

IN THE COURT OF PRINCIPAL SESSIONS JUDGE, CHENNAI
**Present: Thiru.S.Karthikeyan, M.A., M.L., M.Sc., P.G.D.C.F.Sc., P.G.D.D.F.,
Principal Sessions Judge.**

Monday, the 29th day of June, 2026

Crl.M.P.No. 5550/2026

in

R.R. No. 9/2026

in

F.No. DGGI/INT/INTL/335/2026 on the file of the respondent

Dr. Obed Ulla A,

.. Petitioner/Accused

Vs.

State Rep. by
The Senior Intelligence Officer,
Union of India,
Directorate General of GST Intelligence (DGGI),
Chennai Zonal Unit, No. 16, BSNL Building,
Tower II, 5th and 8th floors,
Greams Road, Chennai – 600 006.

..Respondent/Complainant

This petition is coming on this day before this court for hearing in the presence of M/s. S.C. Vishwanth, M.K. Adhmapriyadharisini, K.S. Gowtham, the Counsel for the petitioner and M/s. Rajendran Raghavan, learned Special Public Prosecutor (DGGI) for the respondent and upon hearing them, this Court delivered the following

ORDER

1. The petitioner, who was arrested on 12.06.2026 in connection with R.R.No. 09/2026 on the file of the Respondent/DGGI for the offence punishable under Section 132(1) of CGST Act, 2017 has come up with the present application for seeking bail.
2. Heard both sides.

3. The learned Senior Counsel appearing for the petitioner submitted that the petitioner is one of the Directors of M/s. Attica Gold Private Limited. A company incorporated under the Companies Act, engaged in business of purchase of gold /used gold jewellerys from walk-in customers and resale of the same under Section 32(5) of the CGST Rules, 2017 through more than 200 branches across India and employing over 1500 persons. The petitioner came to be appointed as a Director only in the year of 2024. While facts being so, on 12.06.2026, the petitioner was arrested by the respondent in connection with alleged offence punishable u/s. 132(1) of CGST Act 2017 and he was remanded to judicial custody on 13.06.2026.

4. The learned Senior Counsel for the petitioner further submitted that, it is the case of the prosecution that the company is said to have misused the Margin Scheme by transporting old gold purchased at its branches at Bangalore, melted and converted the same into Gatti Gold and resold the same without proper accounting and thereby allegedly suppressed taxable turnover and evaded GST said to have exceeded to the tune of Rs. 100 crores. The learned Senior Counsel for the petitioner further contended that the search/inspection were carried out by the respondent at the corporate office and its branches on 29.05.2026, 30.05.2026, 01.06.2026 and 02.06.2026. In the said search, several records including Hard discs, Tally data, melting and transporter records, CCTV footage, electronic devices were seized. A further search was conducted at the petitioner's residence on 12.06.2026. However, no incriminating material was recovered. While so, without any reason, the respondent/DGGI has arrested the petitioner on 12.06.2026.

5. The learned Senior Counsel for the petitioner further contended that the allegations that the petitioner's company has evaded a Tax to the tune of Rs. 100 crores is a bald unsubstantiated allegations without any materials records. Therefore, the arrest itself is unsustainable as per the dictum of the Hon'ble Apex Court in *Radhika Agarwal Vs. Union of India, 2025 6 SCC 545*. Further, the learned Senior Counsel for the petitioner contended that the Hon'ble Apex Court in Radhika Agarwal case, observed that the arrest to be made only if the offence is non bailable and cognizable and after satisfying the conditions of Sub section (5) to sec. 132 as specified in clauses (a) to (d) of Sub Section (1) to Section 132 of the GST Act. Though, the prosecution has relied on that the Tax evasion to the tune of Rs. 100 Crore, no material was collected and shown that the company has evaded a sum of Rs. 100 crores.

6. Further, the learned Senior Counsel for the petitioner contended that the Tax evasion is calculated from the period of 2020-2021 to 2025-2026. The alleged evasion of Rs.100 crore stated without any material only to produce the court as against the petitioner and his company. The petitioner was inducted in the company only in the year of 2024 and therefore, he cannot be mulcted with any criminal liability which was happened prior to joining to the company. The learned Senior Counsel for the petitioner further contended that as per the decision of the Hon'ble Apex Court in Radhika Agarwal Vs. Union of India cited supra, the Commissioner, while recording the reasons to believe to record his satisfaction and refer the materials which forms the basis of his findings regarding the commission of the non bailable offence specified in clauses (a) to (d) of sub section (1) to sec. 132 of CGST

Act. In this case, the Commissioner has not recorded materials where from he derived such conclusion that the evasion is to the tune of Rs. 100 crore. Therefore, according to the learned Senior Counsel for the petitioner, the satisfaction recorded by the Commissioner is not in consonance with the direction of the Hon'ble Apex Court in Radhika Agarwal Vs. Union of India cited supra.

7. The learned Senior Counsel for the petitioner further submitted that the Central Board of Indirect Taxes and Customs, issued a circular dated 17.09.2022, with regard to the procedures and conditions precedent to arrest. Wherein, the Commissioner of the competent authority must satisfy the following questions.

3.2.1 Whether the person was concerned in the non- bailable offence or credible information has been received, or a reasonable suspicion exists, of his having been so concerned?

3.2.2 Whether arrest is necessary to ensure proper investigation of the offence?

3.2.3 Whether the person, if not restricted, is likely to tamper the course of further investigation or is likely to tamper with evidence or intimidate or influence witnesses?

3.2.4 Whether person is mastermind or key operator effecting proxy/ benami transaction in the name of dummy GSTIN or non-existent persons, etc. for passing fraudulent input tax credit etc.?

3.2.5 As unless such person is arrested, his presence before investigating officer cannot be ensured.

8. The learned Senior Counsel for the petitioner submitted that the said circular is mandatory in nature and binding on the respondent. The commissioner has mechanically answered the said question without applying his mind. The learned Senior Counsel for the petitioner further contended that the alleged Tax evasion was arrived without any assessment or adjudication. The learned Senior Counsel for the petitioner relied on another circular issued by the GST dated 25.05.2022, which was

extracted in the decision of the Hon'ble Apex Court in Radhika Agarwal Vs. Union of India cited supra is as follow:-

“It is further observed that recovery of taxes not paid or short paid, can be made under the provisions of Section 79 of CGST Act, 2017 only after following due legal process of issuance of notice and subsequent confirmation of demand by issuance of adjudication order. No recovery can be made unless the amount becomes payable in pursuance of an order passed by the adjudicating authority or otherwise becomes payable under the provisions of CGST Act and rules made therein. Therefore, there may not arise any situation where “recovery” of the tax dues has to be made by the tax officer from the taxpayer during the course of search, inspection or investigation, on account of any issue detected during such proceedings. However, the law does not bar the taxpayer from voluntarily making payment of any tax liability ascertained by him or the tax officer in respect of such issues, either during the course of such proceedings or subsequently.”

9. The learned Senior Counsel for the petitioner further contended that the arrest cannot be resorted to as a method for recovery of due. The learned Senior Counsel for the petitioner further submitted that the Hon'ble Allahabad High Court, Lucknow Bench in ***Durga Steel Rolling Mills Vs. Commissioner of Commercial Taxes, U.P. Lucknow***, reported in 2026 154 GSTR Act, 381 clarified what is tax evasion as follows:-

40. "Tax evasion" has been defined in the Black Law Dictionary, 9th Edition as follows:

"tax evasion. The willful attempt to defeat or circumvent the tax law in order to illegally reduce one's tax liability."

41. From perusal of the aforesaid definition of 'tax evasion' it emerges that tax evasion has been defined as a willful attempt to defeat or circumvent the tax law in order to illegally reduce ones tax liability. The word "willful" would mean a deliberate attempt to circumvent the tax law.

10. The learned Senior Counsel for the petitioner contended that in the counter, the respondent has mentioned in one place that the tax evasion is Rs. 100 crore and in another place, is contended that, the due is yet to be quantified. Therefore, the based on the vague allegations, the petitioner cannot be arrested.

11. The learned counsel for the petitioner further relied on the decision of the Hon'ble High Court of Punjab and Haryana in ***Akhil Krishan Maggu Vs. Deputy Director, DGGI*** and another reported in 2019 SCC online P & H, 7785 to say that the offence punishable is to the maximum of 5 years. Therefore, the directions of the Hon'ble Apex Court in ***Arnesh Kumar Vs. State of Bihar*** would apply. The learned Senior Counsel for the petitioner has bring out the following observations of the Hon'ble High Court of Punjab and Haryana at Chandigarh in a case ***Akhil Krishnan Maggu Vs. Deputy Dir., D.G. of GST*** is as follows:

Taking cue from judgment of Delhi High Court in the case of Makemytrip (supra) followed by Madras High Court in the case of Jayachandran Alloys (P.) Ltd., (supra), law laid down by Hon'ble Supreme Court in the case of Siddharam Satlingappa Mhetre (supra) as proper officer to arrest a person who has committed any offence involving evasion of tax more than Rs. 5 crore and prescribed maximum sentence of 5 years which falls within purview of sec. 41A of Cr.PC., we are of the opinion that power of arrest should not be exercised at the whims and caprices of any officer or for the sake of recovery or terrorising any businessman or create an atmosphere of fear, whereas it should be exercised in exceptional circumstances during investigation, which illustratively may be.

12. The learned Senior Counsel for the petitioner further relied on the decision of the Hon'ble High Court of Allahabad to say the directions given by the Hon'ble Apex

Court in a case of *Satender Kumar Antil*, has not excluded the application of decision of the Judgment for the offences covered under the Special Act. Therefore, according to the learned Senior Counsel for the petitioner, the petitioner cannot be arrested without issuance of notice u/s. 41(A) of Cr.PC or sec. 35 of BNSS. The learned Senior Counsel for the petitioner relied on the decision of the Hon'ble High Court of Madras in *Jayachandran Alloys (P) Ltd., vs. Superintendent of GST and Central excise and others*, reported in *2019 SCC online Madras, 31224* to say sec. 132 of the CGST Act uses the word 'commits; and therefore, it is clear that the Act of commission of the offence is first proved before punishment imposed. Therefore, according to the learned Senior Counsel for the petitioner, recovery can only be initiated after the due quantified and assessed.

13. The learned Senior Counsel also drew the attention of this court the observation made by the Hon'ble High Court in para no. 42 of its Judgment which is extracted hereunder:-

In the present case, the Department does not dispute that action was intended or envisaged in the light of [Section 132](#) of the CGST Act, the counter fairly stating that the provisions of [Section 132](#) of the CGST Act were 'shown' to the Assessee. There is thus no doubt in my mind that the Department intended to intimidate the petitioner with the possibility of punishment under 132 and this action is contrary to the scheme of the Act. While the activities of an assessee contrary to the scheme of the Act are liable to be addressed swiftly and effectively by the Department, (the statute in question being a revenue statute where strict interpretation is the norm), officials cannot be seen to be acting in excess of the authority vested in them under the statute. I am of the considered view that the power to punish set out in [Section](#)

132 of the Act would stand triggered only once it is established that an assessee has 'committed' an offence that has to necessarily be post-determination of the demand due from an assessee, that itself has to necessarily follow the process of an assessment.

Therefore, according to the learned Senior Counsel for the petitioner the arrest cannot be used as a mode for recovery for the alleged Tax evasion without determination for adjudication.

14. The learned Senior Counsel for the petitioner further relied upon the decision of the ***Delhi High Court in Makemytrip India (P) Ltd Vs. Union of India and others***, reported in 2016 SCC online, Del 4951 to say as follows:-

“116. To summarise the conclusions in this judgment:

The scheme of the provisions of the Finance Act 1994 (FA), do not permit the DGCEI or for that matter the Service Tax Department (ST Department) to by-pass the procedure as set out in Section 73A(3) and (4) of the FA before going ahead with the arrest of a person under Sections 90 and 91 of the FA. The power of arrest is to be used with great circumspection and not casually. It is not to be straightway presumed by the DGCEI, without following the procedure under Section 73A (3) and (4) of the FA, that a person has collected service tax and retained such amount without depositing it to the credit of the Central Government.

15. The learned Senior Counsel for the petitioner further submitted that the said decision was tested before the Hon'ble Apex Court in Civil Appeal No. 8080 / 2018 wherein, the Hon'ble Apex Court upheld the view of the Delhi High Court. The learned Senior Counsel for the petitioner further relied on the decision of the Hon'ble High Court of Karnataka in ***Shravan A. Mehra Vs. Superintendent of Central Tax***, reported in 2019 SCC online Karnataka 3552, wherein the Hon'ble High Court of Karnataka observed as below:

“On close reading of the above said Sections, the maximum punishment provided under the Act is five years and fine and if that is taken into consideration, the magnitude of the alleged offence and it is not punishable 20 with death or imprisonment for life. Even as per the said provision, the alleged offence is also compoundable with the Authority, who has initiated the said proceedings. The only consideration which the Court has to consider while releasing the petitioners on anticipatory bail is, that whether the petitioners can be secured for the purpose of investigation or for the purpose of trial. Under such circumstances, I feel that by imposing stringent conditions if the petitioners are ordered to be released on anticipatory bail, it would meet the ends of justice.” Under the similar facts and circumstances this court in Crl.P.No. 979/2019 connected with Crl.P.No. 980/2019, after considering the issue has released the Accused therein. In that light also the Accused herein are entitled to be released on anticipatory bail”.

16. The learned Senior Counsel for the petitioner further contended that when the authority makes an order based on certain grounds, its validity to be judged by the reason stated in the said order, the reason cannot be supplemented by way of an affidavit or other reason. Therefore, according to the learned Senior Counsel for the petitioner, the reason to believe to be judged based on the reason stated in the said reason to believe and not from the material supplied before this court by way of counter. Therefore, the learned Senior Counsel for the petitioner prays bail for the petitioner.

17. Per contra, the learned Special Public Prosecutor for GST contended that the Accused is the main Director and in charge of all the affairs of company M/s. Attica Gold Private Ltd. The said Attica involved in the purchase of 2nd hand gold jewels from private people. They in their GST returns claimed that they resell the old gold

purchased to 3rd party individual buyers. However, in the reality position, the said old gold transported to Bangalore, melted and sold as Gatti Gold to other jewellery manufactures for value of consideration received from them. The melted gold jewels attracts 3% GST. On reliable information, summons were issued to the Accused and others connected with Attica, the Accused and other staff failed to co-operate with the investigation team, and they did not provide proper reply and they were evasive and seeking time repeatedly.

18. The Accused on 29.05.2026 and 30.05.2026 has sought time for clarifications, but failed to do so even after expiry of 7 days. The investigation team, made further progress and after certain failures to get into the premises for questioning the search operation is also carried upon with due intimation to the Accused and business establishment officers and the staff concerned and further to same after the lapse of more than a week. In the course of further investigation, the Accused was arrested on 12.06.2026 at his residence at Bangalore in the presence of his sister and other family members with due intimation to the Accused and his relatives. The Accused moved for transit bail which was dismissed by the Bangalore court.

19. The Accused brought to Chennai as early as on 13.06.2026 and produced before the EO-I, Chennai and obtained order of remand till 24.06.2026. The Accused was placed judicial custody at Puzhal in afternoon of 13.06.2026. He moved bail before the learned Additional CMM of EO-I, which was dismissed. The Accused has requested for I class jail which was acceded to by the department. Therefore, there is

no question of harassment to him. The investigation is still in initial stage and more than 100 crores is the tax evasion. The investigation reveals that there is much more quantum and offence nature to open up. Therefore, according to the senior special public prosecutor for GST, the present bail is a premature one.

20. The investigation is in initial stage and his custody is very much required for the further investigation. According to the learned special public prosecutor, the arrest search for the purpose of securing the person, prevent to tampering of evidence, influence of evidence, prevention of abscondence and ensuring co-operation with by the investigation agency. The arrest was made only after observing the due procedures in the Code and direction of the Hon'ble Apex Court and various materials. Therefore, the learned special public prosecutor strongly objects to grant bail to the petitioner.

21. This court has given its thoughtful consideration to the rival submission put forth by either side. On careful perusal of records, it is found that M/s. Attica Gold Pvt. Ltd., is engaged in the business of buying gold jewels and to resell the same to the customers. The sale done within the said scheme of margin Rule under Section 32(5) of the CGST Rules, the GST will be charged for the margin gained out of the said sale. Whereas, if the gold is melted and sold as Gatti gold, a flat 3% GST would attract. According to the investigation agency, the Attica Gold Pvt. Ltd., has filed returns claiming that most of the jewels they purchased were resold to 3rd parties for margin and submitted GST returns accordingly.

22. However, the GST team got intelligence that most of the gold purchased by the M/s.Attica Gold Pvt. Ltd., were melted and sold to other Gold manufacturers. Therefore, a search was conducted in the corporate office on 29.05.2026, 30.05.2026, 01.06.2026 and 02.06.2026. The search team were collected various materials such as Hard discs, tally data, melting and transport records, CCTV footage, electronic devices and statements. The petitioner being one of the Directors of the said company has summoned several time u/s. 17 of the GST Act and they did not any reply.

23. The statement of the petitioner was recorded on 29.05.2026 wherein he admitted his guilty. Further, in response to question no.15, and question no.23, he submitted that he would provide particulars within 7 days. Further in respect of question no.31, he submitted that he is ready to cooperate with the investigation. However, contrary to the said statements, when he was issued with summons for his appearance on 04.06.2026, he resiled his earlier statement and retracted his statement on 05.06.2026.

24. On 12.06.2026, a search was conducted in the house of the petitioner, though nothing incriminating materials were found in the house of the petitioner, the search conducted in the corporate office and other offices wherein incriminating materials like transport logistics records, electronic records melting records, voluntary statements recorded by the employees and other evidences were collected during the searches and inspection conducted on 29.05.2026 and 01.06.2026 reveals the contradiction in their returns. The Attica Gold company Pvt. Ltd., transported goods and melted the golds and sold as Gatti gold. The initial assessment discloses that

there is a large scale and systematic suppression of taxable turnover and willful evasion of GST to the tune of Rs. 100 crore. Therefore, the Additional Director General, accorded his approval u/s. 69(1) of CGST Act, for the arrest of the petitioner on 12.06.2026. Accordingly, the petitioner was arrested on 12.06.2026 and remanded to judicial custody on 13.06.2026.

25. The learned Senior Counsel for the petitioner submitted that the Additional Director General of GST has not applied his mind and mechanically approved the arrest of the petitioner u/s. 69(1) of the CGST Act. The learned Senior Counsel for the petitioner relied on the decision of the Hon'ble Apex court in Radhika Akarwal Vs. Union of India to say that the reason to believe does not record the materials from which the said conclusions were arrived at and therefore, the reason to believe itself is vague and untenable. This court has gone through the reason to believe dated 12.06.2026 recorded by Additional Director General of GST, on careful perusal of the said reason to believe at para no. 4 of the reason to believe, the Director General recorded the materials he considered for according his approval for arrest. They are the statements of the employees on M/s. AGPL, and its recipients, the transporter data, CCTV footage of the melting room, melting reports, tally data and others seized documents and other devices. Therefore, the contention of the learned Senior Counsel for the petitioner that the reason to believe does not disclose the materials from which he arrived such a conclusion is untenable.

26. Though the learned Senior Counsel for the petitioner contended that the quantum of evasion exceeding Rs.100 crores is vague one, from the submission of the learned special public prosecutor, it is found that the investigation is in initial stage, the materials so far collected discloses that the evasion may exceed Rs.100 crores. From the submissions of the learned Special public prosecutor, it is clear that the investigation still on and alleged evasion may go beyond the one indicated in the reason to believe. The judgments relied on by the learned Senior Counsel for the petitioner are relating to recovery of GST without adjudications. Hence, no application for consideration of bail.

27. From the submissions of the learned special public prosecutor, it is found that the investigation agency not yet collected the entire records and scrutinized. Therefore, the process of adjudications is not yet started. As per sec. 69 of CGST Act, what is required for according approval for arrest is some materials to believe that the arrestee has committed an offence punishable u/s. 132 of CGST Act and not the final adjudication. The word reason to believe, is not defined in CGST Act, whereas sec. 29 of BNS, defines reason to believe as the person is said to have reason to believe if he has sufficient cause to believe that thing and not otherwise. Therefore, to record a reason to believe, it is sufficient that there will be a sufficient material to believe such evasion. Therefore, at the time of arriving conclusion to arrest or not to arrest, a final adjudication is not necessary, but sufficient materials to believe that he committed offence is necessary. The reason to believe already indicated the material from which,

he found the necessity for arrest. Therefore, the contentions of the learned senior counsel for the petitioner is not tenable.

28. Further, the learned Senior Counsel for the petitioner contended that the arrest was made without following the procedures u/s. 35 of BNSS since it has applications to special Act also. From the submission of the learned special public prosecutor, it is found that the petitioner herein does not respond to summons issued, further, though the petitioner has given statement on 29.05.2026, that he will produce certain particulars within 7 days, he has not submitted those particulars as promised. Further, he was issued summons to appear before the respondent on 04.06.2026, he failed and resiled his earlier statement by retraction dated 05.06.2026. His non appearance before the summoning officer and his retraction clearly indicate that he will not extend his co-operations unless he put to custodial interrogation. Therefore, the arrest and custodial interrogation is very much necessary in this case.

29. Though the learned Senior Counsel for the petitioner contended that the said fact were not mentioned in the reason to believe, while deciding the bail, this court is not only required to look into the reason to believe, but also the other materials collected and submitted before the court. The reason to believe is one of the documents and not the only document. Even though, the said facts were not mentioned in the reason to believe, this court is satisfied that the petitioner by the conduct exhibited that he will not cooperate for investigation unless he is put to custodial interrogation.

30. Further, the learned Senior Counsel brought to the notice of this court that the petitioner was arrayed as an Accused in Spl.S.C.No. 217/2025 in connection with the money laundering case. The involvement of the petitioner and money laundering case, implicit that there is yet another scheduled offence also there. Considering the previous bad antecedent, and the conduct of the petitioner and the gravity of the offence alleged, the stage of investigation, this court is not inclined to grant bail to the petitioner at this stage. Accordingly, this petition is dismissed.

31. Result:

In the result, this petition is dismissed.

Dictated to the stenographer, transcribed by him, corrected and pronounced by me in the open Court, on this the 29th day of June, 2026.

**Principal Sessions Judge
Chennai**