matter of adjudication and disputed questions of fact and cannot justify custodial detention. The applicant was illegally detained from 20.03.2026 and formal arrest was shown only on 21.03.2026, thereby violating statutory safeguards and Article 21 of the Constitution of India. The applicant cooperated during search proceedings and custodial interrogation is no longer required. The



prosecution never sought police custody remand after judicial custody. The offences are punishable with maximum sentence of seven years and therefore liberal approach in bail jurisprudence ought to apply. The applicant does not bear any criminal antecedents and is a law abiding citizen along with a reputed trader. The applicant is sole breadwinner of the family and has dependent wife and minor child. The investigation is substantially documentary in nature and all relevant documents, machinery and goods have already been seized, therefore, there is no requirement of custodial interrogation and also there is no possibility of tampering with evidence or influencing witnesses.

7. Learned counsel for the applicant relied upon certain judgements which have been passed from time to time and the same are reproduced herein for ready reference:-

8. This Court has gone into all the aspect of the arguments and has perused the spirit of all these judgements, but for the sake of concise order, the relevant parts are reproduced herein;-

(i) **P. Chidambaram v. Directorate of Enforcement (2020) 13 SCC 791**, the applicant relied upon the judgment to contend that even in economic offences bail cannot be denied as a rule and that gravity of offence is only one factor in addition to the “triple test” namely flight risk, tampering of evidence and influencing witnesses.

(ii) **Sanjay Chandra v. Central Bureau of Investigation (2012) 1 SCC 40** - relied upon to submit that grant of bail is the rule and refusal is the exception, particularly where maximum punishment is seven years.



(iii) **Gurbaksh Singh Sibbia v. State of Punjab (1980) 2 SCC 565** - relied upon for the principle that personal liberty must be protected and bail should not be withheld as punishment before conviction.

(iv) **Praveen Kumar Agarwal v. CBI 2022 SCC OnLine Del 1963** - relied upon to contend that even in economic offences involving large amounts, bail may be granted after considering the triple test.

(v) **Mohan Kumar Jha v. State (NCT of Delhi) 2023 SCC OnLine Del 5164** - relied upon for the proposition that magnitude of offence alone cannot be sole ground for denial of bail.

(vi) **D.K. Shivakumar v. Directorate of Enforcement 2019 SCC OnLine Del 10764** - Relied upon concerning the applicability of the triple test in bail matters.

(vii) **Amarendra Dhari Singh v. Directorate of Enforcement 2024 SCC OnLine Del 1208** - Relied upon to contend that bail consideration primarily rests upon flight risk, tampering and influencing witnesses.

(viii) **Vipul Chitalia v. CBI 2022 SCC OnLine Bom 1348** - Relied upon to contend that after seizure of documents and completion of substantial investigation, continued incarceration becomes unnecessary.

(ix) **Gautam Khaitan v. Central Bureau of Investigation 2023 SCC OnLine Del 6508** - Relied upon to submit that economic offences do not automatically justify denial of bail.

9. *Per contra*, learned counsel for the respondent department opposed the prayer and prayed for its rejection by submitting that the applicant was illegally manufacturing and packing tobacco products through undeclared



packing machines in violation of Rule 6 and Rule 22 of the Chewing Tobacco, Zarda, Scented Tobacco and Gutkha Packing Machines (Capacity Determination and Collection of Duty) Rules, 2026. The applicant intentionally concealed existence and use of the machines from the department. He also evaded central excise duty and cess of approximately Rs.3.32 Crores. The Notification No. 04/2025-Central Excise dated 31.12.2025 clearly prescribed fixed monthly duty liability based upon installed machine capacity. The offence is serious economic offence affecting public revenue and national economy. The statements recorded under Section 70 of the CGST Act establish involvement of the applicant. The investigation regarding purchase, installation and usage period of machines and involvement of co-accused persons is pending. The applicant failed to disclose supplier details, purchaser details and source of raw materials. If the applicant is enlarged on bail, the applicant may tamper with evidence or influence witnesses. The offence under Section 9 read with Section 9A(1A) of the Central Excise Act is of non-bailable nature. The applicant's brother is also involved in another major tax evasion case indicating existence of organized syndicate activities. Even, the applicant failed to cooperate during interrogation even while in judicial custody.

10. It is further argued that the present applicant is accused of not only tax evasion, but some other offences like obtaining license for manufacturing some other goods and is preparing some other goods, this act of the applicant also comes under the ambit of offence punishable under relevant Sections of IPC.



11. Learned counsel for the the respondent/Department relied upon the following judgements- Y.S. Jagan Mohan Reddy v. Central Bureau of Investigation (2013) 7 SCC 439; State of Gujarat v. Mohanlal Jitmalji Porwal (1987) 2 SCC 364, Amal Mubarak Salim Al Rayami v. Union of India 2022 SCC OnLine Del 2254, Rajesh Goyal v. Union of India 2023 SCC OnLine P&H 3202.

12. Learned counsel for the respondent/Department also drawn the attention of this Court to the following relevant rules:-

1. Section 9(1)(b) of the Central Excise Act, 1944;
2. Section 9A(1A) of the Central Excise Act, 1944;
3. Section 174(2) of the Central Goods and Services Tax Act, 2017;
4. Rule 6 and Rule 22 of the Chewing Tobacco, Zarda, Scented Tobacco and Gutkha Packing Machines (Capacity Determination and Collection of Duty) Rules, 2026;
5. Notification No. 04/2025-Central Excise dated 31.12.2025 issued by Ministry of Finance.

As per the prosecution case, under Notification No. 04/2025-Central Excise dated 31.12.2025, fixed duty liability was prescribed on notified packing machines effective from 01.02.2026.

13. Heard learned counsel for the parties and perused the case diary.

14. This court also went through the Panchnama, grounds of arrest, statements recorded under Section 70 of the CGST Act and other documents available on record.

15. The primary contention of learned counsel for the applicant is that



one machine was non-functional and therefore duty liability has been exaggerated. However, this Court finds that the prosecution case is based upon the newly introduced Rules of 2026 and the corresponding Notification dated 31.12.2025 which prescribes levy and determination of duty on the basis of installed packing machines and notified capacity mechanism.

16. At this stage, this Court cannot undertake a detailed adjudication regarding actual production, actual utilization or exact liability. Such disputed factual issues are matters of evidence and trial.

17. The argument of the applicant that one machine was non-functional also cannot be accepted at this stage for the reason that admittedly no declaration regarding breakdown/non-functioning of the machine was made before the competent Commissioner as contemplated under the statutory scheme. Mere oral assertion during search proceedings that the machine was not operational cannot prima facie dislodge the prosecution case at the stage of bail.

18. The prosecution has specifically alleged violation of Rule 6 and Rule 22 of the Rules, 2026 by concealment of packing machines and clandestine manufacturing activity. Prima facie material including statements under Section 70 of the CGST Act, seizure of machines, raw materials and finished products, support the prosecution allegations.

19. This Court further finds that the offences alleged are economic offences involving substantial evasion of government revenue. The Hon'ble Supreme Court in **Y.S. Jagan Mohan Reddy v. Central Bureau of Investigation(supra)** has categorically held that economic offences constitute



a class apart and need to be visited with a different approach in the matter of bail.

20. Similarly, in **State of Gujarat v. Mohanlal Jitamalji Porwal (supra)**, the Hon'ble Supreme Court observed that economic offences are committed with deliberate design affecting the community and national economy.

21. This Court is conscious of the principles laid down in **P. Chidambaram v. Directorate of Enforcement (supra)** and **Sanjay Chandra v. Central Bureau of Investigation (supra)** relied upon by learned counsel for the applicant. However, the said judgments themselves recognize that gravity of economic offence, magnitude of evasion and larger public interest are relevant considerations while deciding bail applications.

22. The record further reveals that investigation is still in progress regarding procurement of machinery, supply chain, purchasers, suppliers and involvement of other persons. The prosecution has specifically alleged non-cooperation by the applicant during interrogation. The apprehension of tampering with evidence and influencing witnesses therefore cannot be said to be wholly unfounded at this stage.

23. This Court also finds substance in the prosecution argument that under the amended statutory regime and newly introduced Rules of 2026, liability extends to notified stock and installed packing machinery. Prima facie, the material collected during investigation indicates deliberate non-disclosure of packing machines and evasion of statutory obligations.

24. The contention regarding alleged illegal detention prior to formal arrest is a matter requiring evidence and deeper examination and cannot by



itself become a ground for grant of bail in the facts of the present case.

25. Considering the gravity and nature of allegations; prima facie material collected during search; huge alleged tax evasion of approximately Rs.3.32 Crores; the statutory scheme under the Rules of 2026 and Notification dated 31.12.2025; the continuing investigation regarding larger network and co-accused persons; the non-bailable nature of offence under Section 9A(1A) of the Central Excise Act; the possibility of tampering with evidence and influencing witnesses; this Court is not inclined to extend the benefit of bail to the applicant at this stage.

26. Consequently, the bail application filed by applicant sans merits stands **dismissed**.

(RAJESH KUMAR GUPTA)
JUDGE

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