



2026:AHC:116233

**HIGH COURT OF JUDICATURE AT ALLAHABAD**  
**CRIMINAL MISC. BAIL APPLICATION No. - 44278 of 2025**

Shakib Qureshi

.....Applicant(s)

Versus

Anti Evasion Cgst and 2 others

.....Opposite Party(s)

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Counsel for Applicant(s) : Ajatshatru Pandey, Niraj Kumar Singh  
Counsel for Opposite Party(s) : Dhananjay Awasthi

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**Reserved on: 05.05.2026**  
**Delivered on: 20.05.2026**

**Court No. - 73**

**HON'BLE VIKRAM D. CHAUHAN, J.**

1. Heard Sri G.S. Chaturvedi, learned Senior Advocate assisted by Sri Ajatshatru Pandey, learned counsel for applicant and Sri Dhananjay Awasthi, learned counsel for opposite parties.
2. As per prosecution case, it is alleged that complaint was received on 19.11.2024 from Deshbhakat Chauhan alleging that M/s Sundar Trader (GSTIN : 09RYSPK8652N127) has evaded GST of Rs.4-5 crores as GSTIN of its main inward supplier namely M/s Shri Ram Traders (GSTIN 061ODPD9141E1Z4) was cancelled on 29.8.2024 by considering the firm as fake entity. In month of June, 2024 GSTIN of M/s Shri Ram Traders was suspended but the same was activated by GST department. Therefore, complainant requested for investigation

against M/s Sundar Trader. Accordingly, physical verification of M/s Sundar Trader was conducted on 26.12.2024 and the taxpayer was found non-existent accordingly visit note was prepared on the spot by the concerned officer and the same was forwarded by letter dated 02.01.2025 to the jurisdictional officer for initiating proceedings under the CGST Act, 2017. As per the GST portal, GSTIN of M/s Sundar Trader was cancelled with effect from 07.11.2023. GSTR-1 of M/s Sundar Trader was analysed by the department and it was found that the said taxpayer is made out for supply to taxpayer namely Jayco Engineering Company, Mahavir Iron and Steels Company, Sunshine Steel, A S Enviro Tech, Super Tool and Components, Super Agro Udyao, Megha Constructions, Sanwariya Enterprises, Sarashwati Engineering Company, Kalpana Traders. Notice was issued to all the above mentioned beneficiaries to revise the ITC availed by them against invoice/supply received from M/s Sundar Trader.

3. Inspection at the premises of M/s Sunshine Steel was conducted as the said taxpayer was the major beneficiary of Rs. 236.57 Lakhs of the ITC passed by M/s Sundar Traders. During inspection of the premises of M/s Sunshine Steel, same was found locked and therefore, to protect the interest of revenue total amount of ITC of Rs.2,38,99,836/- was provisionally blocked on the basis of invoices/supply from non-existent firm namely M/s Sundar Traders and availment of inadmissible ITC. The taxpayer was issued summons dated 21.02.2025 to appear to tender statement on 27.02.2025. In pursuance to above mentioned summons, applicant appeared and tender statement. During statement, taxpayer has shown willingness to make payment against alleged availment of suspicion/fake ITC. Further, investigation has revealed that the mobile number of applicant was switched off. There are many attempts were made to locate the applicant by asking the family but the same was in vain. During search at principal place of business (PPOB) of applicant's, the stamp of M/s Moonshine Industries Pvt. Ltd and various other documents i.e. hand written book wherein the title has been mentioned Bill Sale & Bill found. By doing so applicant can be treated to indulge in

the sale–purchase of bills only. Further investigation conducted and it is revealed that applicant is involved in various firms by way of PPOB from IP address and via bank transactions. On perusal of the IP address it is noticed that many firms were being run from the same IP address. The PPOB of Sunshine Steel, Moonshine Industries & SS Corporation are same and it appears that all the return being filed from IP address at PPOB Kh No 16 Gali No 2, 30 Futa Road, Hindon Vihar, Ghaziabad. The Proprietor of Durga Enterprises Shri Lave Kumar & Proprietor of SS Corporation Shri Sahid in their statement have mentioned the name of applicant, as the person, who has used their credentials to create fake firms. Applicant has been controlling and running above-mentioned firms and actively holding control to file the returns of these firms.

4. Learned Senior Advocate appearing on behalf of applicant submits that applicant is the proprietor of Sunshine Steel. It is further submitted on behalf of applicant that there is no tax assessment under Section 73 or Section 74 of CGST Act, 2017. It is submitted that under the aforesaid provision, show cause notice is required to be issued to the assessee. It is submitted that unless the determination of tax evasion is made under the aforesaid provision, criminal prosecution would not lie. It is further submitted by referring to Section 2 (91) of CGST Act, 2017 that the present prosecution has been initiated Superintendent (AE), CGST, Ghaziabad was not the “proper officer” for determination of the taxation under Section 73 or Section 74 of the CGST, Act, 2017. It is submitted that till date there is no determination of tax evasion by the proper officer and therefore, criminal prosecution may not arise at this stage. It is further submitted that even otherwise, it is not reasonable to keep the applicant under detention pending trial. The applicant has no criminal history. Applicant is languishing in jail since 19.11.2025 and in case he is released on bail, he will not misuse the liberty of bail and will cooperate in the trial.

5. Learned counsel for opposite parties has opposed the bail application and submitted that applicant has been found to have indulged

in creation and management, issuance of GST invoices without supply of goods/services leading to fraudulent availment, utilisation and passing on of admissibility input tax credit to the tune of Rs.45.84 crore and as such, applicant has committed punishable offence under Section 132(1) (b) and Section 132(1)(C) of CGST Act, 2017 punishable under Section 132(1)(i) imprisonment of which may extend to five years and with fine. It is further submitted that applicant firm Sunshine Firm is the major beneficiary who has received ITC to the tune of Rs. 23.57 Lakhs passed by M/s Sundar Trader. It is submitted that following circumstances and material has been found during investigation:-

i). The PPOB of Sunshine Steel was found out during inspection and applicant was not found to be present at the PPOB or his residential address.

ii). Repeated attempts are made to contact applicant on his mobile number but the mobile number was switched off. Efforts were made to search the applicant with family members but same was also unsuccessful.

iii). During search at PPOB, a rubber stamp of M/s Moonshine Industries Pvt. Ltd. was recovered along with incriminating material including a hand written booklet bearing title "Bill Sale & Bill Purchase". Examination of said booklet revealed transactions recorded against various forms described as "only bills" "Bills @ 2%" and "Bills @ 3%". The entries clearly indicate that applicant was engaged in the activity of issuing and receiving invoices without actual supply of goods that is sale and purchase of bills only.

iv). On analysis of GST portal, bank account transaction and other digital footprint it is found that applicant was involved in operation of multiple firms which were interconnected through common principal place of business (PPOB), common IP address and link bank transaction. Further analysis of IP address show that multiple GST registrations were assessed, managed and operated from the same IP address establishing

common digital control over the entities. Further scrutiny of the bank transaction reflected interlinked and circular for movement among these firm.

a) From the analysis of digital evidence, it was found that the IP address namely 122.161.51.134, 122.161.49.11, 122.161.50.16, 122.161.52.21, 122.161.52.72 and 122.161.49.133 was repeatedly used for accessing the GST portal and filing returns in respect of M/s Moonshine Industries Ltd, M/s Durga Enterprises, M/s IBIS International, M/s FM Traders and M/s S.S. Corporations.

b) It is also found that principal place of business (PPOB) of M/s Sunshine Steel, M/s Moonshine Industries and M/s S.S. Corporation is the same.

c) During investigation proprietor of M/s Durga Enterprises, Shri Lave Kumar and Proprietor of M/s S S Corporation Shri Shahid in the respective statement have stated that applicant was the person, who have used the credential for creation and operation of fake firms.

v). The details of various firms are provided in paragraph no.10 of counter affidavit.

vi). It is also stated that applicant has absconded and failed to appear for recording statement despite summon and has not produced any documentary evidence in his defence.

Vii). Applicant has created fake firms and forged documents; Similar IP address found as common link in all related fake firms created by applicant.

Viii). There is loss of revenue to state exchequer.

6. In the present case, applicant is accused of creating fake firms, the same is based on Whatsapp chat message of applicant, phone details and statement of Shri Shahid, Proprietor of M/s S.S.Corporation and Shri

Lave Kumar of M/s Durga Enterprises. On search, various bill of other firms were found. Similar IP address of all related firms. Use of Same PPOB for various firms.

7. It is to be seen that prosecution case primarily rests on documentary evidence, data available on GST portal, digital foot prints, mobile phone data, Whatsapp chat and transaction of bank accounts. Investigation is completed and complaint is filed against applicant. In respect of non-compliance of summons, applicant in paragraph 31 of rejoinder affidavit has stated that applicant received the summons dated 21.2.2025 and thereafter, has appeared before the authorities and his statement was recorded. Investigation is complete and complaint is filed. The complaint dated 16.1.2026 has been filed by opposite party before court concerned after filing of counter affidavit before this court by opposite party.

8. It is not in dispute that till date proceedings under Sections 73 and 74 of CGST Act has not been initiated. The said proceedings are in the nature of assessment proceedings in respect of alleged violation where show cause notice can be issued to tax payer. Although criminal prosecution is not barred and are independent proceedings. However, where in assessment proceedings, it is found that taxpayer has not violated any law, the same may have bearing on the criminal prosecution.

9. The liberty guaranteed by Part III of the Constitution would cover within its protective ambit not only due procedure and fairness but also access to justice and a speedy trial. There is a presumption of innocence in favour of accused pending trial. The ultimate justification for such deprivation of liberty can only be, the accused being found guilty of the offences for which they have been charged. If such a finding is not likely to be arrived at within a reasonable time some relief becomes necessary. Timely delivery of justice is part of human rights and denial of speedy justice is a threat to public confidence in the administration of justice.

No material has been shown by State to demonstrate that the conduct of applicant while in jail would disentitle the applicant to be released on bail.

10. It is well settled that at pre-conviction stage, there is presumption of innocence. The object of keeping a person in custody is to ensure his availability to face the trial and to receive the sentence that may be passed. The detention (pending trial) is not supposed to be punitive. Delay in commencement and conclusion of trial is a factor to be taken into account and the accused cannot be kept in custody for indefinite period if trial is not likely to be concluded within reasonable time.

11. In **Sanjay Chandra Vs. CBI, (2012) 1 SCC 40** Hon'ble Supreme Court has held that accused cannot be in jail during trial as a punitive measure for his conduct, In this respect paragraph 21, 22 and 23 of **Sanjay Chandra (Supra)** is quoted herein below:-

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.

23. Apart from the question of prevention being the object of refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson.”

12. It is trite law that personal liberty cannot be taken away except in accordance with the procedure established by law. Personal liberty is a

constitutional guarantee. However, Article 21 which guarantees the above right also contemplates deprivation of personal liberty by procedure established by law. Under the criminal laws, a person accused of offences which are non-bailable is liable to be detained in custody during pendency of trial unless he is enlarged on bail in accordance with law. Such detention cannot be questioned as being violative of Article 21 since the same is authorised by law. But even persons accused of non-bailable offences are entitled to bail if the court concerned comes to the conclusion that prosecution has failed to establish a prima facie case against him and/or if the court is satisfied for reasons to be recorded that in spite of existence of prima facie case there is a need to release such person on bail where fact situations require it to do so.

13. Article 21 of Constitution provides that no person will be deprived of his life or liberty except by procedure established by law. The procedure established by law should be just, fair and reasonable. The presumption of innocence is applicable to under trial accused. Even if prima facie case is made out, the constitutional Court while considering the bail application are required to examine whether it is reasonable to keep the accused in custody during trial and in only exceptional cases (like heinous crime) the bail can be denied.

14. In **Special Leave to Appeal (Criminal) No 20996 of 2025 (Atul Mehra Vs. Union of India)** by order dated 12.1.2026, Hon'ble Supreme Court while granting bail to the accused under Section 132(i) of GST Act, 2017 and Section 20(xv) of IGST Act, 2017 (who was under detention for eight months) has observed as under:-

“4. We do not undermine the gravity of the alleged offence. However, at the same time, we should not overlook the fact that the petitioner is in judicial custody as an under-trial prisoner past 8 months. The Trial Court is yet to commence. Charge is yet to be framed. Even if the trial commences in near future, it would not conclude within next one year. The offences are triable by Magistrate. The maximum punishment that the trial court may be in a position to impose upon the petitioner if held guilty would be upto 5 years.”

15. The Supreme Court in **Criminal Appeal No 2269 of 2025 (Vineet Jain Vs. Union of India)** (Arising out of SLP (Criminal) No 4349 of

2025) decided on 28.4.2025 while granting bail to accused Clauses (c), (f) and (h) of Section 132(1) of the Central Goods and Services Tax Act, 2017 has observed as under:-

“The offences alleged against the appellant are under Clauses (c), (f) and (h) of Section 132(1) of the Central Goods and Services Tax Act, 2017. The maximum sentence is of 5 years with fine. A charge-sheet has been filed. The appellant is in custody for a period of almost 7 months. The case is triable by a Court of a Judicial Magistrate. The sentence is limited and in any case, the prosecution is based on documentary evidence. There are no antecedents.

We are surprised to note that in a case like this, the appellant has been denied the benefit of bail at all levels, including the High Court and ultimately, he was forced to approach this Court. These are the cases where in normal course, before the Trial Courts, the accused should get bail unless there are some extra ordinary circumstances”

16. In **Ratnambar Kaushik Vs. Union of India, (2023) 2 SCC 621**, Hon’ble Supreme Court while granting bail to an accused under Sections 132(1)(a), (h), (k) and (l) read with Section 132(5) of the Central Goods and Services Tax Act, 2017 has observed as under:-

“8. In considering the application for bail, it is noted that the petitioner was arrested on 21-7-2022 and while in custody, the investigation has been completed and the charge-sheet has been filed. Even if it is taken note that the alleged evasion of tax by the petitioner is to the extent as provided under Section 132(1)(l)(i), the punishment provided is, imprisonment which may extend to 5 years and fine. The petitioner has already undergone incarceration for more than four months and completion of trial, in any event, would take some time. Needless to mention that the petitioner if released on bail, is required to adhere to the conditions to be imposed and diligently participate in the trial. Further, in a case of the present nature, the evidence to be tendered by the respondent would essentially be documentary and electronic. The ocular evidence will be through official witnesses, due to which there can be no apprehension of tampering, intimidating or influencing. Therefore, keeping all these aspects in perspective, in the facts and circumstances of the present case, we find it proper to grant the prayer made by the petitioner.”

17. Under Section 132 of CGST Act, maximum punishment provided is 5 years. The prosecution is triable by Magistrate. Applicant is in jail since 19.11.2025. Investigation is completed against applicant and complaint is filed before Special Chief Judicial Magistrate, (Economic Offence), Meerut. It has not been shown by opposite party that charge has been framed against applicant. Even if the trial commences in near future, it would not conclude within next one year. Applicant has no previous criminal history.

18. In **Manish Sisodia Vs. Enforcement Directorate, (2024) 12 SCC 660**, Hon'ble Supreme Court has recognised the principle that "Bail is a Rule and jail is exception"

"52. The Court in Javed Gulam Nabi Shaikh case [Javed Gulam Nabi Shaikh v. State of Maharashtra, (2024) 9 SCC 813 : (2025) 1 SCC (Cri) 222] further observed that, over a period of time, the trial courts and the High Courts have forgotten a very well-settled principle of law that bail is not to be withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non-grant of bail even in straightforward open-and-shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial courts and the High Courts should recognise the principle that "bail is rule and jail is exception"."

19. Learned counsel for opposite parties has not brought any fact or circumstances to indicate criminal history or antecedents of the applicant which would disentitle the applicant for bail.

20. Learned counsel for opposite parties has not shown any exceptional circumstances which would warrant denial of bail to the applicant. No material, facts or circumstances has been shown by learned counsel for opposite party that accused may tamper with the evidence or witnesses or the accused is of such character that his mere presence at large would intimidate the witnesses or that accused will use his liberty to subvert justice or tamper with the evidence.

21. It is settled principle of law that the object of bail is to secure the attendance of accused at the trial. No material particulars or circumstances suggestive of the applicant fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like have been shown. Further the trial is by Magistrate and maximum punishment for offence is five years and applicant is in jail since 19.11.2025. Investigation against applicant completed and complaint filed and there is no chance that trial is completed in near future.

22. Considering the facts and circumstances of the case, nature of offence, evidence, complicity of the accused, submissions of learned counsel for the parties and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

23. Let the applicant **Shakib Qureshi** involved in Case No. 3175 of 2025, under Sections 132(1)(b)(c)(e) & 132(1)(i) of C.G.S.T., Act, 2017, Police Station G.S.T. Commissionerate, District Gautam Budh Nagar be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the following conditions:-

- i. The applicant will not tamper with the evidence during the trial.
- ii. The applicant will not pressurize/intimidate the prosecution witness.
- iii. The applicant will appear before the trial court on the date fixed, unless personal presence is exempted and/or the applicant shall make himself available for interrogation by a police officer as and when required.
- iv. The applicant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.
- v. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.
- vi. The applicant shall not leave India without the previous permission of the Court.
- vii. In the event, the applicant changes residential address, the applicant shall inform the court concerned about new residential address in writing.

24. In case of breach of any of the above condition, the prosecution shall be at liberty to move bail cancellation application before this Court.

**(Vikram D. Chauhan,J.)**

**May 20, 2026**

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