(2026) 08 KAR CK 2112

In the Karnataka High Court, Bengaluru Bench

Case No : CRIMINAL PETITION NO. 9260 OF 2026 C/W CRIMINAL PETITION NO. 9244 OF 2026, CRIMINAL PETITION NO. 9306 OF 2026

Mr. Abdul Majid APPELLANT

Vs

The Assistant Commissioner Of Commercial Taxes (Enf)-04 RESPONDENT

Date of Decision : 05-08-2026

Acts Referred:

Central Goods & Sales Tax Act, 2017 — Section 70, 132, 69, 132(1), 132(1)(a), 132(1)(b), 132(1)(c), 132(1)(d), 132(1)(e), 132(1)(f), 132(1)(g), 132(1)(h), 132(1)(i), 132(1)(k), 132(1)(l), 132(1)(iv), 132(2), 132(3), 132(4), 132(5), 132(6), 69(1), 69(2), 69(3), 162(1), 74, 138, 132(b), 132(c), 135
BNSS, 2023 — Section 482
CGST Act and KGST Act of 2017 — Section 132(1)
KGST Act — Section 132(1)(i)
Code of Criminal Procedure, 1973 — Section 438
Customs Act
Finance Act
Prevention of Money Laundering Act, 2003
Constitution of India — Article 21

Citation : (2026) 08 KAR CK 2112

Hon'ble Judges : S Vishwajith Shetty, J

Bench : Single Bench

Advocate : Sri Hashmath Pasha, Sri Kariappa N.A, Sri B.N. Jagadish, Sri Vinaya Mahadevaiah

Final Decision : Allowed

Judgement

1. Petitioners, who are apprehending arrest pursuant to the summons issued to them under Section 70 of the Central Goods & Sales Tax Act, 2017 (for short, 'the Act') by the respondent-authorities, are before this Court in these three petitions filed under Section 482 of BNSS, 2023, seeking anticipatory bail.

2. Since the facts and allegations in all these cases are similar, they are heard together and disposed of by this common order.

3. Heard the learned Counsel for the parties.

4. Petitioners herein are the Proprietors of firms known as M/s. ANZ Traders, M/s. ZMS Enterprises and M/s. AF Trading, respectively, and they have obtained valid CGST Registration Certificate for dealing with steel and old scrap materials. It appears that they had purchased aluminium scrap material from the firms known as M/s. KH E-Waste Recyclers and M/s. SKS Traders, who are herein after referred to as 'Suppliers'.

5. It appears that respondents had conducted a raid over the business premises of M/s. KH E-Waste Recyclers and M/s. SKS Traders, and arrested its Proprietors viz., Salimulla Baig and Hassain Baig, respectively. Subsequently, summons were issued to the petitioners herein under Section 70 of the Act and were directed to appear before the concerned authorities along with supportive documents with regard to purchase of aluminium scrap material from the suppliers. Apprehending arrest in the said case, petitioners had filed Crl. Misc. No.5209/2026, Crl. Misc. No.4922/2026 & Crl. Misc. No.4921/2026, which were dismissed by the jurisdictional Sessions Court on 19.06.2026. It is under these circumstances, petitioners are before this Court.

6. Learned Senior Counsel appearing for the petitioners submits that suppliers who were arrested in the present case have been granted regular bail by the jurisdictional Sessions Court. The maximum punishment for the alleged offence under Section 132 of the Act is five years. The said offence is compoundable in nature. Petitioners had appeared before the competent authority and produced documents on 22.05.2026 after summons was received by them. They have paid the invoice value of the goods to the suppliers and GST through bank transactions and also filed the tax returns periodically after their registration under the provisions of the Act. They are ready and willing to co-operate with the respondents for the purpose of investigation. Petitioners do not have any antecedents. In support of his arguments, he has placed reliance on the following judgments:

(i) AKRAM PASHA VS SENIOR INTELLIGENCE OFFICER DGGI, REPRESENTED BY SPECIAL PUBLIC PROSECUTOR - 2025 SCC OnLine KAR 30886;

(ii) TARUN JAIN VS DIRECTORATE GENERAL OF GST INTELLIGENCE DGGI - BAIL APPLN.3771/2021 & CRL.M.A.16552/2021 DATED 26.11.2021 PASSED BY THE HIGH COURT OF DELHI;

(iii) SIDDHARAM SATLINGAPPA MHETRE VS STATE OF MAHARASHTRA & OTHERS - (2011)1 SCC 694.

7. Per contra, learned SPP who has filed objections opposing the prayer made in the petitions, submits that the learned Sessions Judge by a well reasoned order having appreciated the fraud committed by the petitioners, has dismissed their bail applications. Petitioners are involved in committing large scale organized economic offences involving fraudulent availment and passing of bogus Input Tax Credit (ITC) running into hundreds of crores of rupees. The suppliers are fictitious firms which had issued concocted invoices without there being actual

supply of goods/services. The suppliers have availed ITC to the tune of Rs.231.70 Crores and Rs.567 Crores, respectively, and had paid part of the said money in cash to the petitioners through hawala transactions. The suppliers who were arrested have admitted their guilt. Custodial interrogation of the petitioners is necessary to find out the involvement of other firms who are part of the racket. He submits that punishment provided for the alleged offence, which is compoundable, cannot be a ground for granting anticipatory bail. In support of his arguments, he has placed reliance on the following judgments:

(i) RADHIKA AGARWAL VS UNION OF INDIA - (2025)6 SCC 545;

(ii) SHAILESH RAJPAL VS COMMISSIONER - 2019 SCC OnLine MP 6396;

(iii) GST INTELLIGENCE DIRECTORATE VS CHAMAN GOEL - (2024)1 HCC (Del) 277.

8. It is the case of the prosecution that the petitioners had availed the benefit of ITC based on the concocted invoices raised by the suppliers, though actual goods were not supplied to the petitioners and the tax amount which was credited to the account of the suppliers was encashed by the petitioners through hawala transactions.

9. It is not in dispute that petitioners are holders of valid GST Registration Certificates for the purpose of dealing with steel and other scrap material, and according to the petitioners, they had purchased aluminium scrap material from the suppliers, for which invoices were raised and they had paid the invoice value as well as the tax to the suppliers through bank transactions, and ever since their registration, have periodically submitted their returns up to date.

10. The GST frame work is built on self-assessment and voluntary compliance. Any attempt to remain outside this system while continuing in business operation and collecting tax, will result in penal consequences. A registered person/entity is entitled to input tax credit (ITC) only if the following conditions are satisfied.

(a) Possession of a tax invoice;

(b) Actual receipt of goods and services;

(c) Payment of tax charged under the invoice by the supplier;

(d) Filing of returns by recipient (supplier) along with invoice;

(e) Payment of invoice value plus tax within the prescribed period under the Statute.

11. In the present case, as stated earlier, suppliers had raised invoice for the goods supplied and the value of the invoice and tax charged on invoice by the supplier were paid to the supplier by the petitioners through bank transactions and periodically returns were also filed along with copy of the invoices.

12. The petitioners herein are purchasers of goods. The suppliers who were

arrested in the present case, were interrogated and the jurisdictional Sessions Court has granted bail to them in Crl. Misc. No.6176/2026 & Crl. Misc. No.6178/2026 by order dated 09.07.2026.

13. It is not in dispute that suppliers in the case also had valid registration certificate under the Act, and it is not in dispute that as on the date of transaction, the suppliers were active and the petitioners had paid them value of invoice and GST through banking challans. It is trite that in such case, ITC cannot be denied to the purchasers unless fraud and collusion is proved. The subsequent cancellation of GST registration of the suppliers or their non-existence after the transactions, itself is not sufficient to deny the benefits of ITC to the purchasers. Unless exceptional circumstances are found, the recovery can be made only against the defaulting supplier.

14. Petitioners, who are registered persons under the Act, undisputedly are in possession of the invoices raised by the suppliers, payments are made by them to the suppliers through bank transactions and they have periodically filed the returns. Actual receipt of goods and service can be proved by producing documentary evidence viz., e-way bills, transport vehicle receipts, weigh bridge receipts, stock and sale records, etc. The learned Senior Counsel appearing for the petitioners has submitted that petitioners are ready and willing to produce those documents which are in their custody to prove the actual receipt of goods and services from the suppliers.

15. In a genuine case where a purchaser has paid the invoice value and GST, and also has submitted returns periodically, he cannot be held liable or penalized for the default of the supplier, except under exceptional circumstances. Denial of judicial protection in such a case would amount to injustice. Commercial reality is a factor which the courts need to consider in these type of cases. In a case where the purchaser has invoices raised by the supplier, has paid invoice value and tax to the supplier and also has submitted the returns periodically along with the copy of the invoices within the prescribed statutory period, only for the purpose of finding out whether there was actual receipt of goods or services, which can be proved by producing necessary documents, in normal circumstances, custodial interrogation of the purchaser would not be necessary, unless there is some prima facie material to show his collusion with the supplier.

16. Section 132 of the Act deals with punishment for the offences and Section 69 of the Act provides for power to arrest a person for having committed the offences punishable under Section 132 of the Act. Sections 69 & 132 of the Act reads as under:

> **"69. Power to arrest.**
>
> (1) *Where the Commissioner has reasons to believe that a 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, authorise any officer of central tax to*

arrest such person.

(2) *Where a person is arrested under sub-section (1) for an offence specified under subsection (5) of section 132, the officer authorised to arrest the person shall inform such person of the grounds of arrest and produce him before a Magistrate within twenty-four hours.*

(3) *Subject to the provisions of the Code of Criminal Procedure, 1973,-*

(a) *where a person is arrested under sub-section (1) for any offence specified under sub-section (4) of section 132, he shall be admitted to bail or in default of bail, forwarded to the custody of the Magistrate;*

(b) *in the case of a non-cognizable and bailable offence, the Deputy Commissioner or the Assistant Commissioner shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer-in-charge of a police station."*

"132. Punishment for certain offences

(1) *Whoever commits any of the following offences, namely:-*

(a) *supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;*

(b) *issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;*

(c) *avails input tax credit using such invoice or bill referred to in clause (b);*

(d) *collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;*

(e) *evades tax, fraudulently avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);*

(f) *falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due under this Act;*

(g) *obstructs or prevents any officer in the discharge of his duties under this Act;*

(h) *acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;*

(i) *receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;*

(j) *tampers with or destroys any material evidence or documents;*

(k) *fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or*

(l) *attempts to commit, or abets the commission of any of the offences mentioned in clauses (a) to (k) of this section, shall be punishable-*

(i) *in cases where the amount of tax evaded or the amount of input tax credit wrongly* *availed or utilised or the amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to five years and with fine;*

(ii) *in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds two hundred lakh rupees but does not exceed five hundred lakh rupees, with imprisonment for a term which may extend to three years and with fine;*

(iii) *in the case of any other offence where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one hundred lakh rupees but does not exceed two hundred lakh rupees, with imprisonment for a term which may extend to one year and with fine;*

(iv) *in cases where he commits or abets the commission of an offence specified in clause (f) or clause (g) or clause (j), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.*

(2) *Where any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years and with fine.*

(3) *The imprisonment referred to in clauses (i), (ii) and (iii) of sub-section (1) and sub-section (2) shall, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, be for a term not less than six months.*

(4) *Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act, except the offences referred to in sub-section (5) shall be non-cognizable and bailable.*

(5) *The offences specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) and punishable under clause (i) of that sub-section shall be cognizable and non-bailable.*

(6) *A person shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner."*

17. 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.

18. A reading of Section 132 of the Act would go to show that the Principal Offender for the purpose of the said provision would be the supplier. In the present case, the supplier who was arrested has been granted regular bail. In Radhika Agarwal's case supra, the Hon'ble Supreme Court has considered the power of the authority under the Customs Act and under the GST Act to arrest a

person. In paragraph 59 of the said judgment, the Hon'ble Supreme Court has observed as under:

> "59. *……The arrest must proceed on the belief supported by reasons relying on material that the conditions specified in sub-section (5) of Section 132 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 CGST Act are met."*

19. The contention of the learned Senior Counsel for the petitioners that considering the punishment provided for the alleged offence which is compoundable in nature, petitioner is entitled for anticipatory bail cannot be accepted, as rightly contended by the learned SPP having regard to the judgment in Radhika Agarwal's case supra, wherein, in paragraph 73, it is observed as under:

> "73. *The petitioners contend that Section 162(1) of the CGST Act permits compounding of offences and therefore, the ratio in Makemytrip should be applied to the GST Acts. The decision in Makemytrip, we would observe, itself carves out an exception when an assessment order under the Finance Act may not be required, namely, cases where a person who is shown to be a habitual evader as one who has not filed service tax returns for a continuous period of time, who has a history of repeated defaults for which there have been fines, penalties imposed, and prosecutions launched, etc. It is possible to ascertain these facts from past records. Thereafter, it is observed that it might be possible for the Department to justify resorting to coercive provisions but the notes on the file must offer convincing justification for resorting to such an extreme measure. It is this latter aspect which according to us is of relevance. The petitioners further submitted that till an assessment order was passed under Section 74 of the CGST Act, the liability cannot be quantified and hence an assessee cannot move an application for compounding of offences. We would reject the said submission because there is a difference between the compounding of offences and the arrest of a person. We have already stipulated sufficient safeguards to ensure that no arrests are made till the Commissioner is able to show and establish, on the basis of material and evidence, that the conditions of clauses (a) to (d) as well as clause (i) of sub-section (1) to Section 132 of the CGST Act are satisfied and therefore the offences are non-bailable."*

20. In Shailesh Rajpal's case supra, the supplier of goods who had not deposited the tax collected from the purchasers, was arrested, and it is under these circumstances, his regular bail application was rejected, since it was found that tax evasion was huge and investigation was under progress.

21. In Chaman Goel's case supra, the supplier who had actually not supplied the goods, but availed the benefit of ITC, the anticipatory bail granted to the supplier was cancelled by the High Court of Delhi. Under the circumstances, the judgment in Shailesh Rajpal's case supra and Chaman Goel's case supra, cannot made applicable to the facts of the present case.

22. In Akram Pasha's case supra, 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.*
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> 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."*

23. 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.

24. In Tarun Jain's case supra, 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.
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> 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.
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> 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."

25. It is not in dispute that after receipt of summons, the petitioners herein have appeared before the respondent-authorities on 22.05.2026. Learned Senior Counsel for the petitioners, has submitted that petitioners had produced relevant documents on the said date, but the respondent-authorities refused to receive the same and demanded payment of tax, failing which petitioners were threatened of arrest. However, the said submission has been disputed by the learned SPP, who has stated that petitioners had failed to produce necessary documents, though they had appeared before the authorities in reply to the summons on 22.05.2026.

26. The Hon'ble Supreme Court in Siddharam Satlingappa Mhetre's case supra, in paragraph nos.89 & 90, has observed as under:

"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.

90. A great ignominy, humiliation and disgrace is attached to the arrest. Arrest leads to many serious consequences not only for the accused but for the entire family and at times for the entire community. Most people do not make any distinction between arrest at a pre-conviction stage or post-conviction stage."

27. It is not in dispute that the petitioners herein do not have any antecedents of similar nature. It is also not in dispute that they have paid the invoice value plus the tax claimed in the invoice to the account of the supplier through bank transactions and have submitted their returns periodically along with the copy of the invoice within the prescribed statutory period. Petitioners have undertaken to co-operate with the respondent-authorities and to produce necessary documents to prove the receipt of goods/services from the suppliers. They have also undertaken to abide by the conditions that may be imposed on them by this Court. Under the circumstances, in view of the 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 the appropriate conditions:

28. The petitions are allowed. The respondents or any other authority are directed to release the petitioners in the event of their arrest pursuant to the summons issued under Section 70 of the Act in relation to File No.ADCOM/ENF/SZ/ACCT-12/INS-AD2905260142248/2025-26 in Crime No.24/2026, File No.ADCOM/ENF/SZ/ACCT-04/INS-AD290526016960W/2026-27 in Crime No.23/2026 & File No.AD290526016959F in Crime No.23/2026 registered by the Commercial Taxes (Enforcement) South Zone, Koramangala, for the offence punishable under Section 132(1) of the Act, subject to the following conditions:

1. Petitioners shall appear before the respondent-Authorities on 10.08.2026 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.