

Amrinder Singh vs. State of Punjab 28 August 2023

Issue Involved

Concession of bail in a case fraudulent passing ITC when similarly situated co-accused had been granted bail.

Held that

Given the fact that the petitioner was arrested on 13.03.2021 and is in custody ever since in a case where the maximum sentence that could be awarded was 05 years, the further incarceration of the petitioner is not required, more so when his co-accused have been granted the concession of regular bail vide order dated31.08.2022.

Case Reference

[2023] 151 taxmann.com 51 (Punjab & Haryana)



Facts of the Case:

Revenue:

- The department claimed that no tax had been paid for inward supplies, that goods were provided using fictitious invoices to claim ITC.
- And the same individuals had created fictitious bank accounts to withdraw money.

Petitioner:

- A group of individuals has colluded to create a network of fake firms to defraud the state exchequer, evading tax of Rs. 122.28 Crores.
- These individuals have used common email-ids, phone numbers, and PAN cards to register and pass on fraudulent ITC to beneficiary firms..
- No tax has been paid in the inward supply chain of these firms, and a mechanism has been devised to cover the movement of clandestine goods with fake invoices.
- The GSTN Portal of these firms contains different bank accounts, and parallel and fake bank accounts have been opened to withdraw cash. The group has different roles, such as getting registration on PANs and withdrawing cash.
- Verification of inward supplies from the E-Way portal revealed that the inward supply chain of these firms is nonexistent at subsequent stages, and the firms themselves are nonexistent at their registered place of business.

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- All individuals are individually and severally responsible for defrauding the state exchequer.
- All 7 individuals were arrested, however after examination in the chief of the complainant, four accused have been granted the concession of regular bail even though the total prosecution of 63 witnesses is yet to be examined
- He contended that a co-accused who was in the same situation had already been granted bail based on the fact that the complainant had only been examined in person since his detention.

Summary:

In the case of Amrinder Singh, the High Court of Punjab & Haryana ruled thatin economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant.

Notes to News & Updates:

Please note that Facts of the Case and Queries are as summarized by us based on our reading of case law and our interpretation based on law prevailing as on the judgement date. No assurance is being given on the correctness of the facts, and our opinion / analysis is given solely based on facts provided herein above.

Please note that this news and update is prepared by author for spreading knowledge, and the view is a matter of interpretation, and law is subject to various interpretations. The application of law and impact can vary widely based on the specific facts and interpretation of statute. Our views expressed above is based on facts and assumptions indicated above. No assurance is given that the authorities and/or Courts will concur with our views. We do not accept any liability, for any loss or damage caused as a result of any action taken on the above opinion expressed by us.

We hope you will find the above in order and we shall be too glad to provide any other assistance as may be required. In case you are looking specific expert help in relation to matters connected to this update or otherwise, please feel free to write to us on vaibhavjain@mehragoelco.com; mg@mehragoelco.com

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