HC-KAR

NC: 2026:KHC:43012
CRL.P No. 9023 of 2026

CNR: KAHC010422142026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

CRIMINAL PETITION NO. 9023 OF 2026

BETWEEN:

1. VENKATASUBBAIAH C
S/O SUBBAIAH
AGED ABOUT 44 YEARS
RESIDING AT NO.66
1ST MAIN ROAD, 5TH CROSS
VIGNESHWARA NAGARA
HEROHALLI, BANGALORE - 560 091
MANAGING PERSON OF
M/S SRI LAKSHMI
VENAKTESHWARA ENTERPRISES.

2. SMT. GURAMMA C
W/O VENKATASUBBAIAH C
AGED ABOUT 41 YEARS
RESIDING AT NO.66
1ST MAIN ROAD, 5TH CROSS
VIGNESHWARA NAGARA
HEROHALLI, BANGALORE - 560 091
PROPRIETRIX OF M/S SRI LAKSHMI
VENAKTESHWARA ENTERPRISES.

...PETITIONERS

(BY SRI SHREEHARI, ADV.)

AND:

1. SUPERINTENDENT OF CENTRAL TAX
HQRS ANTI EVASION
BENGALURU EAST COMMISSIONERATE
TTMC BUILDING, ABOVE BMTC BUS STAND
OLD AIRPORT ROAD, DOMALURU
BENGALURU - 560 071.

2. COMMISSIONER OF CENTRAL TAX
OFFICE OF THE PRINCIPAL

CHIEF COMMISSIONER OF CENTRAL TAX
GST EAST COMMISSIONERATE
4TH FLOOR, TTMC BUILDING
ABOVE BMTC BUS STAND
OLD AIRPORT ROAD, DOMALURU
BENGALURU - 560 071.

...RESPONDENTS

(BY SRI MADHU N RAO, PRINCIPAL SENIOR STANDING COUNCEL)

THIS CRL.P IS FILED U/S 438 CR.PC (FILED U/S 482 BNNS) PRAYING TO ENLARGE THE PETITIONERS ON ANTICIPATORY BAIL U/S 482 OF THE BNSS, 2023, IN THE EVENT OF THEIR ARREST BY THE RESPONDENT AUTHORITIES FOR THE ALLEGED OFFENCES U/S 69 R/W SEC.132 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017, ARISING OUT OF THE PROCEEDINGS INITIATED BY THE RESPONDENT AUTHORITIES AGAINST M/S. SRI. LAKSHMI VENKATESHWARA ENTERPRISES PURSUANT TO SUMMONS ISSUED U/S 70 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 DATED 10.04.2026 (ANNEXURE C).

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

ORAL ORDER

1. The petitioners who are apprehending arrest by the respondent -authorities pursuant to summons issued to them under Section 70 of the Central Goods & Sales Tax Act, 2017 (for short, 'the Act') dated 10.04.2026 bearing No.CBIC-DIN-20260457YT0000613525 are before this Court in this petition filed under Section 482 of BNSS, 2023 seeking anticipatory bail.

2. Heard the learned counsel appearing for the parties.

3. Petitioner no.2 is the wife of petitioner no.1. She is the sole proprietrix of a firm known as 'M/s Sri Lakshmi Venkateshwara Enterprises' which is carrying business of recycling used lead-acid batteries and manufacture of remelted lead ingots. The aforesaid firm is registered under the provisions of the Act and its registration number is 29BIBPG7800CIZO. The respondent had issued summons under Section 70 of the Act dated 10.04.2026 and apprehending arrest, the petitioners had approached the jurisdictional Sessions Court in Crl.Misc.No.4859 of 2026, which was dismissed by the said Court vide order dated 16.06.2026. Therefore, they are before this Court.

4. Learned counsel for the petitioners submits that the petitioners have a valid GST registration, have purchased goods from various entities and paid money to the said entities for the goods purchased through bank transactions. He submits that, invoice value plus tax has been paid by the petitioners through bank transactions and periodical returns are also filed ever

since the date of their registration. The allegation against the petitioners is that without supply of goods based on the fraudulent invoices raised by fictitious suppliers they have claimed Input Tax Credit (ITC) and have caused loss to the exchequer. He submits that, the petitioners have no criminal antecedents and they have documents to show that the goods were supplied to them by the suppliers, who had raised invoices. The petitioners have appeared before the respondent - authorities and cooperated with the investigating officer. Since, there is a threat of arrest, they are before this Court. Accordingly, he prays to allow the petition.

5. Per contra, learned counsel for the respondent who has filed statement of objections strongly opposes the prayer made in the petition. He submits that, suppliers of the petitioners are all fictitious entities who are not in existence now. Based on bogus invoices raised by the said purchasers, ITC has been claimed by the petitioners. He submits that, money transferred to the account of fictitious suppliers has been withdrawn and shared by the suppliers and the petitioners and thereby, they have cheated the State Government.

Considering the nature of allegations found against the petitioners their custodial interrogation becomes very much necessary. In spite of best efforts made, suppliers of the petitioners are not traced and therefore, it is apparent that invoices raised for supply of goods are all bogus and petitioner no.1 is the master mind of the crime. Accordingly, he prays to dismiss the petition.

6. It is not in dispute that petitioner no.2 is holder of valid GST registration certificate and petitioner no.1 is the husband of petitioner no.2. He has been allegedly managing the affairs of the business of their firm. According to the petitioners, they have purchased goods from suppliers for which invoices were raised and they have paid invoice value as well as tax to the supplier through bank transactions ever since their registration and have also periodically submitted their returns.

7. It is trite that, cancellation of GST registration certificate of the supplier or closure of the entity subsequent to supply does not disentitle the purchaser from claiming ITC,

unless the department proves that there was a collusion between the supplier and the purchaser. The law in this regard has been laid down by the Hon'ble Supreme Court in case of **STATE of MAHARASHTRA THROUGH THE SECRETARY v. SURESH TRADING COMPANY - (1997) 11 SCC 378** and also by the High Court of Calcutta in the case of **GARGO TRADERS V JOINT COMMISSIONER, COMMERCIAL TAXES (STATE TAX) & OTHERS - 2023 SCC ONLINE CAL 1441**.

8. According to the prosecution, the petitioners are liable to be held guilty under Section 132(1)(c) of the Act, Clause (a) & (b) of Section 132(1) of the Act would be applicable only to a supplier and only in the event, the prosecution *prima-facie* proves that Clause (a) or (b) has been violated, then Section 132(1)(c) gets attracted. As on this date, there is no material to *prima-facie* show that Clause (a) and (b) have been violated by suppliers in the present case. As stated earlier, only for the reason that the supplier's of the petitioners are not in existence as on this day or that their GST registration was subsequently cancelled, that itself is not sufficient to say that the petitioners have availed input tax

credit using fraudulent invoices or bills referred to in Section 132(1)(b) of the Act.

9. The submission made by learned counsel for the petitioners that the petitioners had earlier appeared before the respondent - authority has not been seriously disputed by the learned counsel for the respondent.

10. The Hon'ble Supreme Court in the case of **SIDDHARAM SATLINGAPPA MHETRE V. STATE OF MAHARASHTRA AND OTHERS - (2011) 1 SCC 694** in paragraph no.89 has observed as follows:

> *"89. It is imperative for the courts to carefully and with meticulous precision evaluate the facts of the case. The discretion must be exercised on the basis of the available material and the facts of the particular case. In cases where the court is of the considered view that the accused has joined investigation and he is fully cooperating with the investigating agency and is not likely to abscond, in that event, custodial interrogation should be avoided"*.

11. In **AKRAM PASHA VS SENIOR INTELLIGENCE OFFICER DGGI, REPRESENTED BY SPECIAL PUBLIC PROSECUTOR - 2025 SCC OnLine KAR 30886**, the Coordinate bench of this Court, in paragraph nos.25, 32 & 33, has observed as under:

> *"25. In the present case, there cannot be any conflict with the fact that petitioner has been charged with economic offence. However, it is to be reiterated that the offence does not contemplate punishment for more than five years or commission of any serious offence along with the economic offence as it is usually the case in offences under other special statutes dealing with economic offences like Prevention of Money Laundering Act, 2003. Thus, as per the scheme of the CGST Act, though the offence is of economic nature yet the punishment prescribed cannot be ignored to determine the heinousness of the offence. To conclude, in my view the offences under the Act are not grave to an extent where the custody of the accused can be held to be sine qua non.*
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> *32. In the present case, the petitioner has been accused of wrongly utilizing input tax credit amounting to Rs 31,62,57,181 under Section 132(1)(b) and (c). Since the alleged amount exceeds Rs 500 lakhs, the accused can be punished maximum for five years of imprisonment and with fine. Also Section 138 of the Act states that the offences under the Act shall be*

compoundable either before or after the prosecution. It is very well possible that the respondent - Department might get the information as required if the petitioner co-operates with the authorities concerned and arrest might not be necessary.

33. The custodial interrogation in the instant matter is neither warranted nor provided for by the statute. Detaining the petitioner in judicial custody would serve no purpose rather would adversely impact the business of the petitioner."

12. The Special Leave Petition filed against the judgment in Akram Pasha's case in Special Leave to Appeal (Crl.) No.5143/2026, has been dismissed by the Hon'ble Supreme Court on 25.03.2026.

13. In **TARUN JAIN VS DIRECTORATE GENERAL OF GST INTELLIGENCE DGGI - BAIL APPLN.3771/2021 & CRL.M.A.16552/2021 DATED 26.11.2021** the High Court of Delhi, in paragraphs 52, 53, 54, 58 & 59, has observed as under:

"52. In the present case, the Petitioner has been accused of wrongfully utilizing the Input Tax Credit amounting to Rs.72 Crores, an offence under Section 132(b) and (c). Since the alleged amount exceeds five

hundred lakhs, the accused can be punished with a maximum of five year of imprisonment and with fine. It is equally important to highlight that the offences under the Act are bailable and non-cognizable except for the offence under Section 132(5) of the Act. Additionally, under Section 135 of the Act, in any prosecution under the Act requiring culpable mental state, the court is bound to presume culpable mental state of the accused. The section further states that the accused will have a defense to prove that he had no such mental state. Also, section 138 of the Act states that the offences under the Act shall be compoundable either before or after the prosecution.

53. The task before this Court is two-fold, first being to ensure that no unwarranted abuse of process is allowed to impinge upon life and liberty of the petitioner, and second to ensure that the investigation is not hampered, procedure of administration of justice is not adversely impacted and ultimately the guilty is prosecuted.

54. These are competing interests included in an anticipatory bail application i.e., the liberty of the accused and the interest of the investigative authorities for discovering the particular of offence. It is the case of the Petitioner that he failed to appear due to his ill health, which evidently no more exists. The other ground pertains to apprehension of arrest, which can be removed by allowing the present application. It is very well possible that the respondent department might get *the information as required if the Petitioner cooperates with the authorities concerned and arrest might not be necessary.*

58. This court must give effect to Article 21 of the Constitution in letter as well as in spirit while deciding the anticipatory bail application. The basic tenet on which our criminal justice system operates is – "innocent until proven guilty" and in view of this the Supreme Court has time and again reiterated that "bail is the rule while jail is an exception". Such principles cannot remain a dead letter of law and this court must intervene to give effect to such principles which has been enshrined by the Hon"ble Supreme Court in numerous decisions.

59. In view of these facts and circumstances and in light of the provisions of law, this Court is inclined to allow the anticipatory bail application with some stringent conditions in view of the prior conduct of the Petitioner."

14. It is not in dispute that petitioners herein do not have any criminal antecedents. They have undertaken to appear before the respondent - authorities and produce necessary documents to prove receipt of goods and services from the supplier and they have also undertaken to abide by any condition that may be imposed on them by this Court.

15. In view of aforesaid analysis of the matter, I am of the opinion that, the prayer made by the petitioners for grant of anticipatory bail needs to be answered affirmatively, subject to appropriate conditions. Accordingly, the following order:-

The petition is allowed. The respondents or any other authority are directed to release the petitioners in the event of their arrest pursuant to the summons issued to them under Section 70 of the Central Goods & Sales Tax Act, 2017 dated 10.04.2026 bearing No.CBIC-DIN-20260457YT0000613525, subject to the following conditions:

1. Petitioners shall appear before the respondent-Authorities at 10.30 a.m, on **20.08.2026** and on the said date, the respondent-authorities shall be at liberty to take them into custody if necessary for the purpose of interrogation. However, it is made clear that after interrogation, the respondent-authorities shall release the petitioners on the same day on or before 06.00 p.m. subject to petitioners executing a personal bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) each with two sureties

for the likesum to the satisfaction of the respondent-Authorities;

2. Petitioners shall co-operate with the respondent and appear before the said authority as and when summoned.

3. Petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case.

4. Petitioners shall provide their mobile phone numbers and keep the same operational at all times.

5. Petitioners shall drop a PIN on google map to ensure that their location is available to the respondent-authority to file an appropriate application for cancellation of the anticipatory bail granted.

6. Petitioners shall surrender their passport before the respondent-authority and under no circumstances leave India without prior permission of the respondent-authority, and, if they do not possess any passport, they shall file an affidavit to that effect before the respondent-authority.

7. If the breach of any of the above conditions is committed, it would be open to the respondent-authority to file an appropriate application for cancellation of the anticipatory bail granted.

Sd/-
(S VISHWAJITH SHETTY)
JUDGE

NMS
List No.: 1 Sl No.: 64