

MHCC020089202026



IN THE COURT OF SESSION AT GREATER BOMBAY

ANTICIPATORY BAIL APPLICATION NO.1112 OF 2026

Ashutosh Pandey

S/o Umesh Pandey

Aged about 26 years, Occup: Accountant,

EWS 06, Ward 14 housing board colony

Kumhari, Durg Chhattisgarh – 490042.

... Applicant

V/s.

Directorate General of GST Intelligence

1st & 3rd Floor, NTC House, NM Road

Ballard Estate, Mumbai – 400001

Through Superintendent/Sr. Intelligence

Officer

...Respondent

Appearance :-

Advocate Mr. Sumit Khanna for the applicant.

SPP Shri S.R. Pathak for the Respondent.

**CORAM : H.H. THE ADDITIONAL SESSIONS
JUDGE P.A. SABLE (C.R.38)**

DATE : 30.06.2026

ORAL ORDER

1. The applicant seeks anticipatory bail under section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (“BNSS” for short) in

connection with File No.DGGI/INTL/495/2026/409 registered with CGST, Mumbai for the offences punishable under section 132 of the Goods and Services Act, 2017.

2. I have heard the learned counsel Mr. Khanna for the applicant and SPP Shri S.R. Pathak for the respondent/CGST. Gone through the material placed on record and cited case laws.

3. Learned counsel for the applicant submitted that the applicant is neither a Director of M/s. Drishti Steel Company or M/s. SKDK Steels Private Limited, nor is he involved in the management or affairs of either company. According to the learned counsel, the applicant is merely employed as an accountant-support staff with M/s. Drishti Steel Company. It is submitted that the respondent has failed to furnish the particulars or reasons necessitating the applicant's presence before the investigating agency. It is further submitted that the applicant has not committed any illegal act and that no offence whatsoever is made out against him.

4. It is further submitted that it is a settled position of law that the respondent is under an obligation to consider the documents relied upon by the Assesses/company in support of its case, and that all such documents are already available with the respondent on the GST portal. Learned counsel submitted that no vicarious criminal liability can be imposed upon an employee merely by virtue of his employment, nor can he be compelled to support the respondent's case against the company or its Directors. It is further argued that until the inquiry is completed, no adverse inference can be drawn against the applicant, nor can he be compelled to make any statement against the company. Since the applicant has no role in the management or decision-making of the company, it is submitted that his custodial interrogation is wholly

unwarranted.

5. Learned counsel for the applicant further invited the attention of the Court to sub-section (5) of Section 132 of the CGST Act and submitted that only the offences falling under clauses (a) to (d) of sub-section (1), punishable under clause (i) thereof, are cognizable and non-bailable. It is submitted that the power of arrest can be exercised only where a person is alleged to have committed any of the aforesaid offences. Learned counsel for applicant further argued that the power of arrest must be exercised with due care, caution and circumspection, as no person can be deprived of his life or personal liberty except in accordance with the procedure established by law. It is further submitted that the applicant is ready and willing to extend full co-operation in the inquiry/investigation being conducted by the respondent. The applicant is a law-abiding citizen and a permanent resident of the address mentioned in the application. So lastly, it is urged for granting anticipatory bail.

6. Per contra, learned Special Public Prosecutor Shri S.R. Pathak, appearing for the respondent-CGST, vehemently opposed the application. He submitted that the applicant has approached this Court without extending due co-operation to the ongoing investigation. It is submitted that the investigation pertains to the fraudulent availment and utilisation of Input Tax Credit (ITC) and it is not restricted to M/s. SKDK Steels Pvt. Ltd. company. It is further submitted that the statements of witnesses recorded during the course of investigation reveal that buyer verification, transportation arrangements, maintenance of sales records, and OTP-based GST and banking-related transactions were being handled by the present applicant.

7. Learned Special Public Prosecutor further submitted that the investigation has unearthed a well-organised network engaged in the generation of invoices without any actual movement or supply of goods. It has also been revealed that GST registrations of several originating suppliers and intermediary entities were procured on the basis of forged and fabricated electricity bills and other fraudulently obtained supporting documents. It is submitted that the investigation has disclosed serious irregularities and discrepancies in the transactions of M/s. SKDK Steels. Since the applicant's active involvement is revealed relating sales transactions and maintenance of sales records, his custodial presence before the investigating agency is essential for carrying out an effective and comprehensive investigation. Learned Special Public Prosecutor further submitted that the CGST Act does not confine criminal liability only to the Directors or persons managing the affairs of the company. Section 132(1) specifically contemplates punishment not only for persons who directly commit the offences but also for those who aid, abet or cause the commission of such offences. It is, therefore, submitted that if the applicant is granted anticipatory bail at this stage, the ongoing investigation is likely to be adversely affected. On these grounds, he prayed for rejection of the application.

8. After giving anxious consideration to the rival submissions and upon perusal of the material placed on record, it would be appropriate to first examine the authorities relied upon by the learned counsel for the applicant before considering the prayer for anticipatory bail.

9. Learned counsel for the applicant has placed reliance on the judgment of the Hon'ble Bombay High Court in *Narendra Amrutlal Patel & Anr. v. Assistant Commissioner of State Tax & Anr.*, 2022 SCC

OnLine Bom 6528, wherein it was held that arrest is not an automatic consequence merely because an offence under the GST laws is alleged. The Hon'ble High Court observed that the power of arrest under Section 69 of the CGST Act is required to be exercised with circumspection and only where the facts and circumstances of the case justify such action. It was further observed that when the relevant documentary evidence is already in the possession of the department, the necessity for custodial interrogation may be substantially diminished.

10. Learned counsel has also relied upon the decision of the Hon'ble High Court of Chhattisgarh in *Mohd. Farhan v. State of Chhattisgarh, 2026 (113) GST 567*, wherein anticipatory bail was granted on the ground that the prosecution case was predominantly founded upon documentary and electronic evidence already seized by the department. The Court observed that, in the absence of material indicating active involvement in the alleged tax fraud, the mere discharge of professional duties as an accountant did not warrant custodial interrogation.

11. Reliance has further been placed upon the judgment of the Hon'ble Supreme Court in *State of Karnataka v. Pratap Chand*, wherein it was held that a person does not incur criminal liability merely by virtue of being a partner of a firm. Vicarious criminal liability arises only where the person was in charge of and responsible for the conduct of the business of the firm at the relevant point of time.

12. In the present case, although the applicant claims to be merely an accountant employed by the company, the material collected during investigation prima facie indicates a role extending beyond routine accounting or clerical functions. The statements recorded during the course of investigation reveal that the applicant was entrusted with

verification of buyers, maintenance of sales records, transportation arrangements, and activities relating to GST registration and banking operations through OTP authentication. Prima facie, these functions appear to have a direct nexus with the transactions forming the subject matter of the present investigation.

13. The allegations pertain to a well-organised economic offence involving fraudulent availment and utilisation of Input Tax Credit amounting to approximately ₹20.30 crores by generating fake invoices exceeding ₹100 crores. Economic offences constitute a distinct class of offences affecting the financial and economic interests of the State and, therefore, deserve to be viewed with greater seriousness. The investigation is still at a crucial stage, and the respondent is required to ascertain the precise role of each participant, the manner in which the alleged fictitious entities were created and operated, and the trail of the fraudulently availed Input Tax Credit. In such circumstances, it cannot be said, at this stage, that custodial interrogation of the applicant is unwarranted.

14. The contention that the applicant is neither a Director nor a person managing the affairs of the company, by itself, does not entitle him to the extraordinary relief of anticipatory bail. Section 132 of the CGST Act does not confine criminal liability solely to Directors or persons responsible for the management of a company. Where the material collected during investigation prima facie discloses active participation in the commission or facilitation of the alleged offences, the applicant's status as an employee or accountant cannot, by itself, constitute a valid ground for extending pre-arrest protection.

15. Per contra, the learned Special Public Prosecutor has placed

reliance upon the decisions of the Hon'ble Supreme Court and the Hon'ble Bombay High Court in *Shrikant Upadhya & Ors. v. State of Bihar & Anr.* (Criminal Appeal arising out of SLP (Crl.) No. 7940 of 2023), *P. Chidambaram v. Directorate of Enforcement* (Criminal Appeal arising out of SLP (Crl.) No. 7523 of 2019), and *Ronak Soni v. State of Maharashtra, 2021 (12) TMI 948*. These decisions reiterate that the power to grant anticipatory bail is an extraordinary discretionary relief which must be exercised sparingly and with due caution. They further recognise that where effective investigation necessitates custodial interrogation, particularly in cases involving organised economic offences, grant of anticipatory bail may impede a fair and effective investigation. In the facts of the present case, custodial interrogation appears necessary to unearth the modus operandi adopted in the creation and operation of the alleged fake firms and to identify the role played by all persons involved.

16. It is well settled that the power to grant anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is discretionary and extraordinary in nature. Having regard to the gravity and nature of the allegations, the material collected during investigation, the necessity for effective custodial interrogation, and the fact that the investigation is still in progress, this Court is of the considered opinion that the applicant has failed to make out a case warranting the exercise of such extraordinary discretion. The judgments relied upon by the learned counsel for the applicant are clearly distinguishable on facts and do not support the applicant's case in the peculiar facts and circumstances of the present matter. Consequently, the application deserves to be rejected. Hence, the following order:

:8: ABA No.1112/2026

ORDER

Anticipatory Bail Application No.1112 of 2026 is rejected.



Date: 30/06/2026

(P. A. SABLE)

**Additional Sessions Judge
Gr. Bombay**

Directly dictated on: 30/06/2026
Signed by HHJ on : 30/06/2026

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”		
UPLOAD DATE	TIME	NAME OF STENOGRAPHER
30.06.2026	05.44 p.m.	Mr. S. S. Poul
Name of the Judge		HHJ Shri P.A. SABLE (CR No.38)
Date of Pronouncement of Judgment/Order.		30.06.2026
Judgment/order signed by P.O on		30.06.2026
Judgment/order uploaded on		30.06.2026