CNR No: PHHC011106882026
2026:PHHC:118096

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.37441 of 2026 (O&M)
Date of Decision: 24.08.2026

Karan Kochhar

......Petitioner

Versus

Inspector (Anti-Evasion) of CGST Commissionerate

...... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Gurkiran Singh, Advocate for the petitioner.

Mr. Sourabh Goel, Senior Standing Counsel and
Ms. Geetika Sharma, Advocate for the respondent.

SURYA PARTAP SINGH, J. (Oral):

The learned State Counsel has filed custody certificate of the petitioner. The same be taken on record.

2. This petition for bail is first petition, filed by the petitioner under Section 483 of 'the Bharatiya Nagarik Suraksha Sanhita, 2023'. The petitioner who is in custody has sought the benefit of bail in a case, arising out of a complaint filed by the respondent for the commission of offence punishable under clause (b), clause (c) and clause (i) of sub-section (1) of Section 132 of Central Goods and Services Tax Act 2017, hereinafter being referred to as 'CGST Act' read with Section 20 of IGST Act, 2017, punishable under clause (i) of sub-section (I) of Section 132 of CGST Act 2017, (read with Section 20 of IGST Act, 2017).

3. It has been alleged by the petitioner that on 28.04.2026 CGST Commissionerate, Ludhiana, came to the office of the petitioner at Mandi Gobindgarh on the pretext of conducting a search in the premises of 'M/s Titan Steels'. Thereafter, they forced the petitioner to accompany them to Ludhiana, on the ground that they wanted to interrogate him about the sale and purchase of goods related to his business. As per petitioner on the same day he was taken into custody in an illegal manner, but his formal arrest was shown on 29.04.2026. According to petitioner, his arrest was in violation of settled principles of law as grounds of arrest were not communicated to him. It has been further alleged that the dates mentioned on the summons, issued under Section 70 of the CGST Act, and notice for appearance, under Section 35(3) of BNSS, (produced by the department before the learned Court at the time of seeking judicial remand), were wrong. The petitioner in view above mentioned grounds, and also on the ground of long incarceration, has claimed the benefit of bail.

4. The above mentioned petition has been opposed by learned Senior Standing Counsel for the respondent. A detailed reply has been filed. In the abovementioned reply each and every ground taken by the petitioner, in his petition for bail, has been controverted by the respondent. It has been alleged that after thorough investigation, prior to raid, it was observed that petitioner had been claiming 'Input Tax Credit' in illegal manner, and that there was no actual transaction of goods between the petitioner and the so-called supplier. Thus by claiming 'Input Tax Credit' in an illegal manner huge loss, to the tune

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of Rs.13.09 crores, on the basis of fake invoices of taxable value of Rs.72.76 crores, had been caused to the State Exchequer. While defending its action, wherein the raid was conducted in the office of the petitioner, and the respondent was taken away for enquiry, it has been alleged that, in view of fraudulent acts committed by the petitioner, and thereby causing huge loss to the State Exchequer, he is not entitled to the benefit of bail.

5. Heard.

6. It has been contended by learned counsel for the petitioner that petitioner is a peace loving and law abiding citizen pursuing his business in a legitimate manner, and that the business entity of the petitioner, namely 'M/s Titan Steels', is involved in active business of trading in 'ERW Pipes', 'HR Coil', 'MS Billet' etc. According to learned counsel for the petitioner, all the purchases and supplies undertaken by the firm are supported by valid tax invoices and delivery challans, and that payments thereof have been made through proper banking channels. As per learned counsel for the petitioner, the firm of the petitioner has been regularly filing its returns under the GST Act.

7. The learned counsel for the petitioner has further contended that without any legal basis and without any evidence, it is being claimed by the respondent that the petitioner availed 'Input Tax Credit' for a sum of Rs.13.09 crores against fake invoices in the name of non-existent entities. As per learned counsel for the petitioner to support above mentioned stand of the respondent, there is no credible evidence at all.

8. Qua above mentioned aspect, the learned counsel for the petitioner

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has contended that, in fact, all the relevant documents pertaining to the business being carried on by the petitioner were duly maintained and the transactions were supported by valid tax invoices and delivery challans. It has further been submitted that the payments in respect of such transactions were made through proper banking channels, thereby establishing that the business was actually being carried on by the petitioner's firm, and that there was no wrongful claim of ITC without actual business transaction. According to learned counsel for the petitioner, the officers of the respondent failed to consider valid explanations of the petitioner and illegally arrested him on 29.04.2026.

9. It has also been contended by learned counsel for the petitioner that not only the arrest was without any legal basis, but also the manner in which petitioner was formally arrested was illegal, because he was actually detained on 28.04.2026, but his formal arrest was shown on 29.04.2026. According to learned counsel for the petitioner, at the time of arrest, the grounds of arrest were not served upon the petitioner.

10. The learned counsel for the petitioner has further contended that otherwise also the petitioner has already faced incarceration for a period of approximately four months and he has no criminal antecedents. According to learned counsel for the petitioner, the offence for which the petitioner is being prosecuted is punishable with maximum imprisonment up to five years, and that entire evidence is documentary in nature, which has already been collected. The learned counsel for the petitioner has also contended that

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detention of petitioner is not likely to serve any useful purpose, and therefore, he is entitled to the benefit of bail.

11. In support of his above mentioned arguments, the learned counsel for the petitioner has referred to the principles of law laid down by the Hon'ble Supreme Court of India in the following cases:-

(i) Directorate of Enforcement v. Subhash Sharma (2025)SCC Online SC 240;
(ii) Anvar P.V. v. P.K. Basheer and Others (2014) 10 SCC 473;
(iii) Manish Kumar v. Directorate General, Goods & Services Tax Intelligence, Zonal Unit, Ludhiana, Criminal Misc. No. M-8675 of 2025. decided on 28.07.2025.
(iv) Vineet Jain V. Union of India, Criminal Appeal No.2269 of 2025, decided on 28.04.2025
(v) Sanjay Chandra v. CBI (2012) 1 SCC 40,
(vi) Gurcharan Singh and Others v. State AIR 1978 SC 179
(vii) State of Kerala v. Raneef (2011) 1 SCC 784
(viii) Ashutosh Garg v. Union of India, Special Leave to Appeal (Crl.) No(s). 8740/-2024, decided on 26.07.2024
(ix) Ratnambar Kaushik vs. Union of India (2023) 2 SCC 671
(x) Radhika Agarwal Vs. Union of India (2025) 6 SCC 545
(xi) Union of India Vs. Sunil Biyani, SLP (Crl.) No.12535 of 2026

12. In addition to above, the learned counsel for the petitioner while referring to the principles of law laid down by the Hon'ble Supreme Court of India in the cases of 'Radhika Agarwal (supra)' and 'Sunil Biyani (supra)', has contended that the order passed by the Commissioner under Section 69 of CGST Act was not communicated to him. As per learned counsel for the petitioner for the abovesaid violation also the arrest of petitioner is illegal,

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which renders him eligible for the concession of bail.

13. The learned Senior Standing Counsel for the respondent has controverted the above mentioned arguments. It has been contended by learned Senior Standing Counsel for the respondent that the present petition has been filed on false and frivolous grounds, and that there exists no valid grounds for the grant of benefit of bail to the petitioner. The learned Senior Standing counsel for the respondent has also contended that altogether false pleas have been taken by the petitioner in his petition. As per learned Senior Standing counsel for the respondent this plea of the petitioner is false that he was detained on 29.04.2026. With regard to above, the learned Senior Standing Counsel for the respondent has contended that on 28.04.2026 only search and inspection was conducted, as per procedure prescribed under Section 67(2) of CGST Act, and that the proceedings taken up on 28.04.2026, which led to recovery of incriminating record and material evidence, proves the involvement of petitioner in fraudulent availment and utilisation of 'Input Tax Credit'.

14. As per learned Senior Standing Counsel for the respondent, merely, because the petitioner was taken away on 28.04.2026, does not mean that the petitioner was detained or arrested on 28.04.2026. With regard to above, it has been contended by learned Senior Standing counsel for the petitioner that on 28.04.2026, the petitioner was present before the Superintendent Anti Evasion CGST Commissionerate, Ludhiana, and his statement was recorded under Section 70 CGST Act. As per learned Senior

Standing counsel for the respondent, thereafter, an authorization order under Section 69(1) of CGST Act was passed by the Principal Commissioner CGST Ludhiana, and pursuant thereto, the petitioner was formally arrested on 29.04.2026.

15. In addition to above, the learned Senior Standing Counsel for the respondent has also contended that large number of documents are supposed to be scanned by the respondent and the above mentioned process is still in progress. According to learned Senior Standing counsel for the respondent, the total custody period of the petitioner is approximately four months only, which by any standard cannot lead to an inference that the petitioner is being subjected to prolonged incarceration due to delay in investigation or trial.

16. This claim of petitioner has also been specifically denied by learned Senior Standing counsel for the respondent that before his arrest the grounds of arrest were not communicated to him. With regard to above, the learned Senior Standing counsel for the respondent has come forward with the specific plea, that the above mentioned grounds had been duly served upon the petitioner. However, with regard to supply of copy of order, passed under Section 69 of CGST Act, the learned Senior Standing counsel for the respondent has contended that there was no such requirement under the statute.

17. The learned Senior Standing Counsel for the respondent has further contended that fraud played with State Exchequer by the petitioner is enormous, and that by playing fraud and creating false documents, illegal benefits have been drawn by the petitioner, in the name of his business entity.

As per learned Senior Standing counsel for the respondent the offence committed by the petitioner is of serious nature and magnitude, and that the same renders him ineligible for the benefit of bail. In view of above mentioned arguments, the present petition has been sought to be dismissed by the learned Senior Standing Counsel for the respondent.

18. In support of his arguments, the learned Senior Standing counsel for the respondent has placed reliance upon the principle of law propounded by the Hon'ble Supreme Court of India in the case of 'Vijay Sai Reddy (supra)'. In the above mentioned case, the Hon'ble Supreme Court of India cancelled the bail granted to the respondent/accused, who was being prosecuted for an economic offence, by taking note of the fact that there were five charge sheets against the respondent/accused regarding laundering bribe money. In the above mentioned case, the Hon'ble Supreme Court of India detailed the factors which should be kept in mind while granting bail:-

> *"a) the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations.*
>
> *b) it has to be kept in mind that for purpose of granting bail, the Legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the Court dealing with the grant of bail can only satisfy it as to whether there is a genuine case against the accused and that the*

prosecution will be able to produce prima facie evidence in support of the charge.

c) it is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt."

19. The record has been perused carefully.

20. In the present case, it is relevant to note here that with regard to right to bail, the Hon'ble Supreme Court of India in the case of 'Vineet Jain v. Union of India (supra), has made the following observations:-

"The offences alleged against the appellant are under Clauses (c), (f) and (h) of Section 132(1) of the Central Goods and Services Tax Act, 2017. The maximum sentence is of 5 years with fine. A charge-sheet has been filed. The appellant is in custody for a period of almost 7 months. The case is triable by a Court of a Judicial Magistrate. The sentence is limited and in any case, the prosecution is based on documentary evidence. There are no antecedents.

We are surprised to note that in a case like this, the appellant has been denied the benefit of bail at all levels, including the High Court and ultimately, he was forced to approach this Court. These are the cases where in normal course, before the Trial Courts, the accused should get bail unless there are some extra ordinary circumstances.

By setting aside the impugned order dated 24th January, 2025 of the High Court of Judicature for Rajasthan, Bench at Jaipur, we grant bail to the appellant. The appellant shall be immediately produced before the Trial Court and the Trial Court shall enlarge him on bail on appropriate terms and *conditions till the conclusion of the trial."*

21. In addition to above, it is also relevant to mention here that the Hon'ble Supreme Court of India in the case of 'Radhika Agarwal Vs. Union of India (2025) 6 SCC 545', has propounded that "the arrest must proceed on the belief supported by reasons relying on material that the conditions specified in Section 132(5) are satisfied, and not on suspicion alone. An arrest cannot be made to merely investigate whether the conditions are being met. The arrest is to be made on the formulation of the opinion by the Commissioner, which is to be duly recorded in the reasons to believe. The reasons to believe must be based on the evidence establishing to the satisfaction of the Commissioner that the requirements of sub-section (5) to Section 132 of the GST Act are met'.

22. It has also been observed by the Hon'ble Supreme Court of India in the above mentioned case that "the figures with regard to the tax demand and the tax collected would, in fact, indicate some force in the petitioners' submission that the assessees are compelled to pay tax as a condition for not being arrested. Sub-section (5) to Section 74 of the GST Acts gives an option to the assessee and does not confer any right on the tax authorities to compel or extract tax by threatening arrest. This would be unacceptable and violative of the rule of law'.

23. In the case of 'Sanjay Chandra (supra)', the Hon'ble Supreme Court of India has ruled that the benefit of bail cannot be denied merely in view of severity of the offence, and that the Court ought to be conscious of the right to speedy trial bestowed on the account by virtue of Article 21 of the

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Constitution of India.

24. This Court in the case of 'Gurcharan Singh and Others (supra)', has observed that 'two paramount considerations, while considering petition for grant of bail in non-bailable offence, apart from the seriousness of the offence, are the likelihood of the accused fleeing from justice, and tampering with the prosecution witnesses. Both of them relate to ensure of the fair trial of the case.

25. With regard to right of bail to an accused, the Hon'ble Supreme Court of India in the case of 'Directorate of Enforcement (supra)', has ruled that "once a Court, while dealing with a bail application, finds that the fundamental rights of the accused under Articles 21 and 22 of the Constitution of India have been violated while arresting the accused or after arresting him, it is the duty of the Court dealing with the bail application to release the accused on bail. The reason is that the arrest in such cases stands vitiated. It is the duty of every Court to uphold fundamental rights guaranteed under Articles 21 and 22 of the Constitution."

26. The Hon'ble Supreme Court of India in the case of 'State of Kerala v. Raneef (supra)', has observed that the primary purposes of bail in a criminal case are to release the accused of imprisonment, to release the State of the burden of keeping him, pending trial, and at the same time, to keep the accused constructively in the custody of the court, whether before or after conviction, to ensure that he will submit to the jurisdiction of the Court and being attendance thereon whenever his presence is required.

27. In the case of 'Sanjay Chandra (supra)', the Hon'ble Supreme Court of India has observed that it is not in the interest of justice that accused should be in jail for any indefinite period. According to Hon'ble Apex Court, even if the offence is serious in terms of huge loss to the State exchequer, that, by itself, should not deter the Court from enlarging the appellant on bail, when there is no serious contention of the respondent that the accused, if released on bail, would interfere with the trial or tamper with the evidence.

28. In 'Ashutosh Garg (supra)', the Hon'ble Supreme Court of India has granted bail in a matter where the accused defrauded the State exchequer of ₹1032 crores as 'input tax credit' by creating 294 fake firms, citing long custody of 09 months as well as the fact that maximum punishment in the offence under Section 132 CGST Act is 05 years.

29. In the case of 'Ratnambar Kaushik (supra)', the Hon'ble Supreme Court of India deliberated upon the documentary and electronic nature of evidence as well as the prolonged trial in the matters pertaining to tax evasion under the CGST Act. In the above mentioned case, the accused had undergone imprisonment for a period of about 4 months, and in the above said circumstances, the Hon'ble Supreme Court of India opined as follows:

> *"In considering the application for bail, it is noted that the petitioner was arrested on 21.07.2022 and while in custody, the investigation has been completed and the charge sheet has been filed. Even if it is taken note that the alleged evasion of tax by the petitioner is to the extent as provided*

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under Section 132(1)(l)(i), the punishment provided is, imprisonment which may extend to 5 years and fine. The petitioner has already undergone incarceration for more than four months and completion of trial, in any event, would take some time. Needless to mention that the petitioner if released on bail, is required to adhere to the conditions to be imposed and diligently participate in the trial. Further, in a case of the present nature, the evidence to be tendered by the respondent would essentially be documentary and electronic. The ocular evidence will be through official witnesses, due to which there can be no apprehension of tampering, intimidating or influencing. Therefore, keeping all these aspects in perspective, in the facts and circumstances of the present case, we find it proper to grant the prayer made by the petitioner.

Hence, it is directed that the petitioner be released on bail subject to the conditions to be imposed by the trial Court, which among others, shall also include the condition to direct the petitioner to deposit his passport. Further, such other conditions shall also be imposed by the trial Court to secure the presence of the petitioner to diligently participate in the trial. It is further directed that the petitioner be produced before the trial Court forthwith, to ensure compliance of this order."

30. In the case of 'Sunil Biyani (supra)', with regard to failure of

complainant to serve notice under Section 69 of CGST Act, the Hon'ble Supreme Court of India has observed that the order under Section 69 of the CGST Act, being a *sine qua non* to seek anticipatory bail, it would be an anomaly to hold that order need not be communicated at all. As per Hon'ble Supreme Court of India in any case, communication of the order would not, in any manner, obstruct the investigation ensued by the department.

31. In addition to above, it is also relevant to note here that the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Dataram versus State of Uttar Pradesh and another', (2018) 3 SCC 22, are relevant, in the instant case. It has been observed, in the above mentioned case that "a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the

exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case".

32. The principles laid down by the Hon'ble the Supreme Court of India in the case of 'Satender Kumar Antil v. Central Bureau of Investigation' (2022) 10 SCC 51 are also relevant in this case. In the abovementioned case, it has been observed that "the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice".

33. Recently, in the case of 'Tapas Kumar Palit Vs. State of Chhattisgarh', 2025 SCC Online SC 322, the Hon'ble Supreme Court of India has observed that "if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed". It has also been observed by the Hon'ble Supreme Court of India in the abovementioned case that "delays are bad for the accused and

extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently".

34. To elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to an undertrial prisoner, as mandated by Hon'ble Apex court in 'Balwinder Singh versus State of Punjab and another' 2024 SCC Online SC 4354.

35. In the light of above mentioned principles of law if the factual matrix of he present case is analysed it transpires that:

i) the petitioner is already in custody for a period of approximately four months;

ii) the petitioner has clean antecedents;

iii) the maximum punishment prescribed for the commission of offence allegedly committed by the petitioner, is imprisonment up to five years;

iv) the entire evidence to be collected by the investigating agency is documentary in nature, and therefore, detention of petitioner in judicial custody is not likely to serve any purpose;

v) argument of learned Senior Standing counsel for the respondent fails to convince that if released on bail the petitioner may tamper with the evidence, as in the last four months the task of collection of evidence must be completed;

vi) the trial is not likely to be concluded in near future;

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vii) the detention of petitioner in judicial lock-up is not likely to serve any purpose;

viii) there is nothing on record to show that while on bail, the petitioner is likely to tamper with the evidence or influence the witnesses; and

xi) there is nothing on record to show that while on bail, the petitioner will not participate/cooperate in trial.

36. Taking into consideration the cumulative effect of all the above mentioned factors and the relevant principles of law, it is hereby observed that the petitioner is entitled to the benefit of bail.

37. Accordingly, without commenting anything on the merits of the case, the present petition is hereby **allowed**. The petitioner is hereby ordered to be released on bail on furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court. However, the abovesaid benefit shall be subject to following conditions:-

i) that the petitioner 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 him from disclosing such facts to the Court or to any other authority;

ii) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final decision of the trial; and

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iii) that the petitioner shall not leave India without prior permission of trial Court.

38. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to the cancelled and the prosecution shall be at liberty to move an application in that regard.

39. It is, however, made clear that any observation made hereinabove is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

Pending miscellaneous application, if any, stands disposed of accordingly.

(SURYA PARTAP SINGH)
JUDGE

24.08.2026
Manoj Bhutani

Whether speaking/reasoned Yes/No
Whether reportable Yes/No