



**IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**

2024:PHHC:091841-DB



CRM-M No. 34235 of 2024 (O&M)

Reserved on : 18.07.2024

Pronounced on: 23.07.2024

Gurpreet Singh Sabharwal

.....Petitioner

versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE  
HON'BLE MR. JUSTICE VIKAS SURI, JUDGE**

Present : Mr. Vikram Chaudhri, Senior Advocate with  
Mr. Keshavam Chaudhri, Advocate and  
Mr. Rahul Bhargava, Advocate, for the petitioner.

Mr. Deepak Balyan, Addl. Advocate General, Haryana,  
for respondents No.1 and 2.

Ms. Meghna Malik, Central Government Counsel  
for respondent No.4-ED.

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**SHEEL NAGU, CHIEF JUSTICE**

Challenge herein is to the summon issued under Section 50(2) of the Prevention of Money Laundering Act, 2002 (for short 'the PMLA') requiring the petitioner, who is an accused in FIR No. 9, dated 25.08.2022, registered at Police Station, State Vigilance Panchkula (SVB), Haryana, under Sections 379, 414, 420 of the Indian Penal Code, 1860 and under Sections 4 and 21 of the Mines and Minerals (Regulation of Development) Act, 1957 and under Sections 13(1)(a) and 13(2) of the Prevention of Corruption Act, 1988, to appear before the Investigating Officer issuing the said summon on 19.07.2024 to give evidence in connection with the said investigation.

2. The sole ground of challenge raised by the petitioner as projected by Shri Vikram Chaudhri, learned senior counsel alongwith Mr. Keshavam Chaudhri, Advocate is that the said impugned summon is hit by the protective



shield of Article 20(3) of the Constitution of India wherein the petitioner-accused is protected against divulging any incriminating voluntary statement as a witness against himself.

3. Mr. Vikram Chaudhri, learned senior counsel for the petitioner and Mr. Deepak Balyan, Additional Advocate General, Haryana and Ms. Meghna Malik, Central Government counsel appearing for Directorate of Enforcement are heard at length.

4. The only apprehension of the petitioner is that once he has been arrayed as an accused in FIR No. 9 of dated 25.08.2022, as aforesaid, then he cannot be summoned as a witness to be compelled to make any incriminating statement against himself. It is further contended by learned senior counsel that the Prevention of Money Laundering Act statutorily makes it incumbent upon a witness to attend and state truth failing which the witness can be prosecuted and punished. Thus it is urged that compulsion of stating the truth, which may be self incriminatory, runs contrary to the fundamental right as enshrined in Article 20(3) of the Constitution of India.

5. In support of his contentions, learned senior counsel for the petitioners has relied upon various decisions of the Supreme Court in *Yash Tuteja and another vs. Union of India and others (Writ Petition (Criminal) No. 208 of 2023 decided on 08.04.2024)*, *Balasaheb alias Ramesh Laxman Deshmukh vs. State of Maharashtra and another (2011) 1 SCC 364*, *Raman Lal Bhogilal Shah and another vs. D.K.Guha and others (1973)1 SCC 696*, *Vijay Madan Lal Choudhary vs. Union of India 2022 SCC Online SC 929*, *Pankaj Bansal vs. Union of India and others 2023 SCC Online SC 1244*, *The Barium Chemicals Ltd. and another vs. Sh. A.J.Rana and others (1972)1 SCC 240* and *Arvind Kejriwal vs. Directorate of Enforcement 2024 SCC Online SC 1703*.



6. This Court may not enter into the prolixity of considering all the judicial verdicts relied upon by the petitioner since the fundamental right of an accused not to be compelled to make self incriminatory statement available under Article 20(3) of the Constitution is all pervading and omnipresent qua every kind of criminal prosecution including PMLA. For ready reference and convenience, Article 20(3) of the Constitution of India is reproduced hereinbelow:-

*“20(3) No person accused of any offence shall be compelled to be a witness against himself”.*

7. The said fundamental right under Article 20(3) of the Constitution of India is available to be exercised as a shield by every accused in an offence punishable under the Prevention of Money Laundering Act which undoubtedly is a criminal law, promulgated to prevent money laundering and to provide for confiscation of property derived from, or involved in, money laundering and for matters connected therewith or incidental thereto.

8. It is further not disputed at the Bar that the petitioner is an accused as per FIR No. 9 dated 25.08.2022 (Annexure P-10) where offence punishable under Section 13(2) and 13(1)(a) of the Prevention of Corruption Act, 1988, which is one of the scheduled offences under PMLA.

It seems that petitioner has been summoned to join the investigation by the police vide impugned summon (Annexure P-23) issued under Section 50 of the PMLA, 2002 and therefore, the petitioner is an accused under the PMLA.

9. It is further pertinent to point out and as informed by learned senior counsel for the petitioner that the prosecution initiated vide aforesaid FIR No. 9 dated 25.08.2022 (Annexure P-10) is subject matter of challenge in CRM-M-4430-2024, which is pending consideration.



10. Ms. Meghna Malik, learned Central Government counsel appearing for the Directorate of Enforcement, does not dispute that the impugned summon (Annexure P-23) has been issued to the petitioner with regard to the same offences as alleged in FIR No. 9 dated 25.08.2022 (Annexure P-10).

11. It is thus vivid that the petitioner being an accused in FIR No. 9 dated 25.08.2022 (Annexure P-10) is being summoned by the Investigating Agency vide impugned summons under Section 50 of the PMLA (Annexure P-23) to give evidence.

12. Thus, this petition need not to be kept pending and is, therefore, disposed of with a direction that though it is incumbent upon the petitioner to cooperate in the investigation in terms of the summons issued under Section 50(2) of the Prevention of Money Laundering Act, 2002 but the Investigating Agency, so long as the petitioner is an accused in the said offence, cannot compel him or his authorized agent to make incriminating statement against himself in terms of the protection granted under Article 20(3) of the Constitution of India.

13. With these observations, the petition stands disposed of.

(SHEEL NAGU)  
CHIEF JUSTICE

(VIKAS SURI)  
JUDGE

23.07.2024

ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No