

Neutral Citation No. - 2025:AHC:39712

Reserved on 17.03.2025

Delivered on 19.03.2025

Court No. - 77-

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39820 of 2024

Applicant :- Shivam Goyal

Opposite Party :- Union of India

Counsel for Applicant :- Ayank Mishra, Shadab Alam

Counsel for Opposite Party :- Parv Agarwal

Hon'ble Manoj Bajaj, J.

1. Applicant- Shivam Goyal has filed this application under section 483 Bhartiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail, during the pendency of trial in Case No.2682 of 2024, titled : *Union of India Vs. Shivam Goyal*, under Sections 132(1)(c), 132(1)(i) Central Goods and Services Tax Act, 2017, DGGI, Zonal Unit, Meerut. The applicant is in custody since his arrest on 19.9.2024.

2. The above complaint has been filed by Director General of GST Intelligence Zonal Unit, Meerut (hereinafter referred to as 'DGGI Meerut') through Brijender Singh Sodhi, Senior Intelligence Officer, DGGI, Regional Unit, Ghaziabad, wherein it is alleged that an intelligence input was received that M/s Shreeji Metal (GST No. 07BSCPG2345D129) has been indulging in availing ineligible Input Tax Credit (ITC) on the basis of fake invoices received from non-operational firms, as no supplies were made against those invoices, and Input Tax Credit passed by these fake firms is inadmissible to recipient. As per the complaint activities of three supplier firms namely *M/s MG Wire Udyog*, *M/s Shiv Wire Udyog*, *M/s Hanumant Enterprises*, were found suspicious and upon verification the said firms were found to be non-operational. These firms had passed on Input Tax Credit of Rs.7,93,89,497/- to M/s Shreeji Metals. Similarly, another firm namely M/s Durga Industries

operated by Devendra Kumar Jain had also passed on Input Tax Credit of Rs. 1.31 crores to M/s Shreeji Metals, and after arrest of Devendra Kumar Jain, a complaint against him was filed on 23.4.2024 in Court of Special CJM (Economic Offences), Meerut. Through these four firms, a sum of Rs.9,25,45,423/- was availed by M/s Shreeji Metals as Input Tax Credit which was inadmissible, and to further ascertain the quantum of ineligible ITC the summons were issued to Umakant, proprietor of M/s Shiv Wire Udyog, one of the suppliers, as well as to Shivam Goyal, proprietor of M/s Shreeji Metal and their statements were recorded on 18.9.2024. As per the version of Umakant, M/s Shiv Wire Udyog was created by Mayank Kumar Rajput and Ankit Rajput by misusing his documents, and the firm M/s Shiv Wire Udyog was actually run by them, whereas Shivam Goyal confessed to have indulged in illegal activities to avail ineligible Input Tax Credit. Likewise, the statement of Praveen Kumar Goyal, the authorised signatory of M/s Shreeji Metals was also recorded on the similar lines, who also admitted to have availed ineligible Input Tax Credit of GST amounting to Rs.9,25,45,423/- from the non-existent supplier firms. Thereafter, the detailed investigation was further conducted and involvement of eight more firms namely *M/s Shree Mahaveer Ji Wire Industries*, *Kuber Metals*, *Mohata Wire Industries*, *RS Wire Company*, *Swastik Wire Industry*, *JSR Wire Industries*, *Shreeji Enterprises* and *Durga Metals* was also found. The physical verification of the non-existent supplier firms was conducted by issuing notices to the proprietors and in response four proprietors had appeared, who got recorded their statements to disclose involvement of Mayank Kumar Rajput and Ankit Rajput in creation of the firms and running their business activities. As per the complaint, Mayank Kumar Rajput and Ankit Rajput also got their statements recorded on 24.10.2024, who revealed that they worked in partnership with Vikrant Singhal to create 18 fake firms by using IDs of other persons, and the amount credited in the accounts of the fake firms by beneficiary firms was further credited in some other bank accounts for

cash generation, after deducting commission. Later on, involvement of five more firms namely *Vaibhav Industries*, *Shivam Wire and Cable Company*, *GJ Wire Industries*, *M/s R.P. Wires* and *M/s Citrix Enterprises* surfaced and the investigation indicated that M/s Shreeji Metals in total availed ineligible Input Tax Credit of GST amounting to Rs. 31.18 crores from 17 fake firms. The complaint contains verification of data analysis, financial analysis etc. and concludes that the accused has contravened various provisions of Central Goods and Services Tax Act, 2017 and further prays for taking cognizance of abovementioned offence for the purpose of his prosecution and punishment. A copy of the complaint/charge-sheet dated 14.11.2024 is appended with supplementary affidavit dated 22.01.2025 filed on behalf of the applicant.

3. The applicant had applied for grant of regular bail before Special CJM, Meerut and District and Sessions Judge Meerut, however, the said concession was rejected vide respective orders dated 23.09.2024 and 17.10.2024. Hence this application.

4. In response to the application for bail, opposite party filed its counter affidavit dated 08.11.2024 through their learned counsel Mr. Parv Agarwal.

5. Learned Senior Counsel for the applicant has argued that the applicant is a proprietor of firm M/s Shreeji Metals who is engaged in the business of manufacturing copper rods and wires which was registered under the GST Act, and since 2016 all the business activities of the firm were being conducted in a lawful manner and the tax returns were also filed in time. Learned Senior Counsel has further argued that the availment of Input Tax Credit already stood disclosed by the applicant, therefore, except the confession of the applicant and statement of Umakant, proprietor of M/s Shiv Wire Industries, there is no other evidence collected during investigation to suggest the commission of alleged crimes. Learned Senior

Counsel has further argued that as per the complaint 17 fake firms were found to have facilitated the availment of Input Tax Credit to M/s Shreeji Metals, but in the subject complaint only applicant has been shown to be an accused. According to the learned Counsel, Devendra Kumar Jain, proprietor of M/s Durga Industries is also shown as operator of a fake firm, and the complaint against him was filed separately on 23.04.2024 for commission of similar offences and the said accused has already been released on regular bail by this Court vide order dated 29.05.2024. He has produced the copy of the order passed in Criminal Misc. Bail Application No. 18606 of 2024. Learned Senior Counsel prays that as the trial yet to commence, therefore, the applicant be extended the concession of regular bail.

6. Mr. Parv Agarwal, learned Counsel for Union of India while opposing the prayer has vehemently argued that the applicant has availed ineligible Input Tax Credit of Rs. 31.18 crores from 17 fake firms and after detailed investigation the complaint/charge-sheet dated 14.11.2024 has been filed against him. He submits that in the alleged commission of crime various persons are involved and separate complaints are being filed against various accused persons. He submits that since the offence is serious, therefore, the applicant does not deserve the concession of bail. However, during the course of hearing, it is not disputed by Mr. Parv Agarwal, learned counsel that Devendra Kumar Jain, accused has been released on regular bail by this Court vide order dated 29.05.2024.

7. Upon hearing the learned Counsel for the parties and considering their arguments, this Court finds that the entire case of the prosecution is founded upon the documentary material and as far as the alleged ineligible availment of Input Tax Credit of Rs. 31.18 crores is concerned, the same is part of the tax returns filed by the applicant/firm M/s Shreeji Metals. Further, during the course of hearing, it is not disputed by the learned Counsel for the Union of India that the account of M/s Shreeji

Metals was attached vide order dated 07.10.2024, but subsequently, it was liberated vide order dated 08.11.2024, Annexure-2 appended with the supplementary affidavit dated 22.01.2025. It is also revealed by the learned Counsel of Union of India that the alleged availment of ineligible Input Tax Credit pertains to the transactions for the financial year 2022-23, and the proceedings for the recovery of tax have not yet initiated against the applicant, as even the notices for assessment of tax contemplated by Section 74 Goods and Services Tax Act, have not been issued. Notably, after the arrest of the applicant, he was associated in investigation and later on, he was sent in judicial custody and finally after completion of investigation the complaint/charge-sheet was filed against him on 14.11.2024. The confession of the applicant or the statements of the other proprietors of the fake firms would be tested in the context of evidentiary value by the trial Court during trial, which is yet to commence as even charges against the applicant have not been framed so far.

8. Admittedly, the alleged offences are triable by Magistrate and provide for a maximum punishment of five years imprisonment, and trial is likely to consume considerable time to conclude, therefore, this Court has no hesitation in holding that the further detention of the applicant behind the bars would not serve any useful purpose, who is confined in judicial custody. Further, the prosecution witnesses are official witnesses and presently there does not appear to be any possibility of their being won over, therefore, considering the nature of the trial as well as period of six months undergone by the applicant as an undertrial, this Court deems it appropriate to extend the concession of regular bail to the applicant.

9. Resultantly, without meaning any expression of opinion on the merits of the case, the bail application is allowed and it is ordered that the applicant– Shivam Goyal be released on regular bail in the above case subject to his furnishing the requisite bail bonds and surety bonds to the satisfaction of the trial court. It is further directed that the accused-

applicant shall also abide by the terms and conditions of bail, which shall be imposed by the trial court at the time of acceptance of his bail bonds and surety bonds.

(Manoj Bajaj,J.)

Order Date :- 19.3.2025
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