

(2026) 06 DEL CK 0198

In the Delhi High Court

Case No : Criminal Miscellaneous Petition No. 3652 Of 2022, Criminal Miscellaneous Application No. 15324 Of 2022

CGST Delhi South

APPELLANT

Vs

Abhinav Bardhan

RESPONDENT

Date of Decision : 05-06-2026

Acts Referred:

Code of Criminal Procedure, 1973 — Section 438, 482
Central Goods and Services Tax Act, 2017 — Section 70, 132, 133, 135, 135A, 136, 174

Citation : (2026) 06 DEL CK 0198

Hon'ble Judges : Neena Bansal Krishna, J

Bench : Single Bench

Advocate : Atul Tripathi, Shubham Mishra, Gaurav Mani Tripathi, Mohit Mathur, Vignesh Ramanathan

Final Decision : Dismissed

Judgement

Neena Bansal Krishna, J

1. Aforesaid three Petitions are being decided together, as they essentially involve similar facts and common questions of law.

2. Aforesaid Petitions have been filed on behalf of the Petitioner under Section 482 of Cr.P.C. against the impugned Order dated 08.07.2021 (in CRL.M.C. Nos. 2300/2021 and 2330/2021) and Order dated 13.04.2022 (in CRL.M.C. No. 3652/2022), whereby, while dismissing the Anticipatory Bail Applications of the respective Respondents, namely, Girish Sachdeva, Harish Sachdeva and Abhinav Bardhan, directions were issued to the Petitioner/Department to give prior notice of seven days before taking any coercive action against the aforesaid three Respondents, so that they may avail of their remedy in accordance with law.

3. Brief facts, as narrated in these Petitions, are that on 13.12.2018, an inquiry was initiated based on intelligence inputs indicating that M/s Daak International

Pvt. Ltd., situated at 602, Naurang House, K.G. Marg, New Delhi, was issuing E-way Bills of substantial value but had not filed its returns. Upon visiting the aforesaid address of M/s Daak International Pvt. Ltd., it was found that the entity was non-existent and the premises were owned by another Company, namely, M/s Access India Impex Centre Pvt. Ltd. The statement of Mr. Kundan Singh, Manager of M/s Access India Impex Centre Pvt. Ltd., was recorded on the spot, who revealed that his Company provided virtual office space to several companies, including M/s Daak International Pvt. Ltd. He also provided the telephone numbers and addresses of the three Respondents, who were the Directors of M/s Daak International Pvt. Ltd.

4. Respondents appeared in the Office of the Petitioner and recorded their statements, wherein they stated that they were involved in the business of trading in textiles and minerals and had two main suppliers, namely, M/s World Window Impex Pvt. Ltd. and M/s Numero Uno Clothing Ltd. The Respondents further stated that they did not have any storage facility and their main customers were M/s Chrysalis Trading Pvt. Ltd. and M/s J.K.M. Craft Pvt. Ltd.

5. On 28.12.2018, Summons were issued to the respective Respondents to appear before the Petitioner; however, instead of appearing, they filed replies, furnished certain documents, and sought a further date for hearing.

6. The Petitioner stated that M/s Daak International Pvt. Ltd. remained active but had not filed its Returns from March, 2019 onwards, namely, GSTR-1, GSTR-3B and GSTR-9, as was evident from the GST portal. Therefore, the Company was not discharging its GST liabilities and was suppressing material facts from the Petitioner/Department.

7. Since the Respondents were neither appearing pursuant to the respective Summons nor furnishing the requisite documents required to bring the investigation to its logical conclusion, Summons were again issued on 02.02.2022 under Sections 70 and 174 of the CGST Act, 2017, requiring them to furnish evidence and records.

8. Time and again, the Respondents were summoned by the Petitioner; however, instead of appearing before the Petitioner/Department, the Respondents moved their respective Applications for anticipatory bail before the learned ASJ, who directed them to join the investigation and make their statements.

9. It was explained that the Respondents' Firm was incorporated in March, 2018 and remained operational only till December, 2018. The Firm ceased filing GST returns from March, 2019 onwards.

10. The investigations conducted till then revealed that they had evaded more than Rs.8 crores of Tax by availing ineligible ITC and passed on the same to their recipients, by mode of circular trading. The Firm was operational for around ten months only and during this short period, had defrauded the Government Exchequer for more than Rs.8 crores.

11. The Anticipatory Bail Applications were opposed, on the ground that there was no apprehension of the Respondents' arrest, as the investigation was at an initial stage and only summons had been issued, requiring them to join the proceedings. It was further contended that the Anticipatory Bail Applications were premature and, therefore, not maintainable. The Application under Section 438Cr.P.C. was therefore, liable to be dismissed. 12. However, the learned ASJ, vide Orders dated 08.07.2021 and 13.04.2022, directed the Petitioner to give one week's prior notice before taking any coercive action against the respective Respondents.

13. Aggrieved by the impugned Orders dated 08.07.2021 and 13.04.2022, the aforesaid three Petitions have been filed by the Petitioner/Department.

14. The grounds of challenge are that the Order directing the service of one week's advance notice upon the Respondents, is erroneous in law and contrary to the judgment of the Supreme Court in the case of *Union of India v. Padam Narain Aggarwal & Ors.*, (2008) 13 SCC 305, wherein it was observed that the power of arrest can be exercised only in cases where the Customs Officer has 'reason to believe' that a person has been guilty of an offence punishable under Sections 132, 133, 135, 135A or 136 of the Act. Thus, the power of arrest must be exercised on the basis of objective facts indicating the commission of an offence so enumerated, and the Customs Officer must have reason to believe that the person sought to be arrested has been guilty of the commission of such offence. The power of arrest is, therefore, circumscribed by objective considerations and cannot be exercised on the whims, caprice or fancy of the Officer.

15. It was further observed that a blanket order of bail may amount to, or result in, an invitation to commit an offence or a passport to carry on criminal activities, or afford a shield against any or all types of illegal operations, which cannot be permitted in a society governed by the Rule of Law. The Order of the High Court was, therefore, set aside, and the Respondents were directed to appear before the Customs Authorities.

16. Similarly, the Supreme Court, in the case of *Nimmagadda Prasad v. Central Bureau of Investigation*, (2013) 7 SCC 466, dismissed the bail application by observing that economic offences involving deep-rooted conspiracies and causing huge loss of public funds, are required to be viewed seriously and constitute grave offences affecting the economy of the country as a whole, thereby posing a serious threat to its financial health.

17. Similarly, the Supreme Court, in the case of *Nimmagadda Prasad v. Central Bureau of Investigation*, (2013) 7 SCC 466, dismissed the Bail Application by observing that economic offences involving deep-rooted conspiracies and causing huge loss of public funds are required to be viewed seriously and constitute grave offences affecting the economy of the country as a whole, thereby posing a serious threat to its financial health.

18. Similarly, in *Parvinderjit Singh v. State*, (2008) 13 SCC 431, it was held that

a blanket order of Anticipatory Bail, should not ordinarily be passed. The Applicant must demonstrate that he has reason to believe that he may be arrested, and such belief must be founded on reasonable grounds. It is only when there is some tangible material on the basis of which it can be said that the Applicant's apprehension of arrest is genuine, that relief under Section 438 may be considered. An Order under Section 438 is a device to secure an individual's liberty; it is neither a passport for the commission of an offence nor a shield against all kinds of accusations, whether likely or unlikely.

19. Similar observations were made in *Gurbaksh Singh Sibbia vs. State of Punjab*, (1980) 2 SCC 565.

20. In *Sushila Aggarwal v. State (NCT of Delhi)*, (2020) 5 SCC 1, the Supreme Court held that an order of Anticipatory Bail should not be a blanket order and must be confined to the particular offence or incident in respect of which the apprehension of arrest is expressed, and cannot be extended to cover all future or unspecified offences.

21. Reliance is further placed on *State of Maharashtra vs. Vishwas Shripati Patil*, 1978 CriLJ 1403 and *Percy Rustomji Basta vs. State of Maharashtra*, (1971) 1 SCC 847.

22. It is submitted that the learned ASJ failed to take into account that, for effecting the arrest of any person under the CGST Act, prior written approval of the Commissioner, CGST, is required. Since no such proposal had been placed before the Commissioner, CGST, it is evident that there was neither any intention nor any apprehension of the arrest of the Respondents. The learned SPP had also submitted before the Court that there was no apprehension of the Respondents' arrest.

23. It is further submitted that it has not been appreciated that the Respondents have not joined the inquiry under Section 70 CGST Act, despite repeated summons issued by the Petitioner/Department. The investigation is at a crucial stage, since a substantial amount of revenue is involved and a fraud is alleged to have been committed. It is, therefore, submitted that the impugned Orders dated 08.07.2021 and 13.04.2022 be set aside.

24. In response, learned counsel for the Respondents submitted that they had appeared before the Authority and produced all relevant documents, and had also undertaken to appear before the Department/Petitioner and join the investigation. It is, therefore, submitted that there is no infirmity in the impugned Orders dated 08.07.2021 and 13.04.2022, and that all three Petitions are liable to be dismissed.

Submissions heard and record perused.

25. The gravity of the economic offences, which impact the financial health of the country, can never be underestimated and has been vociferously emphasized by the Apex Court, in the case of *Nimmagadda Prasad (supra)*; *Parvinderjit Singh*

(supra) and Gurbaksh Singh Sibbia (supra).

26. Whenever the Petitioner/Department has reason to believe that any fraud is being committed by a Company, it has the statutory right to conduct an investigation and, upon detection of any fraud, to proceed against the persons responsible in accordance with law.

27. However, it is the submission of the Petitioner itself that at this stage only summons had been issued to the respective Respondents to join investigations and to give their respective Statements as well as produce the relevant documents.

28. It is the case of the Petitioner itself that there can be no arrest without the prior approval of the Commissioner, CGST, and that no such proposal/application has been placed before the Commissioner seeking the arrest of the Respondents. It is, therefore, contended that no direction requiring seven days' prior notice before effecting the arrest of the Respondents could have been issued.

29. However, from the submissions of the Petitioner itself, it emerges that summons have been issued and the investigation is being carried out by the Petitioner. Therefore, it cannot be said with certainty that there is no likelihood of the Respondents' arrest in future.

30. Much has been argued that such Blanket Order / protection against all offences is not tenable, as has been held by the Supreme Court in the case of Sushila Aggarwal (supra) and Vishwas Shripati Patil (supra). However, it cannot be overlooked that, in the present case, no blanket protection has been granted to the Respondents, nor have any conditions been imposed on the Petitioner's right to conduct the investigation. Rather, directions have been issued to the Respondents to join the investigation as and when required by the Petitioner. In the event the Respondents fail to comply with the notices or join the investigation, the Petitioner/Department is well within its rights to proceed in accordance with law.

31. Considering that there was no imminent threat of arrest and, therefore, no case for anticipatory bail was made out, the learned ASJ, in his wisdom, while dismissing the Anticipatory Bail Applications, had merely directed that seven days' prior notice be given before taking any coercive action, which is in consonance with the principles of natural justice and affords the Respondents an opportunity to avail their remedies in accordance with law, in the event of any apprehension of arrest.

32. Such Orders have been upheld in the cases of Rajeev Jhawar vs. Central Bureau of Investigation, Bail Appl.1683/2022, decided on 02.06.2022; Judgment dated 09.10.2023 passed by Hon'ble Punjab-Haryana High Court in the case of Siddharth Chattopadhyaya vs. State Of Punjab And Another; and Ram Chandra Panda & Anr. vs. State of West Bengal, 2023 SCC OnLine Cal 55.

33. To conclude, no blanket protection has been granted to the Respondents; rather, specific directions have been issued requiring them to join the investigation, in accordance with law. It is only seven days' prior notice that has been directed to be given to the Respondents by the Petitioner in the event that any coercive step is proposed to be taken by the Petitioner in the present matter, which cannot be held to be a blanket protection against all crimes, in future.

34. There is no merit in the present Petitions, which are hereby, dismissed along with pending Applications.