

HIGH COURT OF MADHYA PRADESH

Hon'ble Shri Rajeev Kumar Dubey, J.

**Ajay Khanna**

Versus

**State Tax Anti Evasion Bureau, Jabalpur (M.P.)**

M.Cr.C. No. 33306/2019 decided on 22/08/2019

Advocated By -

Shri Harpreet S. Ruprah, counsel for the applicant. Shri Madhur Shukla, counsel for the State Tax, Anti Evasion Bureau / respondent.

This is **first** application filed under section 439 Cr.P.C. Applicant **Ajay Khanna** was arrested on 11.07.2019 in Crime No.:- GST IN 23ATVPA5829R2ZW registered at Police Station State Tax Anti Evasion Bureau, Jabalpur (M.P.) for the offence punishable under Section Madhya Pradesh Goods and Service Tax Act, 2017 and Section 132 (1)(b) & (C) of Central Goods and Service Tax Act, 2017.

**2.** As per the prosecution case, in compliance of the order dated 24.05.2019 passed by the Commissioner State Tax, Madhya Pradesh Indore No. GST INS01 2019-20/67/ AEB-JBP/ 09, on 29.05.2019 Asstt. Commissioner, State Tax Evasion Bureau Jabalpur went to M/s Commercial Corporation GST IN 23ATVPA5829R2ZW at Flat no. 17, Second Floor Gokuldharm Society, District Seoni for enquiry, under Section 67 of the M.P. Goods and Service Tax Act, 2017. Where he found that no business activity was being carried out by the M/s Commercial Corporation Seoni at the given address registered in the official record. Statements of Amit Awadhiya Proprietor of said corporation as shown in the registration records of M/s Commercial Corporation Seoni, were recorded and it was found that M/s Commercial Corporation Seoni in order to take illegal financial profits as input tax credit ( I.T.C) had issued bogus false and fabricated bills and had shown false supplies of goods through the same which is an offence under the Act as well as under Section 122 of Central Goods and Service Tax Act, 2017. It was further found that in the financial year 2017-18 and 2018-19 in order to grant illegal financial profit to the recipients through bogus bills by transferring input tax credit total amount of Rs.7,30,97,366/- was misappropriated by way of tax evasions, thereby causing loss of revenue to the State. It is further stated that during the investigation on examining the mobile numbers, email addresses, IP addresses as well as the statements of the co-accused Amit Awadhiya it was found that Deepesh Tiwari in connivance with co-accused Amit Awadhiya proprietor of M/s Commercial Corporation Seoni and applicant Ajay Khanna prepared bogus firm through which illegal profits were granted to the recipients by way of bogus I.T.C.s. It was further found that without supplying the actual goods only false bills were generated and E-Way bills were downloaded and used and on the basis of the investigation the total embezzled tax amount comes to Rs.1822.52 lacs till now. On that Asstt. Commissioner, State Tax Evasion Bureau Jabalpur arrested the applicant and co accused Amit Awadhiya.

**3.** Learned counsel for the applicant submits that applicant has not committed any offence and has falsely been implicated in the offence. It is further submitted applicant Ajay Khanna is merely a common household servant of the prime accused Deepesh Tiwari. He had been handed over the responsibility to bring groceries, vegetables and other household goods in the house of Deepesh Tiwari, who is a very rich person. The applicant also worked as his driver, bringing his children from school and dropping them. On 11.07.2019 Deepesh Tiwari told him to go to the office of the Assistant Commissioner Tax Evasion Bureau, Jabalpur and presenting himself as the Accountant of Deepesh Tiwari enquire from the officers of the Tax Evasion Bureau as to what documents were needed by the Department. On that applicant went

to the said office where applicant was arrested on 11.07.2019 by the officers of Tax Evasion Bureau, Jabalpur. While applicant did not know about the financial offences of Deepesh Tiwari and Amit Awadhiya. The Tax Officials also searched the house of applicant but nothing incriminating was found from the house of the applicant. There is no evidence on record to show that applicant benefited from that tax evasion. The applicant is not an accountant in the firm of M/s. Commercial Corporation, Seoni. He is only a domestic servant and salaried worker. From his account statement also it is clear that applicant is a salaried employee of Deepesh Tiwari. There is no evidence on record to show that applicant prepared any forged bills or other documents. Even otherwise, at the most offences under Section 132 (i) & 132(5) of Central Goods and Service Tax Act, 2017 are made out against the applicant in which maximum punishment prescribed is for three months while the applicant is in custody since 11.07.2019. The conclusion of trial is likely to take a long time, hence prayed for release of the applicant on bail.

**4.** Learned counsel for the State Tax, Anti Evasion Bureau opposed the prayer and submitted that applicant was the accountant of Firm M/s Commercial Corporation Seoni and was also involved in the tax evasion along with Deepesh Tiwari and Amit Awadhiya. Applicant issued bogus false and fabricated bills and have shown false supply of goods through the same and also helped Deepesh Tiwari and Amit Awadhiya and thereby embezzled tax to the tune of Rs.7,30,97,366/-. He further submitted that applicant in his statement recorded by Assistant Commissioner under Section 70 of the Act, which is admissible in evidence, admitted that he was the accountant of the said firm M/s Commercial Corporation Seoni and prepared forged documents. Investigation is going on, so applicant should not be released on bail.

**5.** Under Section 69 of the Central Goods and Service Tax Act, 2017, the Commissioner is having power to arrest if he has reasons to believe that a person has committed an offence specified in Clause (a) or (b) or (c) of subsection (1) of Section 132 of the GST Act. Section 132(1) (a), (b) and (c) of GST Act define types of offences and according to which, whoever commits offence of supply of any goods or services without issue of any invoice or issues any invoice or bill without supply of goods or services of both or avails input tax credit using such invoice, shall be punished with imprisonment for a term which may extend to 5 years and with fine, if the amount involved is more than Rs.500 Lakhs.

**6.** It is alleged that the Applicant who was the accountant of M/s Commercial Corporation Seoni issued bogus false and fabricated bills and have shown false supply of goods through the same and also helped Deepesh Tiwari and Amit Awadhiya and thereby embezzled huge amount. Applicant in his statement recorded by Assistant Commissioner under Section 70 of Central Goods and Service Tax Act, 2017, admitted that he was the accountant of the said firm M/s Commercial Corporation Seoni and used to issue bills of bogus firms without supplying the goods. Investigation is going on, so at this stage this court is not inclined to grant bail to the applicant. Hence, the M.Cr.C. is rejected.

**(Rajeev Kumar Dubey)**  
Judge