

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15th DAY OF APRIL, 2019

BEFORE

THE HON'BLE MR.JUSTICE B.A.PATIL

CRIMINAL PETITION NO.2484/2019

c/w.

CRIMINAL PETITION NO.2485/2019

IN CRIMINAL PETITION NO.2484/2019:

BETWEEN :

Mr. Mahendra Kumar Singhi
S/o Mr. Prithvi Raj Singhi
Aged about 56 years
R/at 2/1A, Mannath,
Nanjappa Road, Shanthi Nagar,
Bengaluru-560 027.

... Petitioner

(By Sri Ravi B. Naik Senior Counsel for
Sri Harish V.S., Advocate)

AND :

1. The Commissioner of Commercial Taxes
Karnataka
Vanijya Terige Karyalaya,
Gandhinagar,
Bengaluru-560 009.
2. The Additional Commissioner of Commercial
Taxes (Enforcement)
South Zone, VTK-2 Building
B-Block, 3rd Floor,

80 feet Road, Koramangala,
Bengaluru-560 047.

3. The Assistant Commissioner of Commercial Taxes (Enforcement-3)
South Zone, VTK-2 Building
80 feet Road, Koramangala,
Bengaluru-560 047.
4. The Deputy Commissioner of Commercial Taxes (Enforcement-5)
South Zone, VTK-2 Building
80 feet Road, Koramangala,
Bengaluru-560 047.
5. The Commissioner of Central Tax
Bangalore East Commissionerate
4th Floor, BMTC Building
Old Airport Road, Domlur,
Bengaluru-560 071.

... Respondents

(By Sri Nitin Ramesh, Addl. AG for R1 to R4;
Sri Jeevan J Neeralgi Standing Counsel for R5)

This Criminal Petition is filed under Section 438 of Cr.P.C praying to enlarge the petitioner on bail in the event of his arrest in No.ADCOM/ENF/SZ/ACCT-03/INS./2018-19 dated 09.01.2019 of Commission of Commercial Taxes, Bengaluru, for the offence punishable under Section 132 of Central Goods and Service Act, 2007.

IN CRIMINAL PETITION NO.2485/2019:

BETWEEN :

Mrs. Suman Mahendra Kumar Singhi
W/o Mr. Mahendra Kumar Singhi
Aged about 46 years
R/at 2/1A, Mannath,
Nanjappa Road, Shanthi Nagar,
Bengaluru-560 027.

.. Petitioner

(By Sri Ravi B. Naik Senior Counsel for
Sri Harish V.S., Advocate)

AND :

1. The Commissioner of Commercial Taxes
Karnataka
Vanijya Terige Karyalaya,
Gandhinagar,
Bengaluru-560 009.
2. The Additional Commissioner of Commercial
Taxes (Enforcement)
South Zone, VTK-2 Building
B-Block, 3rd Floor,
80 feet Road, Koramangala,
Bengaluru-560 047.
3. The Assistant Commissioner of Commercial
Taxes (Enforcement-3)
South Zone, VTK-2 Building
80 feet Road, Koramangala,
Bengaluru-560 047.

4. The Deputy Commissioner of Commercial Taxes (Enforcement-5)
South Zone, VTK-2 Building
80 feet Road, Koramangala,
Bengaluru-560 047.
5. The Commissioner of Central Tax
Bangalore East Commissionerate
4th Floor, BMTC Building
Old Airport Road, Domlur,
Bengaluru-560 071.

... Respondents

(By Sri Nitin Ramesh, Addl. AG for R1 to R4;
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This Criminal Petition is filed under Section 438 of Cr.P.C praying to enlarge the petitioner on bail in the event of his arrest in No.ADCOM/ENF/SZ/ACCT-03/INS./2018-19 dated 09.01.2019 of Commission of Commercial Taxes, Bengaluru, for the offence punishable under Section 132 of Central Goods and Service Act, 2007.

These Criminal Petitions coming on for orders this day, the Court made the following:-

ORDER

Criminal Petition No.2484/2019 is filed by Mr.Mahendra Kumar Singhi and Criminal Petition No.2485/2019 is filed by Mrs.Suman Mahendra Kumar Singhi, wife of the petitioner in Criminal Petition No.2484/2019 under Section 438 of Cr.P.C. to release

them on anticipatory bail in the event of their arrest in proceedings No.ADCOM/ENF/SZ/ACCT.03/INS./2018-19, dated 9.1.2019.

2. I have heard Sri Ravi B.Naik, the learned Senior Counsel for the petitioners and Sri Nitin Ramesh, the learned Additional Advocate General for respondent Nos.1 to 4 and Sri Jeevan J.Neeralgi, learned Standing Counsel for respondent No.5.

3. Before going to consider the submissions made on behalf of the parties, I feel it just and proper to mention the gist of the complaint in brief. Petitioners herein are husband and wife and they are the Directors of M/s.Steel Hypermart India Private Limited and M/s.Singhi Buildtech Private Limited. It is further alleged that the said Companies have been involved in circular bill trading in the State of Tamil Nadu and Karnataka and on examination of the data available in Analytics Software of the respondent's Department, it is noticed

that the total upwards supplies/sales of M/s.Singhi Buildtech Private Limited for the financial year 2017-18 and 2018-19 is Rs.300,64,44,966/- and the above information reveals that Rs.195,78 Crores out of total inward supply/purchase of Rs.234.29 Crores in 2017-18 and 2018-19 is made only from registered taxable persons involved in circular trading. It is further alleged that the total outward supply/purchase of M/s.Steel Hypermart India Private Limited for the financial year 2017-18 and 2018-19 is Rs.2,34,29,84,3870 and the said fact reveals that Rs.195.78 Crores out of the total supply of Rs.234.29 Crores during the year 2017-18 and 2018-19 is made only from the registered taxable persons involved in circular trading and thereby petitioners-accused have played fraud in circular bill trading. On the basis of the complaint, proceedings have been initiated.

4. It is the submission of the learned Senior Counsel Sri Ravi B.Naik that as per the provisions of

Goods and Services Tax Act, 2017 ('GST Act' for short), the maximum punishment which is liable to be imposed, even if an offence has been committed is five years. He further submitted that as per Section 138 of the GST Act, the said offences are compoundable before the Commissioner on payment. He further submitted that there is no illegality or there is no loss of revenue caused to the Government. The petitioners have paid GST by creating invoice and no input supply credit has been claimed by the Companies. He further submitted that the petitioners have not availed any loan or not raised any amount from the banks. Even in input tax the credit has also been given and that has not been deducted or claimed from the Government. He further submitted that the petitioners are ready to co-operate with the investigation and they are ready to abide by the conditions imposed by this Court. On these grounds, he prayed to allow the petitions and to grant anticipatory bail to the petitioners.

5. *Per contra*, the learned Additional Advocate General vehemently argued and submitted that the petitioners have been involved in inter-State circular bill trading. They are not co-operating for the purpose of investigation or interrogation. If the entire case is looked into without there being any movement of goods, the petitioners have claimed input tax credit and thereby without payment of any tax by them, they have claimed input tax credit. In that event, the economy of the country is going to be affected. He further submitted that only with an intention to deprive their income to the Government the said transactions have been created by the Companies without there being any actual movement of the goods. He further submitted that on creating such documents, they may raise huge loan from the banks by playing fraud. He further submitted that the petitioners have already raised loan of Rs.160 Crores from the bank. By referring to the statement of objections filed, he further submitted that if the entire records are looked

into the fraud played is in Crores of rupees. He further submitted that it is a big scam and if it is allowed to be continued, then it will be having its own cumulative effect on the economy and financial aspect of the State. By referring to the decision in the case of **Y.S.Jagan Mohan Reddy Vs. Central Bureau of Investigation**, reported in **2013(7)SCC 439**, he further submitted that in the case of economic offences they constitute a class apart and need to be visited with a different approach in the matter of bail. Economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing a serious threat to the financial health of the country. He further submitted that the Court must keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail and thereafter the bail application has to be considered. He further

submitted that the petitioners have not co-operated for the purpose of investigation since three months though several notices have been issued. If the petitioners are granted anticipatory bail, there is every likelihood that they would abscond and they do not cooperate with the investigation. He further submitted that the custodial interrogation of the petitioners is very much necessary to know the transactions and the hidden websites. However, he further submitted that as the proceedings have been initiated in respect of two Companies, namely, M/s.Steel Hypermart India Private Limited and M/s.Singhi Buildtech Private Limited, there is no question of apprehension of accused in so far as it relates to same transactions in respect of the two Companies namely, M/s.Metal Craft and M/s.Ferrum Merchant. On these grounds, he prayed to dismiss the petitions.

6. Learned Standing Counsel appearing on behalf of the 5th respondent by supporting the arguments of the

learned Additional Advocate General has also prayed to dismiss the petitions.

7. I have carefully and cautiously gone through the submissions made by the learned counsel for the parties and perused the records, so also the decision quoted by the learned Additional Advocate General.

8. Though several contentions have been raised with reference to initiation of the action under the GST Act and CST Act, since the scope of these petitions is limited only to consider the bail applications, the other points which have been raised are not dealt with in detail to dispose of these petitions. This Court while considering the similar aspect in Criminal Petition No.497/2019 c/w. Criminal Petition No.498/2019, disposed of on 18.2.2019 has discussed elaborately all the points and thereafter it has come to the conclusion that the accused-petitioners therein are entitled to be released on bail. In the instant case also, similar

allegations have been made as against the petitioners and as the said aspect has already been covered by this Court in the aforesaid petitions by the order dated 18.2.2019, I feel that the petitioners herein are also entitled to be released on anticipatory bail.

Accordingly petitions are ***allowed.***

The petitioners herein are granted anticipatory bail. In the event of their arrest in proceedings No. ADCOM/ENF/SZ/ACCT.03/INS./2018-19, dated 9.1.2019, the petitioners herein are ordered to be released, subject to the following conditions:-

- i) Each of the petitioners shall execute a personal bond for Rs.5,00,000/- (Rupees five lakhs only) with two sureties for the like sum to the satisfaction of the apprehending authority or authorised officer.*
- ii) They shall surrender before the Investigating Officer or authorised officer within fifteen days from today.*

- iii) *They shall not tamper with the prosecution evidence or destroy any documents whichever required for the purpose of interrogation or investigation.*
- iv) *They shall co-operate with the investigation or interrogation.*
- v) *They shall be made available before the Investigating Agency as and when they are ordered to do so. If they do not co-operate with the investigation, the respondents are at liberty to move the Court for cancellation of bail.*
- vi) *They shall not indulge in similar type of criminal activities covered under the said GST Act and Central Goods and Services Tax Act till the trial is concluded.*
- vii) *They shall not leave the jurisdiction of the Court without prior permission.*
- viii) *They shall not leave the country.*
- ix) *They shall surrender their original passports before the jurisdictional Court.*

- x) *They shall mark their attendance before the authorised officer on 1st of every month till the trial is concluded.*

In view of disposal of the petitions, applications for interim bail filed in both petitions are disposed of.

Sd/-
JUDGE

*ck/-