HC-KAR

NC: 2026:KHC:46077
CRL.P No. 9273 of 2026

CNR: KAHC010435212026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

CRIMINAL PETITION NO. 9273 OF 2026

BETWEEN:

1. MR. WASEEM AKRAM KHAN,
S/O. RAHAMATHULLA KHAN,
AGED ABOUT 42 YEARS,
OCC: PROPRIETOR OF
M/S. MEHRAN STEEL INDUSTRIES,
NO.3/2, KUMBALAGUDU,
KENGERI, KAMBIPURA VILLAGE,
BENGALURU – 560 060.

2. MR. MEHRAN PASHA,
S/O. ASLAM PASHA,
AGED ABOUT 31 YEARS,
OCC: PERSON-IN-CHARGE OF
M/S. MEHRAN STEEL INDUSTRIES,
NO.3/2, KUMBALAGUDU,
KENGERI, KAMBIPURA VILLAGE,
BENGALURU - 560 060.

...PETITIONERS

(BY SRI. BALAKRISHNA M.R., ADVOCATE)

AND:

THE STATE BY
ADDITIONAL COMMISSIONER OF
COMMERCIAL TAXES (ENFORCEMENT),
SOUTH ZONE, ROOM NO.204,

2ND FLOOR, B BLOCK,
V.T.K.-2 BUILDING,
RAJENDRANAGARA,
KORAMANGALA,
BENGALURU – 560 047.

REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU – 560 001.

…RESPONDENT

(BY SRI.JAGADEESHA B.N., S.P.P. A/W
SRI.RANGASWAMY R., HCGP)

THIS CRL.P. IS FILED U/S 438 OF CR.PC (FILED U/S 482 BNSS) PRAYING TO PASS AN ORDER DIRECTING THE RESPONDENT AUTHORITY TO RELEASE THE PETITIONERS ON BAIL IN THE EVENT OF THEIR ARREST IN CASE ID NO.AD2905260142636/2026-2027 DATED 15.05.2026 AND PURSUANT TO THE SUMMONS DATED 21.05.2026 AND 22.05.2026 ISSUED AGAINST THEM IN CONNECTION WITH THE VIOLATION OF PROVISIONS OF CGST ACT 2017 OR KGST ACT 2017.

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. Petitioners are before this Court under Section 482 of BNSS 2023, seeking anticipatory bail apprehending their arrest in case ID No.AD 2905260142636/2026-2027 pursuant to the enquiry notice dated 21.05.2026 and 22.05.2026, received by them from the respondent-authority.

2. Learned State Public Prosecutor submits that only summons has been issued for enquiry in exercise of the powers under Section 70 of the Central Goods and Services Tax Act, 2017 (for short, 'the Act') and no order has been passed under Section 69 of the Act by the Commissioner authorizing the competent officers to arrest the petitioners. Placing reliance on the judgment of the Hon'ble Supreme Court in the case of **Union of India Vs. Sunil Biyani**[1], he submits that, at this stage, the apprehension expressed by the petitioners is

[1] 2026 SCC Online SC 1544

mis-conceived and only after a communication is issued to the petitioners pursuant to the order passed under Section 69 of the Act, a pre-arrest bail is maintainable. In support of his arguments, he has placed reliance on paragraph Nos.15 to 18 of the aforesaid judgment, wherein, the Hon'ble Supreme Court has observed as follows:

> ***"15.*** *Sub-section (1) of Section 69 grants the Commissioner the power to authorise any officer to arrest a person. Such order must, as prescribed, be preceded by "reasons to believe". Such reasons in turn, must refer to the material and evidence underlying such opinion and evince application of mind. These are, among others, the stipulations laid down in Radhika Agarwal (supra).*
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> ***16.*** *According to Mr. Agarwal, learned senior counsel for the respondent, what necessarily follows is that until and unless an order under Section 69 of the CGST Act is passed by the Commissioner recording the "reasons to believe" that an offence under Section 132 of the CGST Act has been committed, no alarm is activated and there cannot be any apprehension of arrest by the person summoned. In other words, once the Commissioner concludes that there are "reasons to believe" that any offence of the nature stated in Section 69 has been committed warranting an arrest and an order to that effect is passed, the alarm is activated and the person (alleged to be the offender, whose arrest is authorised) becomes an accused who is open to be arrested and, thus, acquiring the right to seek pre-arrest bail. Consequently, an order under*

Section 69 of the CGST Act would be a sine qua non to maintain an application seeking such bail.

17. *In such circumstances, the contention of Mr.Agarwal has been that unless the order passed under Section 69 is communicated to the accused, in this case the respondent, he cannot apply for an anticipatory bail. It has further been contended that though not mandated by the statute, by extension of the principles of natural justice and fairness in administrative action, the requirement of communication of the order passed under Section 69 of the CGST Act to the accused before he is arrested, has to be read into the statute and communication of such an order to the person sought to be arrested must be held to be mandatory. If not, it would lead to a catch-22 situation where the accused can neither apply for anticipatory bail till the order under Section 69 is passed nor does he become aware of the order to subject the same to a challenge on available grounds before an appropriate forum.*

18. *We are inclined to accept the contention of Mr.Agarwal. The order under Section 69 of the CGST Act, as held, being a sine qua non to seek anticipatory bail, it would be an anomaly to hold that the order need not be communicated at all, much less, be communicated after the arrest of such person. In any case, communication of the order would not, in any manner, obstruct the investigation ensued by the department. On the contrary, it reinforces the right of the accused to seek anticipatory bail as stipulated in Sushila Aggarwal v. State (NCT of Delhi) (2020)5 SCC1.*

3. This Court, in the case of **Abdul Majid Vs. The Assistant Commissioner of Commercial Taxes (ENF)-**

04, Bengaluru,[2] in paragraph No.17 has observed as follows:

> *"Section 69 of the Act states that where the Commissioner has reason to believe that the person has committed any offence specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) of Section 132 which is punishable under clause (i) or (ii) of sub-section (1) or sub-section (2) of the said section, he may by order, authorize any officer of central tax to arrest such person. Sub-Section (2) requires that where a person is arrested under sub-section (1) for an offence specified under sub-section (5) of Section 132, the officer authorized to arrest the person shall inform such person of the grounds of arrest and produce him before a Magistrate within 24 hours. From the aforesaid, it is apparent that only on authorization by the Commissioner under sub-section (1) of Section 69 of the Act, a person can be arrested for an offence specified under sub-section (5) of Section 132 of the Act."*

However, in the said case, since the respondent had opposed the bail application stating that they have powers to arrest a person pursuant to summons under Section 70 of the Act, anticipatory bail was granted to the petitioner therein. Since, the State Public Prosecutor has now made a submission that without an order passed under Section

[2] **in Criminal Petition No. 9260/2026 and other connected cases disposed of on 05.08.2026,**

69 of the Act, and without communicating the same to the petitioners, they will not be arrested, I am of the opinion that the apprehension expressed, at this stage, is misconceived. Accordingly, the following:

ORDER

Criminal petition is disposed of with liberty to the petitioners to file a fresh bail application if need arises.

Sd/-
(S VISHWAJITH SHETTY)
JUDGE

tsn*
List No.: 1 Sl No.: 14