

**Court No. - 81**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 18606 of 2024

**Applicant :-** Devendra Kumar Jain

**Opposite Party :-** Union of India

**Counsel for Applicant :-** Mehul Khare, Pragya Pandey

**Counsel for Opposite Party :-** G.A.

**Hon'ble Subhash Chandra Sharma, J.**

**Allowed**

For order, see order of date passed in Criminal Miscellaneous Bail Application No. 18751 of 2024 ( Pradip Kumar Jain Vs. Union of India, DGGI).

**Order Date :-** 29.5.2024

Suraj Srivastav

**Court No. - 81**

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**Applicant :-** Pradip Kumar Jain

**Opposite Party :-** Union of India

**Counsel for Applicant :-** Mehul Khare,Pragya Pandey

**Counsel for Opposite Party :-** Parv Agarwal

with

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**Applicant :-** Devendra Kumar Jain

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**Hon'ble Subhash Chandra Sharma,J.**

Counter affidavits filed today by learned counsel for the D.G.G.I. in Criminal Misc. Bail Application No. 18751 of 2024 and in Criminal Misc. Bail Application No. 18606 of 2024 are taken on record.

Heard Sri Pradeep Jain, Kunwar Gangesh Singh, Tarun Garg and Sambhav Jain learned counsel for the applicants, learned counsel for the D.G.G.I. and perused the record.

Facts in brief are that Devendra Kumar Jain is proprietor of Aadi Enterprises and 5 other firms those are non-existent and operated by him. He fraudulently availed ITC amounting to Rs. 67.75 crores and passed on ITC amounting to Rs. 67.46 crores, out of which ITC to the tune of Rs. 45.39 crores was fraudulently availed by Pradip Kumar Jain. This Input Tax Credit was availed and passed on without actual supply of goods on the basis of issuance and receipt of fake tax invoices. In such a manner both of them Devender Kumar Jain and Pradip Kumar Jain committed offences under Section 132(1)(b) & (c) and under Section 132(1)(i) of Central Goods & Service Tax Act, 2017, respectively.

It is submitted by learned counsel for the applicants that the applicant Pradip Kumar Jain is proprietor of M/s Arav Enterprises and M/s N.P. Industries. He conducted business in actual sense in the year 2017-18, 2018-19, 2019-20, 2020-21. He purchased the material in actual sense and did not claim ITC on fake invoices. It is also submitted that Devender Kumar Jain applied for cancellation of his G.S.T. registration on 01.12.2020 for cancellation of 5 firms those were cancelled which shows that there was no any tax liability on Devender Kumar Jain at that very time. It is further submitted that tax liability is said to be related to the year 2017-18, 2018-19, 2019-20, 2020-21 though investigation was conducted in the year 2023-2024. It is further submitted that there was no any assessment of liability made by the concerned authority and no any notice was given to them but they were arrested by the authorities and except the statement of the applicants there is no any other material on record to show the liability of the applicants that they availed the ITC fraudulently. It is also submitted that how these non-existent companies were registered and ITC was passed, the source is unknown till now and no liability of G.S.T. has been assessed till now. It is further submitted that till date penalty or taxes has not been ascertained as per the said Act. It is further submitted that offences as alleged are punishable up-to five years imprisonment and are compoundable. It is further submitted that no notice for assessment of G.S.T. has been issued against the applicants but they were illegally arrested. There is no any criminal history against the applicants. They are in jail since 28.02.2024, therefore, request to release them on bail during the pendency of case.

Learned counsel for the D.G.G.I. opposed the prayer as aforesaid and contended that the applicants operate the racket for evading the Input Tax Credit by creating fake firms. There are statements of the accused/ applicants recorded by the authorities which are relevant. Regarding device by using which non-existent firms were created, there is nothing on record. In case, applicants are released on bail they will again indulge in similar activities and will misuse the liberty of bail.

Considering the facts and circumstances of the case, submissions of the learned counsel for the applicants as well as learned counsel for the D.G.G.I., the nature of the offence, the punishment and the material on record and none availability of any device by using which fake firms are said to be created, the period applicants remained in jail and without expressing any opinion on the merits of the case, the Court is of the view that the applicants have made

out a case for bail. The bail application is **allowed**.

Let the applicants **Pradip Kumar Jain** and **Devendra Kumar Jain** involved under File No. DGGI/INTL in Case No 270 of 2024 contraventions of Sections 132(1)(b) & (c) as prescribed under Section 132(1)(i) of Central Goods & Service Tax Act, 2017, initiated by the O/o Directorate General of GST Intelligence, Ghaziabad Regional Unit, Ghaziabad be released on bail on furnishing a personal bond and **two heavy** sureties by each in the like amount to the satisfaction of the court concerned subject to following conditions:

1. The applicants will not tamper with the evidence during the trial.
2. The applicants will not pressurize/ intimidate the prosecution witness.
3. The applicants will appear before the trial court on the date fixed, unless personal presence is exempted.
4. The applicants shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which they are suspected.
5. The applicants 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 them from disclosing such facts to the Court or to any police officer or tamper with the evidence.

In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

**Order Date :- 29.5.2024**

Suraj Srivastav