IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-19525-2026 (O&M)
Reserved on : 29.05.2026
Pronounced on : 02.06.2026

Rohit Kumar Gupta

..... Petitioner

VERSUS

State of Punjab through State Tax Officer

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by : Mr. Gurkiran Singh, Advocate for the petitioner.

Mr. I.P.S. Sabharwal, DAG Punjab.

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SURYA PARTAP SINGH, J.

This is first petition for bail, filed by the petitioner under Section 483 of the 'Bharatiya Nagarik Suraksha Sanhita 2023'. The petitioner, who is in judicial custody, has sought the benefit of bail in a complaint case, filed by the respondent for the commission of offence punishable under Section 132 of Punjab/Central Goods & Services Tax Act 2017, read with Section 69 of the Central Goods & Services Tax Act 2017, hereinafter being referred to as 'CGST Act' only, and Section 187 of 'Bharatiya Nagarik Suraksha Sanhita, 2023'.

2. It has been alleged by the petitioner that being proprietor of 'M/s Maa Steel, Ludhiana', he is engaged in lawful business of trading iron and related goods, and that on the false pretext of scrutiny of returns and E-Way bills for a period of 01.04.2024 to 27.01.2026, it has been alleged by

the complainant/respondent that irregularities have been detected in the transactions of goods, and that the abovesaid irregularities suggest that invoices were issued and received without actual supply of goods. According to petitioner, on the basis of abovementioned allegations, he was arrested on 12.02.2026 and since then, he is in custody. The petitioner has further alleged that during the course of investigation, he had fully cooperated with the officers of the respondent and supplied all the requisite documents, but despite cooperation and collection of evidence, he has been arrested. As per petitioner, his arrest is *ex facie* illegal being violative of safeguards enshrined under Section 35 of BNSS. It has also been alleged by the petitioner that the entire evidence to be collected by the Investigating Agency is documentary in nature, and therefore, his incarceration in judicial custody is not likely to serve any purpose. Hence, the request for bail.

3. The respondent-State has opposed the present petition. A reply has been filed. It has been alleged by the respondent that there is no denial of this fact that the petitioner is the proprietor of 'M/s Maa Steel, Ludhiana', and that he is engaged in trading of iron and steel goods. According to respondent-State, serious irregularities were detected during the analysis/scrutiny of E-Way bill data revealing systemic issuance and utilization of invoices without actual movement/supply of goods. As per respondent, in the abovementioned fashion, the Input Tax Credit (ITC) was illegally claimed by the petitioner and thus, he is liable to be prosecuted. While claiming that serious allegations, supported with reliable evidence, are there against the petitioner, the respondent has alleged that the loss of approximately Rs.9,66,64,194/- has been caused to the State Exchequer. The

respondent has come forward with a plea that in view of seriousness of allegations against the petitioner and the relevant evidence, he is not entitled to the benefit of bail.

4. Heard.

5. It has been contended by learned counsel for the petitioner that petitioner is a peace-living and law-abiding citizen pursuing his business in a legitimate manner, and that the business entity of the petitioner namely ‘M/s Maa Steel Ludhiana’ is involved in the business of iron and steel goods. According to learned counsel for the petitioner, the abovesaid business entity is duly registered with ‘Goods and Service Tax Department’, and that the prosecution of the petitioner on the ground of illegal claim of 'Input Tax Credit' is a fallacious.

6. The learned counsel for the petitioner has further contended that without any legal basis and without any evidence, it is being claimed by the respondent that the petitioner has availed 'Input Tax Credit' for a sum of Rs.9,66,64,194/- against fake invoices in the name of his firm, i.e. ‘M/s Maa Steels’, and that to support abovementioned stand of the respondent, there is no credible evidence at all. During the course of argument, the learned counsel for the petitioner has contended that after due verification, the refund of the petitioner towards ITC has been processed by the officer of respondent and now after an inordinate delay, without any basis, it is being claimed that there was no actual trade/business between the firm of the petitioner and other business entities.

7. With regard to above, the learned counsel for the petitioner has contended that in fact, all the relevant documents showing the business being run by the petitioner, such as GST invoices, E-Way bill etc. were handed over to the officer of the respondent, proving that the business was actually being run by the petitioner's firm and there was no illegal claim of ITC without actual business transaction, but the officer of respondent failed to look into the valid reasoning of the petitioner and illegally arrested him on 12.02.2026.

8. In addition to above, it has also been contended by learned counsel for the petitioner that otherwise also, the petitioner has already faced incarceration for a period of more than three-and-a-half months, and that the offence is punishable with maximum imprisonment up to five years. As per learned counsel for the petitioner, the entire evidence is documentary in nature, which has already been collected, and therefore, detention of petitioner in judicial lockup is not likely to serve any purpose. In view of above, the benefit of bail has been sought.

9. In support of his arguments, the learned counsel for the petitioner has referred to the principles of law laid down by the Hon'ble Supreme Court of India in the following cases:-

i) Vineet Jain V/s Union of India, 2025 SCC OnLine SC 2331;

ii) Ratnambar Kaushik V/s Union of India, 2023(2) SCC 621;

iii) Ashish Kakkar V/s Union of India & Anr., Writ Tax No.834 of 2023; and

iv) Radhika Aggarwal V/s Union of India & Ors, 2025(6) SCC 545.

10. The learned State Counsel has controverted the abovementioned arguments. According to learned State Counsel, the present petition has been filed by the petitioner on false and frivolous grounds, and that no valid ground for grant of bail, to the petitioner, exists in the present case. The learned State Counsel has also contended that an altogether false plea has been taken by the petitioner, while alleging that he has been arrested in violation of provisions of Section 35 of BNSS. While defending the proceedings taken up by the officers of respondent/State, the learned State Counsel has argued that all the necessary guidelines, instructions and statutory provisions were complied with by the Investigating Agency during the course of investigation of this case, and also at the time of arrest of the petitioner.

11. In addition to above, the learned State Counsel has also contended that in the present case, very large number of documents are supposed to be scanned by the respondent and the abovementioned process is still going on. According to learned State Counsel, the total custody period of the petitioner is barely three-and-a-half months, which by any standard, cannot lead to an inference that the petitioner is being subjected to prolonged incarceration due to delay in the investigation or trial

12. The learned State Counsel has further contended that the fraud played with State Exchequer by the petitioner is enormous, and that by playing fraud and creating false documents, illegal benefit has been drawn by the petitioner (in the name of his business entity). As per learned State

Counsel, the offence committed by the petitioner is of such a serious nature and magnitude, that he is rendered ineligible for the benefit of bail. Thus, the present petition has been sought to be dismissed by the learned State Counsel.

13. In support of his arguments, the learned State Counsel has placed reliance upon the principles of law propounded by the Hon'ble Supreme Court of India in the case of 'Central Bureau of Investigation V/s V. Vijay Sai Reddy' (2013) 7 SCC 452'. The Hon'ble Supreme Court of India cancelled the bail granted to the respondent/accused, who was prosecuted for an economic offence. The Hon'ble Supreme Court of India, took note of the fact that there are five charge sheets against the respondent/accused regarding laundering bribe money. In the abovementioned case, the Hon'ble Supreme Court of India has detailed the factors which should be kept in mind while granting bail:-

> *"a) 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 the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations.*
>
> *b) it has to be kept in mind that for 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 it 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.

c) it is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt."

14. The record has been perused carefully.

15. In the present case, it is relevant to note here that with regard to right to bail, the Hon'ble Supreme Court of India in the case of 'Vineet Jain' (supra) has made following observations:-

" 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.

By setting aside the impugned order dated 24th January, 2025 of the High Court of Judicature for Rajasthan, Bench at Jaipur, we grant bail to the appellant. The appellant shall be immediately produced before the Trial Court and the Trial Court shall enlarge him on bail on appropriate terms and conditions till the conclusion of the trial."

16. In addition to above, it is also relevant to mention here that the Hon'ble Supreme Court of India in the case of 'Radhika Aggarwal' (supra) has propounded that '*the arrest must proceed on the belief supported by reasons relying on material that the conditions specified in Section 132(5) are satisfied, and not on suspicion alone. An arrest cannot be made to merely investigate whether the conditions are being met. The arrest is to be made on the formulation of the opinion by the Commissioner, which is to be duly recorded in the reasons to believe. The reasons to believe must be based on the evidence establishing to the satisfaction of the Commissioner that the requirements of sub-section (5) to Section 132 of the GST Act are met'*.

17. It has also been observed by the Hon'ble Supreme Court of India in the abovementioned case that '*the figures with regard to the tax demand and the tax collected would, in fact, indicate some force in the petitioners' submission that the assessees are compelled to pay tax as a condition for not being arrested. Sub-section (5) to Section 74 of the GST Acts gives an option to the assessee and does not confer any right on the tax authorities to compel or extract tax by threatening arrest. This would be unacceptable and violative of the rule of law'*.

18. In the case of 'Sanjay Chandra v. CBI' (2012) 1 SCC 40, the Hon'ble Supreme Court of India has ruled that the benefit of bail cannot be denied merely in view of severity of the offence, and that the Court ought to be conscious of the right to speedy trial bestowed on the account by virtue of Article 21 of the Constitution of India.

19. The Hon'ble Supreme Court of India in the case of 'Gurcharan Singh and Others v. State' AIR 1978 SC 179, has observed that '*two paramount considerations, while considering petition for grant of bail in non-bailable offence, apart from the seriousness of the offence, are the likelihood of the accused fleeing from justice, and tampering with the prosecution witnesses. Both of them relate to ensure of the fair trial of the case'*.

20. With regard to right of bail to an accused, the Hon'ble Supreme Court of India in the case of 'Directorate of Enforcement v. Subhash Sharma' (2025) SCC Online SC 240', has ruled that '*once a Court, while dealing with a bail application, finds that the fundamental rights of the accused under Articles 21 and 22 of the Constitution of India have been violated while arresting the accused or after arresting him, it is the duty of the Court dealing with the bail application to release the accused on bail. The reason is that the arrest in such cases stands vitiated. It is the duty of every Court to uphold fundamental rights guaranteed under Articles 21 and 22 of the Constitution'*.

21. The Hon'ble Supreme Court of India in the case of 'State of Kerala v. Raneef' (2011) 1 SCC 784, has observed that the primary purposes of bail in a criminal case are to release the accused of imprisonment, to release the State of the burden of keeping him, pending trial, and at the same time, to keep the accused constructively in the custody of the court, whether before or after conviction, to ensure that he will submit to the jurisdiction of the Court and being attendance thereon whenever his presence is required.

22. It has also been observed by the Hon'ble Supreme Court of India in Sanjay Chandra's (supra) case that it is not in the interest of justice that accused should be in jail for any indefinite period. According to Hon'ble Apex Court, even if the offence is serious in terms of huge loss to the State exchequer, that, by itself, should not deter the Court from enlarging the appellant on bail, when there is no serious contention of the respondent that the accused, if released on bail, would interfere with the trial or tamper with the evidence.

23. Further, recently, in the case of 'Ashutosh Garg v. Union of India', Special Leave to Appeal (Crl.) No(s).8740/2024, decided on 26.07.2024, the Hon'ble Supreme Court of India has granted bail in a matter where the accused defrauded the State exchequer of ₹1032 crores as 'input tax credit' by creating 294 fake firms, citing long custody of 09 months as well as the fact that maximum punishment in the offence under Section 132 CGST Act is 05 years.

24. In the case of 'Ratnambar Kaushik' (supra), the Hon'ble Supreme Court of India deliberated upon the documentary and electronic nature of evidence as well as the prolonged trial in the matters pertaining to tax evasion under the CGST Act. In the above mentioned case, the accused had undergone imprisonment for a period of about 4 months, and in the above said circumstances, the Hon'ble Supreme Court of India opined as follows:-

> *"In considering the application for bail, it is noted that the petitioner was arrested on 21.07.2022 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.

Hence, it is directed that the petitioner be released on bail subject to the conditions to be imposed by the trial Court, which among others, shall also include the condition to direct the petitioner to deposit his passport. Further, such other conditions shall also be imposed by the trial Court to secure the presence of the petitioner to diligently participate in the trial. It is further directed that the petitioner be produced before the trial Court forthwith, to ensure compliance of this order."

25. In addition to above, it is also relevant to note here that the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Dataram V/s State of Uttar Pradesh and another', (2018) 3 SCC 22, are also relevant, wherein it has been observed that "a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there

are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case.

26. Recently, in the case of ‘Tapas Kumar Palit Vs. State of Chhattisgarh’, 2025 SCC Online SC 322, the Hon’ble Supreme Court of India has observed that “if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed”. It has also been observed by the Hon’ble Supreme Court of India in the abovementioned case that “delays are bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the

masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently".

27. While following the abovementioned guidelines, in the case of 'Atul Aggarwal V/s State of Punjab & Ors.' CRM-M-21915-2026, the benefit of bail was accorded to accused facing trial for the commission of offence punishable under Sections 132(1)(c)(1 sub-clause (i)) of CGST, when his custody period was three months and one day, and the similar trend has been followed in the cases of 'Bhanuj Jindal V/s Directorate General of Goods & Services Tax Intelligence' CRM-M-881-2026, 'Deepak Goyal V/s Inspector (Anti Evasion) CRM-M-49042-2025 and 'Arvind Kumar V/s DGGI' 2025 NCPHHC 65125.

28. In the light of abovementioned principles of law, if the factual matrix of the present case is analysed, it transpires that:-

i) that the petitioner is already in custody for a period of more than three-and-a-half months;

ii) the maximum punishment prescribed for the commission of offence allegedly committed by the petitioner, is imprisonment up to seven years;

iii) the entire evidence to be collected by the investigating agency is documentary in nature, and therefore, detention of petitioner in judicial custody is not likely to serve any purpose;

iv) the trial is not likely to be concluded in near future;

v) that detention of the petitioner in judicial lockup is not likely to serve any purpose;

vi) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses; and

vii) that there is nothing on record to show that if released on bail, the petitioner will not participate/cooperate in the trial.

29. Taking into consideration the cumulative effect of all the abovementioned factors and the relevant principles of law, it leads to a conclusion that the petitioner is entitled to the benefit of bail, and that the present petition deserves to be allowed.

30. Accordingly, without commenting anything on the merits of the case, the present petition is hereby ***allowed***. The petitioner is hereby ordered to be released on bail on furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court/Duty Magistrate concerned. However the abovementioned concession shall be subject to following conditions:-

(i) that the petitioner 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 to disclose such facts to the Court or to any other authority;

(ii) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final decision of the trial; and

(iii) that the petitioner shall not leave India without prior permission of the trial Court.

31. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him

shall be liable to the cancelled and the prosecution shall be at liberty to move an application in that regard.

32. It is, however, made clear that any observation made hereinabove is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

33. Pending miscellaneous application(s), if any, shall also stand disposed of, accordingly.

(SURYA PARTAP SINGH)
JUDGE

02.06.2026
Gaurav Thakur

Whether speaking / reasoned Yes/No
Whether Reportable Yes/No