

IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE,
19TH COURT ESPLANADE, MUMBAI

R. A. NO. 585 OF 2025

Akhtar Yunus Khan

... Applicant/Accused

V/s.

Assistant Commissioner of State Tax,
Investigation A, Mumbai

... Respondent

ORDER BELOW BAIL APPLICATION

1] The application is for grant of bail as per Section 480 of BNSS, 2023. The applicant/accused Akhtar Yunus Khan has prayed for releasing him on bail in connection with File No. 105/21.07.2025 registered with MGST under Section 132 of Goods and Services Tax Act, 2017. Perused application and say. Heard Ld. counsel Mr. Sachin P. Kumar for applicant/accused and Ld. Special PP Mr. R. K. Pathak for MGST at length. I have given my thoughtful consideration to the submissions advanced by Ld. counsels for both sides.

2] According to the applicant he is permanent resident of Andheri, Mumbai. He is law abiding citizen. The applicant has formed the partnership firm with another partner accused no. 1 Tribhuwan Chittranjan Sinha in the name and style of M/s. Accurate Enterprise which is engaged in the business of trading of petroleum products such as fuel oil, furnace oil, LDO etc. The allegations levelled against applicant is completely false. He has been falsely implicated in this case. The allegations about availment of ITC worth Rs. 9.19 crores are false one. He has been

arrested on 21.07.2025. Since then he is in MCR. It is averred that, the case is based only on documentary evidence. The documentary evidence is in possession of the department. The officers of respondent have thoroughly conducted the search of the business transactions taken place by the applicant. The officers of respondents have taken all details, documents, evidence, files including electronic evidence from the possession of applicant.

3] It is averred that, the applicant has fully co-operated the officers of respondent for conducting investigation. All the documents relating to the alleged offence are with the custody of department. The custodial interrogation is already completed and therefore now there is no necessity to keep the accused behind bar. The applicant is sole bread earner of his family. Thus applicant prayed for allowing the application.

4] On the other hand the Assistant Commissioner of State Tax, Mumbai has resisted the application for releasing the accused on bail. It is alleged that, the summons was issued to the accused on 17.07.2025 under Section 70 of MGST Act, 2017. The statement of accused has been recorded. It has been alleged that, during inquiry it has been revealed that, the accused has availed the input tax credit at Rs. 9.9 crores on inward supplies from suppliers who have received only invoices or bills without receipt of goods or services or both in violation of the provisions of GST Act. It is alleged that, there was no actual movement of goods from Solapur to Mumbai in relation to the transactions shown by the

accused.

5] It has been alleged that, the investigation is in progress. During his statement under Section 70 of GST Act, 2017 the applicant/accused has admitted his involvement in the crime. The information from other transporters and the suppliers is yet to be received. The verification of said transaction and its corresponding movement of goods is in progress. There is possibility of increase in liability. The accused if released on bail would interfere with ongoing investigation. Respondent prayed for rejection of the application.

6] The counsel for respondent by relying the case of **i) Amit Kumar Shukla V/s Union of India and others Writ Petition (St) no. 9335 of 2021 Hon'ble Bombay High Court, ii) Basudev Mittal V/s Union of India MCRC no. 3919 of 2022, Hon'ble Chhattisgarh High Court** has prayed for rejection of the application. I have thoroughly gone through the guidelines given in cited authority of Hon'ble Bombay and Chhattisgarh High Court. Considering the guidelines given in cited authority if we go through the facts and circumstances of the case at hand, it is not in dispute that, the allegations levelled against accused are very serious about indulging in activity of violation of the provisions of GST Act i.e. availment of wrongful Input Tax Credit in contravention of the provisions of the GST Acts.

7] On the other hand it has been argued on behalf of accused that, since beginning the accused is co-operating the respondent. It has been argued that in response to the summons the accused/applicant has co-operated the investigation. Not only this the respondent has thoroughly searched the business premises belongs to the applicant. During this period the respondent has taken the possession of all necessary documents including electronic documents from the applicant. Further it is argued that, during investigation the respondent has recorded statement of accused and his other partner. It has been argued that, accused is ready to co-operate the further investigation. Hence there is no necessity for keeping the accused behind the bar.

8] It is not in dispute that while granting bail court has to keep in mind the nature of accusation, nature of evidence in support thereof, the character of accused, circumstances which are peculiar to the accused, reasonable apprehension of witnesses being tampered with and the larger interest of the public/state and other similar considerations.

9] Considering the submission made by both sides and that of the guidelines given in cited authorities relied on by respondent, if we go through the facts and circumstances of the case at hand even though the allegations are about fraudulent avilment of ITC, however same are regarding past transactions from the year 2022-2023. The respondent has investigated and also investigating the allegations in deep. It will take time to

complete the investigation and to file the complaint.

10] While dealing with bail application court has to see whether the person if not restricted is likely to tamper the course of further investigation or is likely to tamper with evidence or intimidate or influence witnesses. The Court has to see whether the presence of accused is necessary for further investigation and to prevent the possibility of tempering with evidence or intimidating or influencing witnesses. Here in case at hand it is not in dispute that, the accused is co-operating the investigation. The respondents have collected the documentary including electronic evidence from the possession of accused. Moreover, the law does not bar the tax payer from voluntarily making payment of any tax liability ascertain by him or the tax officer in respect of the issues in question either during the course of proceeding or subsequently.

11] The power to prosecute the tax payer under GST Act are ancillary and incidental to the power to levy and collect Goods and Services Tax. The accused/applicant is in jail since his arrest dated 21.07.2025. It is not shown that, the applicant/accused is having criminal antecedents. The offence in question is triable by this court. Subject to certain restrictions the offences under GST Act are of compoundable nature. There is specific provision for demands and recovery of the evaded tax. Further physical presence of accused/applicant is not seems to be necessary for conducting investigation in the crime.

12] Moreover, accused can be directed to co-operate in the investigation as and when required by visiting the office of respondent. Considering the stage of investigation, I think no purpose would be served by keeping the applicant/accused behind bar till submission of charge-sheet/complaint. So far as apprehension regarding tampering the evidence or fleeing from justice is concerned stringent conditions can be imposed against the accused. Thus considering the circumstances on record accused is seems to be entitle for bail. Hence I pass the following order:-

ORDER

- i. Application is allowed.
- ii. Accused Akhtar Yunus Khan be released on bail on his executing P. R. Bond of Rs. 2,00,000/- (Rs. Two Lac Only) with one or more sureties in like amount.
- iii. Accused be provisionally released on his furnishing cash bail of Rs. 2,00,000/- (Rs. Two Lac Only) in lieu of surety for 2 (two) months.
- iv. He shall not influence and tamper with the prosecution witnesses and evidence. He shall co-operate for further investigation of the case.
- v. He is directed to remain present as and when called by respondent in connection with investigation of this offence under written intimation, till further investigation is completed or till further order.
- vi. He shall surrender his passport to the respondent for the period of six months from the date of his arrest before the respondent. The department to return passport to him after said

period with due acknowledgment without any reference to the court.

vii. He shall take prior permission of the court for travelling abroad.

viii. He shall furnish his residential address with proof, E-mail and telephone/mobile number to the Court and to the Department. He shall not change said addresses, telephone/mobile number without prior intimation in writing to the Court and concern Department.

ix. He shall furnish address and mobile number of two of his nearest relatives with their consent to the Court and department alongwith their address proof for contacting them if he failed to appear during further investigation before respondent and during trial of the case.

(S. K. Fokmare)

Addl. Chief Judicial Magistrate
19th Court, Esplanade, Mumbai.

Date :- 20.08.2025.