Union of India v. Sunil Biyani

Interim protection from arrest on dismissal of a pre-arrest bail plea; mandatory communication of the Section 69 CGST arrest order.

Date of Order: August 12, 2026
Case Law No: GIB-SC-2026-142
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

The DGGI, Mumbai Zonal Unit, was investigating M/s Alphaneon Techsolutions Pvt. Ltd. and group entities for alleged wrongful availment and passing of ITC without actual supply, circular invoicing and non-payment of GST on import of services. Sunil Biyani, found present at the inspected premises, was issued three summonses under Section 70 of the CGST Act, sought adjournments instead of appearing, and his anticipatory bail was rejected by the Sessions Court on 14.10.2025. The Bombay High Court rejected his pre-arrest bail application on 13.02.2026, as no order under Section 69 had been passed and hence no apprehension of arrest existed, yet granted him one week's protection from arrest from intimation of any such order. The Union of India appealed against that protection. The issues were: (i) whether a court dismissing a pre-arrest bail application as not maintainable can still grant such interim protection; and (ii) whether the Section 69 order must be communicated to the person sought to be arrested.

Final Verdict

The Supreme Court (Dipankar Datta and Sheel Nagu, JJ.) affirmed the rejection of pre-arrest bail, since a person merely summoned under Section 70 is not an accused (Radhika Agarwal). Relying on Madan Gopal Rungta and Hema Mishra, it held that interim relief can only be ancillary to the main relief, and while dismissing a pre-arrest bail petition as not maintainable, whatever the ground, the High Court or Sessions Court cannot grant protection in the nature of interim relief; the one-week protection was therefore set aside. On the subsidiary question, the Court held that the Section 69 order, being a sine qua non for seeking anticipatory bail, must be communicated to the person concerned, including by the email and mobile number furnished under Rule 8 of the CGST Rules, and without such communication, the question of arrest would not arise. The Commissioner was directed to communicate the order to the respondent, who may then pursue his remedies. The appeal was disposed of, with observations confined to the point of law and no finding on merits .

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