

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - BEFORE  
CHARGESHEET) NO. 22792 of 2024**

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MAHESHDAN PRABHUDAN LANGA

Versus

STATE OF GUJARAT &amp; ANR.

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Appearance:

MR AJ YAGNIK(1372) for the Applicant(s) No. 1

VEDANT J RAJGURU(9375) for the Applicant(s) No. 1

MR MITESH AMIN, ADDITIONAL ADVOCATE GENERAL WITH MR HARDIK

DAVE, PP WITH MS DIVYANGNA JHALA, APP for the Respondent(s) No. 1

TIRTH NAYAK(8563) for the Respondent(s) No. 2

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**CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY****Date : 09/01/2025****ORAL ORDER**

1. **RULE.** Learned APP waives service of rule for the respondent-State.

2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with FIR being **C.R.NO. 11191011240257 of 2024 registered with D.C.B. Police Station, Ahmedabad.**

3. Learned Advocate appearing for the applicant has submitted that the incident alleged in the FIR had taken place between 01.02.2023 to 01.05.2023, whereas the FIR came to be lodged on 07.10.2024. There is a delay in lodging the FIR. The delay caused in lodging the FIR has not been satisfactorily explained by the prosecution. The applicant has been arrested in

connection with the present offence on 08.10.2024 and since then the applicant is in custody. The investigation qua the present applicant is virtually over and charge-sheet could be filed any time soon.

3.1 Learned Advocate further submits that the applicant herein was running a firm viz. M/s. D.A.Enterprise. The applicant is ready and willing to repay the amount of input tax credit, which was wrongfully availed by the present applicant, as alleged in the FIR.

3.2 Learned Advocate further submits that the FIR in its present form is not maintainable, as there is a separate mechanism provided under the GST Act for prosecuting such type of offences. The prosecution has interestingly not invoked any of the offences enumerated in the provisions of the GST Act and in absence of any such offence having been alleged against the present applicant, the FIR alleging commission of offence under the IPC is not maintainable. The offence alleged against the present applicant is non-cognizable and bailable in view of the amount involved in the present offence.

3.3 Learned Advocate further submits the present applicant is alleged to have wrongfully availed input tax credit of Rs.6,64,000/-. The maximum punishment prescribed for the offence alleged against the present applicant under the provisions of GST is imprisonment for 1 year. The applicant has been arrested in connection with the present offence on 08.10.2024 and has also already undergone the imprisonment

for almost 3 months.

3.4 Learned Advocate has further submits that it is alleged against the present applicant that he had passed on the benefit of input tax credit, and therefore, the offence alleged against the present applicant would be punishable under Section 122 of the GST Act. The applicant has never been asked to pay the dues, and therefore, the applicant has not paid though he had shown willingness to deposit the amount before the concerned Trial Court as well as before the concerned Sessions Court. However, the same has not been considered by the Courts below.

3.5 Learned Advocate further submits that the arrest of the present applicant is illegal, as no notice under Section 41 of the Code of Criminal Procedure had been issued against the present applicant.

3.6 Learned Advocate further submits that as per the law laid down by the Coordinate Bench of this Court creating false bills would not amount to forgery, and therefore, none of the offences punishable under the provisions of IPC are made out against the present applicant. The applicant has been sought to be arraigned in the present offence only on the basis of the statements of the co-accused.

3.7 Learned Advocate further submits that the arrest of the present applicant has been politically motivated, as the present applicant is a Journalist. He, therefore, submitted to allow the present application and enlarge the present applicant on bail

subject to suitable conditions.

4. In support of his submissions, learned Advocate for the applicant has relied upon the following judgments:-

1. Varun Rakesh Bansal Vs. State of Gujarat reported in (2022) SCC Online Guj 2587.
2. Harsh Vinodbhai Patel Vs. State of Gujarat passed by this Court in Criminal Misc. Application No.20751 of 2023.
3. Director of General Goods and Service Tax Intelligence, Ahmedabad Vs. Harsh Vinodbhai Patel passed by Apex Court in SLP (Criminal) Diary No.21287 of 2024.
4. KGN Enterprise Ltd. Through Babulal Jethalal Hirani & Ors. Vs. State of Gujarat reported in 2017 (0) ALJEL-HC 247325.
5. Mohammed Ibrahim & Ors. Vs. State of Bihar & Anr. reported in (2009) 8 SCC 751.
6. Prakash Ramchandra Barot & Ors. Vs. State of Gujarat passed by this Court in Criminal Misc. Application No.2780 of 2011.
7. Sanjay Chandra Vs. Central Buruau of Investigation reported in (2012) 1 SCC 40.
8. Satender Kumar Antil Vs. Central Bureau of Investigation

& Anr. reported in (2022) 10 SCC 51.

9. P.Chidambaram Vs. Directorate of Enforcement reported in (2020) 13 SCC 791.

10.Aradesh Kumar Vs. State of Bihar & Anr. reported in (2014) 8 SCC 273.

11.Arvinde Keriwal Vs. Central Bureau of Investigation reported in 2024 SCC Online SC 2550.

12.Manish Sisodia Vs. Directorate of Enforcement reported in 2024 SCC Online SC 1920.

13.Deepak Singhal Vs. Union of India reported in 2024 MPHC-IND 26187.

5. Learned AAG appearing for the respondent-State has opposed the present application, inter alia, contending that apart from a fraud, as regard wrongfully availing the benefit of input tax credit, an element of money laundering is also involved in the present offence. One firm viz. Dhruvi Enterprise had been created on the basis of forged rent agreement and other forged documents. Various firms including the firms belonging to the present applicant had purchased fake invoices from the said Dhruvi Enterprise without entering into any business with the said firm and on the basis of such fake invoices, the input tax credit of the huge amount had been claimed by the accused persons involved in the present offence.

5.1 Learned AAG further submits that making a false claim itself is an act of forgery. He further submitted that the applicant herein was very much aware about the fact that the firm viz. Dhruvi Enterprise was a bogus firm and the invoices, which were purchased from it were also fake and despite the said knowledge, the applicant herein had availed the benefit of input tax credit on the basis of those invoices. The aspect of repayment of the amount of input tax credit availed wrongfully would not absorb the applicant of criminal liability.

5.2 Learned AAG further submits that the amount of input tax credit, which had been deposited in the accounts of the accused persons had been transferred to a different accounts, which was withdrawn from the said accounts and was sent to 10 different persons via Ganesh Aangdiya of Bhavnagar. Thus, there is a reason to believe that the money in question must have been laundered out of India.

5.3 Learned AAG further submits that the investigation so far carried out indicates that 1500 fake invoices have been found to be used for commission of the fraud in question. There are other offences of similar nature registered against the applicant.

5.4 Learned AAG further submit that the offence alleged in the FIR has a wide spread fallout. The investigation of the offence is still in progress. He, therefore, submitted to dismiss the present application.

6. Learned advocate Mr.Tirth Nayak appearing for the original complainant has also opposed the present application.

7. Heard learned advocates appearing for the parties and perused the material available on record. It is the case of prosecution that one firm viz. Dhruvi Enterprise had been floated on the basis of forged and fictitious rent agreement. The present applicant and the other co-accused had purchased invoices from the said Dhruvi Enterprise though there had no transaction at all taken place between them. These invoices were forged and fictitious and on the basis of those forged and fictitious invoices, the applicant had wrongfully availed the input tax credit. The applicant shown willingness to repay the amount of Input Tax Credit wrongfully availed. So far the aspect of money laundering is concerned, there is no material on record as regard the same. The applicant has been arrested in connection with the present offence on 08.10.2024. Thus, the investigation of the offence alleged against the present applicant is virtually over by now. Having regard to the same, the present application deserves consideration.

8. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of Sanjay Chandra v. Central Bureau of Investigation, reported in [2012]1 SCC 40.

9. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant in the FIR, without discussing the evidence in detail, *prima facie*, this Court is of the opinion that this is a fit case to exercise the

discretion and enlarge the applicant on regular bail.

10. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with FIR being **C.R.NO. 11191011240257 of 2024 registered with D.C.B. Police Station, Ahmedabad**, on executing a personal bond of Rs.10,000/- (Rupees Ten Thousand only) with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that he shall;

- (a) not take undue advantage of liberty or misuse liberty;
- (b) not act in a manner injurious to the interest of the prosecution & shall not obstruct or hamper the police investigation and shall not to play mischief with the evidence collected or yet to be collected by the police;
- (c) surrender passport, if any, to the Trial Court within a week;
- (d) not leave the State of Gujarat without prior permission of the Trial Court concerned;
- (e) mark presence before the concerned Police Station once in a month for a period of six months between 11.00 a.m. and 2.00 p.m.;
- (f) furnish the present address of his residence to the Investigating Officer and also to the Court at the time of execution of the bond and shall not change the residence without prior permission of Trial Court;

11. The authorities will release the applicant only if he is not required in connection with any other offence for the time being. If breach of any of the above conditions is committed, the



Sessions Judge concerned will be free to issue warrant or take appropriate action in the matter.

12. Bail bond to be executed before the lower Court having jurisdiction to try the case. It will be open for the concerned Court to delete, modify and/or relax any of the above conditions, in accordance with law.

13. At the trial, the trial Court shall not be influenced by the observations of preliminary nature qua the evidence at this stage made by this Court while enlarging the applicant on bail.

14. Rule is made absolute to the aforesaid extent.

**Direct service** is permitted.

**(M. R. MENGDEY,J)**

GIRISH