

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13030 of 2025

Applicant :- Gaurav

Opposite Party :- Union Of India

Counsel for Applicant :- Abhinav Gaur, Ankit Shukla, Mohd. Rashid Siddiqui, Sr. Advocate

Counsel for Opposite Party :- Parv Agarwal

with

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 15189 of 2025

Applicant :- Chandan Sharma

Opposite Party :- Union Of India And Another

Counsel for Applicant :- Imran Ullah, Sheetla Prasad, Vineet Vikram

Counsel for Opposite Party :- Parv Agarwal

Hon'ble Manoj Bajaj, J.

(1) Applicants- Gaurav and Chandan Sharma have filed the above separate applications under Section 483 Bhartiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail, during the pendency of the trial in Case No.1505 of 2024, under Sections 132(1)(c), 132(1)(b) and 132(1)(i) of Central Goods and Services Tax Act, 2017, D.G.G.I., Ghaziabad. The applicants are in custody since their arrest on 13.02.2025.

(2) The facts in brief leading to the applications are that the Director General, Goods and Services Tax Intelligence, Ghaziabad, Regional Unit (in short '*D.G.G.I, Ghaziabad*') instituted a complaint dated 10th April, 2025 against the two accused persons, namely, Chandan Sharma and Gaurav Gupa, wherein it is alleged that an information was received that Chandan Sharma is associated with fake billing racket, who by issuing fake tax invoices for copper wires to various manufactures has been availing ineligible input tax credit and against these invoices there has been no supply of goods. As per information, the said person would be arriving at hotel Sunshine, Ramprastha, Ghaziabad on 6th December, 2024 for stay till next morning i.e 7th December,

2024. Relying upon the information, a search was conducted and six mobile phones were recovered from Chandan Sharma as well as his associates namely, Shiv Kumar and Satender Kasana. The search was also conducted at the residential places of these persons and items like laptop, mobile phones, note- books, rubber stamps, cheque books, sale purchase invoices, electronic devices etc. were recovered. Further, as per the statement of Satender Kasana, the said material was left by Chandan Sharma at his place for two days. Pursuant to the summons issued to these persons, statement of Chandan Sharma was recorded on 8th December, 2024 and 9th December, 2024, wherein he admitted that through ten fake firms he had availed input tax credit for passing on to the other end-users without actual supply of goods. As per the allegations, Chandan Sharma by issuing tax invoices without supply of underlying goods passed on the fraudulent input tax credit worth approximately Rs.59 crores to various end- users, and the details of ten firms with respective availed input tax credit and passed on input tax credit, is contained in para 28 of the complaint.

Similarly, the complaint also contains allegations against accused Gaurav, who in an identical manner had been engaged in availing ineligible input tax credit by using twelve fake firms and had further passed on the fake ITC to other beneficiary firms, and the said amount is approximately Rs.54 crores. The details of the twelve firms with respective availed input tax credit and passed on input tax credit is contained in para 31 of the complaint. Further, the complaint contains the existence verification of fake firms, their data analysis, financial analysis and concludes that the accused have contravened various provisions of Central Goods and Services Act, 2017, and further, prays for taking cognizance of above mentioned offences for the purpose of their prosecution and the punishment. A copy of the complaint/charge- sheet dated 10.04.2025 is appended as Annexure no.CA-23 with the counter affidavit.

(3) The accused- applicants had applied for grant of regular bail before the Additional District and Sessions Judge, court no.4, Meerut, but the said concession was declined vide respective orders dated 24.03.2025 & 25.03.2025. Hence, these applications.

(4) The applications are being contested by Union of India and separate counter affidavits dated 15.05.2025 have been filed through their learned counsel Mr. Parv Agarwal.

(5) Mr. Imran Ullah, learned counsel for the applicant- accused Chandan has argued that as per the complaint itself, the

incriminating material was collected from three persons, namely, Chandan Sharma, Shiv Kumar and Satender Kasana, but the other two persons have not been implicated as an accused. Learned counsel has drawn the attention of the Court to para- 3 of the complaint to point out that as per the statement of Satender Kasana, the incriminating material was left by accused Chandan Sharma, therefore, it is evident that the recovery cannot be related to Chandan Sharma alone. He further submits that there is no documentary evidence collected during investigation to connect the applicant with the ten alleged fake firms and the entire case of the prosecution is based upon the statement of the applicant-accused recorded in custody. He submits that the complaint is silent about the beneficiaries of the fake/ineligible input tax credit. According to the learned counsel, the trial proceedings are not making any headway, as even charges against the applicant have not been framed, who is presently confined in judicial custody. He prays for the concession of regular bail.

(6) Mr. Anoop Trivedi, learned senior counsel appearing on behalf of applicant Gaurav has also argued on the similar lines, who has pointed out that the complaint in question does not connect the two accused in any manner, and the allegations against the applicant-Gaurav also relate to availing/passing on fake input tax credit by using/issuing invoices of twelve firms. Learned counsel has further argued that though, the complainant had issued notices to the proprietors of these fake firms, but except Mohd. Azad, proprietor of M/s Manav Enterprises, no one associated with the investigation, and as per the statement of Mohd. Azad, one Sushil Kumar had used his Pan Card and Aadhar Card to get the firm M/s Manav Enterprises registered with the G.S.T., but the said person Sushil Kumar has not been arraigned as an accused. Learned senior counsel has argued that the applicant is being prosecuted only on the basis of the confessional statement recorded during custody and no documentary evidence much less connecting him with the alleged twelve fake firms has been collected by the complainant. Learned counsel has submitted that the investigation in the case is complete, but the trial is yet to commence, therefore, he also prays for regular bail.

(7) The prayer is opposed by Mr. Parv Agarwal, learned counsel for Union of India, who has argued that the applicants are the master-minds who were engaged in arranging the invoices without supply of underlying goods by using different fake firms. According to him, the accused have suffered admission relating to their involvement in the commission of the crime and further the

evidence collected during investigation also suggests their involvement in the crime. He has argued that the verification of all these firms was conducted and all were found to be non-existent, therefore, the applicants by misusing the fake invoices have committed the offences punishable under Sections 132(1)(c), 132(1)(b) and 132(1)(i) of Central Goods and Services Tax Act, 2017, D.G.G.I., Ghaziabad. He prays that the applications be dismissed.

(8) After hearing the learned counsel for the parties and considering their submissions, this Court finds that the case of the complainant is mainly based upon the confession of the accused persons recorded in custody. During the course of hearing, it is not disputed by the learned counsel for the Union of India that the two accused are not at all connected with each other, though, through the common complaint, they are being prosecuted for commission of similar offences. Further, it is fairly stated by Mr. Parv Agarwal, learned counsel for the Union of India that during investigation, no evidence has been collected, which would show that the applicants were actually managing the affairs of these fake firms. However, Mr. Parv Agarwal, learned counsel for Union of India stated that the investigation is still going on, as the details of the beneficiary firms is not yet complete.

(9) Admittedly, the alleged offences are triable by Magistrate, which carry a maximum punishment of five years and after filing of the complaint, the prosecution is in the process of adducing pre-charge evidence. Thus, it is clear that the trial has not yet commenced and its conclusion would consume considerable time. The entire case of prosecution is either based upon the documentary evidence or confession of the accused, but in the considered opinion of this Court, the truthfulness of the confession of the accused or its evidentiary value would be tested during trial. That apart, the majority of the prosecution witnesses are official witnesses and at present, there does not seem to be any possibility of their being won over. Thus, keeping in view the nature of the offences and punishment provided for these offences as well as the period undergone by the applicants, this Court deems it appropriate to extend the concession of regular bail to the applicants, as their further detention behind the bars would not serve any useful purpose.

(10) Resultantly, without meaning any expression of opinion on the merits of the case, the bail applications are allowed and it is ordered that the applicants, namely, Gaurav and Chandan Sharma be released on regular bail in the above case, subject to their

furnishing the requisite bail bonds and surety bonds to the satisfaction of the trial court. Further, it is directed that the accused- applicants shall abide by the terms and conditions of bail, which shall be imposed by the trial court at the time of acceptance of their bail bonds and surety bonds.

Order Date :- 21.5.2025

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