

ITEM NO.66

COURT NO.8

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(Criminal) No.369/2025

XU XUNFU

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

[TO BE TAKEN UP AS FIRST ITEM ON THE BOARD]
(IA No. 228111/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT & IA No. 228112/2025 - EXEMPTION FROM FILING O.T.)

Date : 22-09-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Petitioner(s) :

Mr. Abhijit Anand, Adv.
Mr. Umesh Dubey, AOR

For Respondent(s) :

Ms. Aishwarya Bhati, ASG
Ms. Poornima Singh, Adv.
Mr. K. Rama Mohan Rao, Adv.
Mr. Nithin P., Adv.
Ms. Ruchi Kohli, Adv.
Ms. Astha Singh, Adv.
Mr. Lakshay Kumar Singh, Adv.
Ms. Chitragda Rashtravara, Adv.
Mr. Gurmeet Singh Makkar, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. Exemption Applications are allowed.
2. The petitioner before us is a Chinese national.
3. She has invoked the jurisdiction of this Court under Article 32 of the Constitution on the ground that her arrest by the Commissioner, Central Goods and Services Taxes (for short, "the CGST"), Commissionerate, Gautam Buddha Nagar, Greater Noida for the alleged offences as mentioned in the Arrest Memo dated 26-8-2025

could be termed as illegal and thereby violative of Article 21 of the Constitution of India.

4. It is her case that although she may be a foreign national yet as she has been arrested in India, she is entitled to the protection as enshrined under Article 21 of the Constitution.

5. It appears that the petitioner was arrested on 26-8-2025 and since then she is in judicial custody. Till this date, she has not applied for bail.

6. At the same time, till this date, the department has not filed any complaint for the alleged offence in accordance with law.

7. In such circumstances, referred to above, we issued notice to the respondents so as to understand on what grounds the petitioner, a Chinese national & a mother of three year old child is in custody.

8. Today, Ms. Aishwarya Bhati, the learned Additional Solicitor General appeared on behalf of the Union of India.

9. Ms. Bhati provided us with a compilation containing the basic facts of the case, the Arrest Memo issued under Section 69 of the Act, 2017, the grounds for arrest furnished to the petitioner - herein and a co-accused and in the last, the order passed by the Commissioner under Section 69(1) of the Act, 2017.

10. What we have been able to gather from the contents of the arrest memo including the grounds for arrest is that the Department has initiated investigation against one Company by name M/s. Tantech LED Display Pvt. Limited. This investigation is being done by the Anti-Evasion Wing, CGST, Gautam Buddha Nagar.

11. A search was conducted on 22-5-2025 at the undeclared premises of the firm located at Plot No.99, Block A, Ecotech VI, Gautam Buddha Nagar.

12. In the course of the investigation, as alleged the role of the present petitioner has *prima facie* figured. There are *prima facie* allegations of tax evasion.

13. We do not propose to say anything further in this regard, as it may cause prejudice the petitioner as and when she prays for bail.

14. We are examining this petition from a limited angle and that is whether her detention as on date could be said to be unlawful i.e. violative of Article 21 of the Constitution.

15. The learned counsel appearing for the petitioner would vehemently submit that the very arrest of his client could be said to be illegal as the same is in breach or violation of the principles enunciated by this Court in its decision rendered in the case of "Arnesh Kumar vs. State of Bihar & Anr." Reported in (2014) 8 SCC 273.

16. He would further submit that the grounds of arrest furnished could also be termed as just an eye wash.

17. In such circumstances, he submitted that the arrest of the petitioner be declared as illegal and she may be ordered to be released forthwith.

18. On the other hand, Ms. Bhati, the learned ASG would submit that the investigation is at a nascent stage. There is some *prima facie* material on the basis of which the petitioner was arrested. She would submit that the arrest cannot be termed in any manner as illegal or violative of Article 21 of the Constitution.

19. Having heard the learned counsel appearing for the parties and having gone through the materials on record, we are of the view that it is difficult for us to say that the very arrest of the petitioner was illegal.

20. We may only say that the petitioner should immediately apply for bail before the Court concerned in accordance with law.

21. Once any bail application is filed, the Court concerned shall look into it expeditiously on its own merits in accordance with law, without being influenced in any way by the fact that this Court declined to entertain the Article 32 petition.

22. It is needless to clarify that the bail application of the petitioner shall be decided strictly applying the very settled principles of grant of bail.

23. If any such application is filed, the Court concerned shall look into it at the earliest and pass an appropriate order on its own merits in accordance with law.

24. With the aforesaid, the Writ Petition stands disposed of.

25. Pending applications, if any, also stand disposed of.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS

(POOJA SHARMA)
COURT MASTER (NSH)