



2024:DHC:7113



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Reserved on: 27th August, 2024
Pronounced on: 17th September, 2024*

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BAIL APPLN. 2024/2024

AMIT KATYAL

S/o Shri O.P. Katyal,
Through his Parokar Shri Shivam Katyal (Nephew),
R/o C-654, New Friends Colony,
New Delhi-110025

..... Petitioner

Through: Ms. Geeta Luthra & Mr. Vikas
Pahwa, Sr. Advocates with Ms. Bina
Gupta, Mr. Gurpreet Singh, Mr.
Bakul Jain, Mr. Jatin S. Sethi, Ms.
Namisha Jain, Ms. Nancy Shamim,
Ms. Aakansha, Ms. Sheena Tauqli,
Mr. Aadarsh Kothari, Mr. Manish
Walia, Mr. Shivam Bansal, Ms.
Aayushee Gautam & Mr. Rishabh
Dahiya, Advocates.

versus

**DIRECTORATE OF ENFORCEMENT GOVERNMENT OF
INDIA**

Through Shri B. Naveen Kumar,
Deputy Legal Advisor, Central Region Office,
Room No. 309, C-Block, Pravartan Bhawan,
11, A.P.J. Abdul Kalam Road,
New Delhi-110011

..... Respondent

Through: Mr. Zoheh Hossain & Mr. Manish
Jain, Special Counsel, Mr. Vivek
Gurnani, Panel Counsel, Mr. Vivek
Gurav, Mr. Kanishk Maurya, Mr.
Pranjal Tripathi & Mr. Kartik
Sabharwal, Advocates.



**CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The present Application under Section 45 of the Prevention of Money Laundering Act, 2002 (*hereinafter referred to as "PMLA, 2002"*) read with Section 439 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C., 1973"*) has been filed on behalf of the petitioner seeking grant of regular bail in ECIR No. ECIR/DLZO-I/31/2022 (*hereinafter referred to as the "said ECIR"*).
2. The petitioner has been arrested in the aforesaid ECIR on 10.11.2023, on the allegations that he had projected and concealed the property which was a proceed of crime in relation to a Scheduled Offence and was a beneficiary thereof.
3. The brief background is that the CBI, Economic Offence-II Branch, New Delhi registered an FIR bearing No. RC2202022E0007 dated 18.05.2022 (*hereinafter referred to as the "said RC"*) under Section 120B of the IPC, 1860 and Sections 11/12/13(2) read with Section 13(1) of the Prevention of Corruption Act, 1988 (*hereinafter referred to as "PC Act, 1988"*) against the then Railway Minister, Shri Lalu Prasad Yadav and others for entering into a criminal conspiracy to abuse official position in order to obtain pecuniary benefits in the form of land parcels being transferred to his family members and Companies thereof in return for appointment to the post of substitute (Group-D) under the various zones of



the Indian Railways, commonly known as *Job for Land Scam*. As per the allegation in the said RC, seven land parcel *ad measuring* about 1,05,292 sq. feet land situated at Patna were acquired by the family members of Lalu Prasad Yadav through five Sale Deeds and two Gift Deeds.

4. The respondent *has registered the said ECIR* as predicate offences had been made out in the said RC. During the investigations, the petitioner was summoned by the CBI on numerous occasions and on various dates and the petitioner cooperated in the investigations. The Chargesheet in the said RC has already been filed. As per the investigations, three parcels of land situated at Village Mahuabagh and Village Kunjwa, Patna were transferred in the names of Smt. Rabri Devi and Smt. Misha Bharti. In lieu of the same, engagement of total nine persons as substitute in Group-D in Central Railways was approved in close proximity to the transfer of land parcels.

5. Further investigations in the said RC found no role of the petitioner in the commission of a predicate offence and recorded his statement under Section 164 of Cr.P.C., 1973. The Supplementary Chargesheet has also been filed by the CBI in the said RC, according to which, one parcel of land of Hazari Rai was purchased by the Promoter/Director of M/s AK Infosystems Pvt. Ltd. by payment of sale consideration amount to the tune of Rs. 10.83 lakhs to Hazari Rai.

6. It was also found in the said RC that the petitioner had transferred his shareholding in the Company on 13.06.2014 and resigned immediately thereafter on 19.06.2014. The petitioner though parted away from the alleged proceed of crime i.e., one land parcel purchased from Hazari Rai on 13.04.2014. The petitioner's status as a protected witness is not being disputed by any party. In fact, the petitioner has been cited as a protected



witness.

7. The petitioner has asserted that he belongs to a reputed family which owns Krrish Group of Companies and is in business since 1983 of Breweries and Distilleries which later also got into the Real Estate business since 2008. The Group Companies are developing Real Estate Projects in Gurugram, Haryana. The petitioner is also a tax payer and a law abiding citizen and is a permanent resident of Delhi.

8. The petitioner has asserted that and his family is in the business of liquor manufacturing and packaging. He incorporated M/s Iceberg Industries Ltd, previously known as Iceberg Consultants Limited, in the year 29.07.1994 for the purpose of setting up breweries and distilleries plant and the petitioner became its Director. The Company purchased the land parcel in Bihta, Bihar on which the distillery plant was set up.

9. In the year 2006, M/s AK Infosystems Pvt. Ltd. was incorporated. Since the petitioner was having business interest in Bihar, he started purchasing small chunk of land/plots in Bihar for the purpose of expansion/or for godown/guest house in the other Companies. The Company purchased various properties in Danapur District and Gardanibagh District of Bihar, by borrowing money from the sister concerns and its Director, Promoters, including the petitioner. The distillery in Bihar was sold to one of the largest American Beer Company. Subsequently, the petitioner resigned from the Directorship and completely exited from the Company. Thereafter, the petitioner was in the process of winding up its business and properties in Bihar.

10. The petitioner has referred to the allegation made against him that he has concealed the proceeds of crime from its true origin with knowledge that



the same were procured from the criminal activity in the *Land for Job Scam*.

11. The petitioner has asserted that the respondent has not placed on record a single document to show that the petitioner had any knowledge of scam or participated or benefitted from it or that he was aware that the land was a bribe. Nothing has been placed on record to show that he had obtained any benefit from the said transaction; rather he suffered a loss as the complete loss has still not been paid to him and is reflected in the books of accounts of the Company.

12. In the similar fashion, M/s AK Infosystems Pvt. Ltd. was sold to Smt. Rabri Devi and Tej Pratap Yadav by means of transfer of complete shareholding. Subsequently, the petitioner resigned from the Directorship and completely exited from that Company as well.

13. It is asserted that at the time when the Company was transferred to the family members of Lalu Prasad Yadav, he or his family member was not holding any portfolio in the Government and there was no embargo in selling the Company to them.

14. After the registration of the said ECIR, the petitioner had joined the investigations on six occasions and submitted numerous documents as and when sought by the respondent. The petitioner cooperated in every possible manner even though he was not an accused in the predicate offence but only because the petitioner admittedly had business transactions with the family members of Lalu Prasad Yadav.

15. It is submitted that the statement of the petitioner was recorded under Section 50 of PMLA, 2002 after the submission of the first Supplementary Chargesheet. However, despite petitioner being a witness in the predicate offence in the said RC, a Look-out Circular opened against him.



16. It is also submitted that back-to-back Notices under Section 50 of PMLA, 2002 issued by the respondent gave an apprehension to the petitioner that he is being falsely implicated by the respondent.

17. The petitioner filed the W.P.(CRL) 2981/2023 before this Court seeking to quash the said ECIR of the respondent *qua* him. However, the said petition was dismissed *vide* Order dated 03.11.2023 holding it to be premature. The petitioner also preferred an SLP before the Apex Court, but the same was withdrawn as infructuous.

18. It is submitted that the petitioner was served with the Notice under Section 50 of PMLA, 2002 by the respondent to appear on 10.11.2023. However, on the said date, the petitioner had to travel to Ranchi, however, he was apprehended at the Airport by the Investigating Officer. The mobile phone of the petitioner was seized at around 05:00-05:15 P.M. and was orally informed that he has been arrested. Thereafter, the Officials of Vistara Airlines and five CISF personnel accompanied the petitioner to cancel his boarding. The petitioner was made to sign the Register and the respondent took the petitioner from the Airport to directly its Office and he was compelled to accompany to the respondent's Office. Admittedly, no grounds for arrest were provided to the petitioner by the respondent when he was detained at the Airport. The petitioner was illegally arrested on 11.11.2023 at around 01:44 A.M., even though he was not named in the said ECIR. The grounds for arrest were provided to the petitioner at about 01:44 hrs., but the perusal of the same show that there was no material for his arrest. The petitioner preferred a regular Bail Application before the Trial Court which also got dismissed without considering the relevant facts.

19. It is asserted that the respondent had made a subsequent declaration in



the Prosecution Complaint preferred by the respondent that the investigations *qua* the petitioner is complete and that no supplementary investigations are pending against him.

20. The regular bail application filed on behalf of the petitioner was dismissed *vide* Order dated 22.05.2024 by the learned Trial Court.

21. The said Order dated 22.05.2024 is claimed to be bad in law on the grounds that *firstly*, the allegation of prejudice does not constitute any offence of money laundering. *Secondly*, the appreciation of allegations was contrary to the facts of trial. *Thirdly*, the law applied by the Trial Court was not applicable and the law relied upon by the petitioner was never considered. *Fourthly*, there was no appreciation of all the contentions and grounds of the petitioner. *Fifthly*, that the petitioner is not related to the proceeds of crime or money laundering and *lastly*, the record of the case and the material relied upon was not even part of the respondent's complaint.

22. The petitioner has claimed that the allegations made in the said ECIR do not establish any conspiracy. As per the said ECIR, it has been alleged that the land parcels acquired by M/s AK Infosystems Pvt. Ltd. from Hazari Rai was not a *bona fide* transaction. However, the purchase of the said land was done from the legitimate source as is duly reflected in the Books of Accounts. The said purchase source had been investigated by the CBI and it had not found the same to be tainted. The petitioner was the whole time Director in M/s Iceberg Industries Ltd. having distillery plant at Bihar and the petitioner through his Company had acquired 12 properties in Bihar, one being the purported land involved in the scam. The only statement relied upon by the respondent is under Section 50 PMLA, 2002 of one Suman Kumar Nayak, Chartered Accountant, but the same cannot be relied upon at



the stage of bail and is required to be tested during the trial.

23. The reliance has been placed on the decision in Chandra Prakash Khandelwal vs. Directorate of Enforcement, 2023 SCC OnLine Del 1095, Amit Aggarwal vs. Directorate of Enforcement, 2024 SCC OnLine Del 141 and Vijay Agrawal vs. Enforcement Directorate, 2023 2 HCC Del 651.

24. Furthermore, there are seven statements of the petitioner made from 10.11.2023 to 19.11.2023 which have been recorded post arrest and would be hit by Article 20(3) of the Constitution of India and Section 25 of the Indian Evidence Act and the same cannot be relied upon by the respondent. Reliance has been placed on the decision in Vijay Mandalal Chaudhary vs. Union of India, 2022 SCC OnLine 929.

25. Moreover, there is no evidence in the entire Police Complaint that the property was undervalued. The circle rate of the property purchased by M/s AK Infosystems Pvt. Ltd. has not been mentioned. However, the circle rate of every other property has been mentioned.

26. Moreover, Hazari Rai in his Statement dated 11.12.2023 has stated that he had sold the land due to financial distress and he had received appropriate consideration for the sale. The Statement under Section 161Cr.P.C. of the valuers in the said RC is inadmissible and also does not disclose factoring in of social, environmental and comparative sales factors to be taken into account for valuation but is a simple multiplication by four or five of the Sale Deed value.

27. The sale transaction of the land dated 21.02.2007 is wide apart from the dates on which nephews of Hazari Rai received employment in Railways i.e., 30.10.2006 and 24.06.2008. There is no live link between the purchase of the property and the posting of the nephews, one being prior to sale, one



being post it.

28. The petitioner has explained that the allegation of the respondent that the petitioner sold M/s AK Infosystems Pvt. Ltd. at a nominal value of Rs. 1,00,000/- on 3.06.2014, is baseless. The petitioner's distillery at Bihar was sold to one American Beer Company and he exited from the Company as Director and started to wind up his business in Bihar. M/s AK Infosystems Pvt. Ltd. was sold not only with the immovable assets but also with its liabilities. Even in 2018, after the payment of Rs. 1.35 crores on 08.05.2017, the said Company still reflects outstanding liabilities towards the petitioner of Rs. 40,32,130/-. Part payment in lieu of consideration for assets of M/s AK Infosystems Pvt. Ltd. was received on 08.05.2017. However, IT raid appears to have been made on 16.05.2017 i.e., after the payment was received. Even if such part payment was made after the IT raid by the co-accused persons, it was their prerogative to pay. If anything, the petitioner is a victim in this transaction for not having received his money in due time.

29. The petitioner has explained that the said amount of Rs. 1.35 crores does not constitute an offence of money laundering. The petitioner had transferred his shareholding on the face value of the shares.

30. Furthermore, the case of the respondent is not that all the properties purchased by M/s AK Infosystems Pvt. Ltd. were proceeds of crime; rather the allegation is only in respect of one land parcel sold by Hazari Rai. All the properties purchased by M/s AK Infosystems Pvt. Ltd. were through legitimate source which has been investigated by the CBI in the RC as well as by the respondent in said ECIR and duly relied upon the agencies in the Chargesheet and the police complaint, but there is no allegation that they are proceeds of crime or there is any trail of money.



31. The petitioner has also explained that the other allegations made against him are that despite transfer of shareholding in June, 2014, he continued to remain the Director of the M/s AK Infosystems Pvt. Ltd. till January, 2015. It is explained that after the transfer of petitioner's shareholding on 13.06.2014, he resigned from M/s AK Infosystems Pvt. Ltd. on 19.06.2014, and his resignation was accepted and uploaded on the RoC on 19.01.2015. New shareholders' act of not changing the registered address would not mean that the petitioner is running the said Company.

32. The respondent has claimed that Suman Kumar Nayak, personal Chartered Accountant of Lalu Prasad Yadav, was Auditor of M/s AK Infosystems Pvt. Ltd. in the Financial Year 2011-12, much prior to the control having been taken over by his family members. The Appointment Letter of Suman Kumar Nayak is dated 30.09.2014 and his Consent Letter is dated 14.09.2014. The Balance Sheets for the year 2011-12 onwards were filed by Suman Kumar Nayak after transfer of the Company and the same were digitally signed by Tejaswi Yadav. Suman Kumar Nayak failed to produce any Appointment Letter during the period of petitioner which depicts that he filed the Balance Sheet later. While the petitioner was a Director and Shareholder of the said Company, the balance sheets were being filed by Mukesh Mittal & Company.

33. The respondent has alleged that M/s AK Infosystems Pvt. Ltd. purchased the property from Tejaswi Yadav and Tej Yadav in 2010 for a sum of Rs. 70,00,000/- which has not been disclosed in the books of account till the Financial Year 2017-18. It has been explained that the property has not been shown in the records of the Company at Yadav's behest because all the Balance Sheets, after the purchase of property, were filed by Suman



Kumar Nayak. Even in a case of existence of undisclosed income and irrespective of its volume, the definition of crime under Section 2(1)(u) would not get attracted unless the property has been derived or obtained as a result of criminal activity relating to a scheduled offence. Reliance has been placed on behalf of the petitioner on the decision in Re. Vijay Madanlal Chaudhary vs. Union of India, 2022 SCC OnLine 929.

34. Insofar as the allegation of M/s AK Infosystems Pvt. Ltd. having no actual business despite which it had assets worth crores of rupees and the claim that the said Company was a dummy Company, it has been explained that the Company was incorporated for IT business but no work was done by the Company. The money infused in the said Company was shown as loan from Director as is reflected in the Balance Sheet of the said Company. No offence under PMLA, 2002 is made out.

35. The petitioner then referred to the allegations in respect of M/s AB Exports. It is the case of the respondent that the petitioner had signed the Application Form of BSES for electricity for Property No. D-1088, NFC as Authorised Signatory/Director. From the documents etc., it is evident that he had signed simply as Authorised Signatory on the request of the then Director, namely, K.L. Bothra. The petitioner was neither the Director nor a shareholder of M/s AB Exports and had no concern whatsoever with it. This is also clarified by Suman Kumar Nayak in his statement. Both the previous Directors, Ashok Kumar Banthia and Pravin Jain, do not show any acquaintance with the petitioner.

36. Furthermore, the allegation made against the petitioner that the payment made by Tejasvi Yadav to purchase the majority shares of M/s AB Exports was paid to him in his Company i.e., Krrish Reality Nirman Pvt.



Ltd. in the year 2010. The bank statement of Tejaswi Yadav shows that on 26.07.2010 when he received payment, he had already paid Rs. 6,11,574.46/- in his account.

37. The allegation has been made by the respondent that New Friends Colony property had been purchased after 2016 from the proceeds of crime infused by Tejaswi Yadav in 2016-2017. It has been explained that as per the case of the respondent itself, the said property became tainted after 2016 when Tejaswi Yadav used the money received from the sale of tainted property from the Land for Job Scam. The incidents in 2016-2017 cannot be considered as an offence of money laundering.

38. The petitioner has sought the bail on the grounds that the learned Sessions Judge has erred in not taking into consideration that he was examined by the CBI in the said RC and neither any incriminating evidence or any role of the petitioner was found in the commission of predicate offence in the said RC. The petitioner has thus been cited as a witness in the Supplementary Chargesheet.

39. The petitioner's Statement under Section 164 of Cr.P.C., 1973 was recorded in the CBI Court, Fort Mumbai in the predicate offence by the CBI and after investigation, he has been absolved in the predicate offence.

40. Thus, in terms of the law laid down by the Apex Court in Vijay Madanlal Chaudhary, (supra), no proceedings under PMLA, 2002 can be initiated against him.

41. It is asserted that the judgment in Pavana Dibbur vs. Directorate of Enforcement, decided on 29.11.2023 *vide* CrI. Appeal No. 12779/2023 by the Apex Court relied upon by the learned Sessions Judge, is not applicable to his case. There is no averment to reflect that the petitioner had any



knowledge or *mens rea* as no person would pay money if he was aware that the property is being transferred in exchange of a benefit.

42. The petitioner has claimed that a person who is a witness in the predicate offence in the RC, cannot be implicated under the PMLA, 2002 for which the reliance has been placed on the decision in Vijay Madanlal Chaudhary, (supra). If the interpretation to the contrary is given, it would be inconsistent that the settled principles of protection against self-incrimination. The petitioner has protection under Article 20(3) of the Constitution of India and under Section 132 of the Indian Evidence Act, 1882 which protects him from self-incrimination.

43. It is submitted that the seller of the property i.e., Hazari Rai (PW-13) is a witness in the ECIR who has stated that he has received the fair price for the land. Moreover, the offence under PMLA, 2002 is not a standalone offence and cannot survive once the scheduled offence, upon which it is based, is non-existent in the eyes of law.

44. It is argued that the knowledge is essential to prove *mens rea* as required for the offence of money laundering. The land has been purchased against the payment of sale consideration. There is not an iota of evidence to reflect that there was any *mens rea* attributable to the petitioner in any of the transactions. The petitioner has placed reliance on the decision in Joti Parshad vs. State of Haryana, 1993 Supp (2) SCC 497.

45. The reliance has also been placed by the petitioner on the decisions in Preeti Chandra vs. Enforcement Directorate, (2023) 3 HCC (Del), State of Maharashtra vs. Bharat Shanti Lal Shah, (2008) 13 SCC 5, People's Union for Civil Liberties vs. Union of India, (2004) 9 SCC 580, R.P. Goyal vs. Union of India, 2004 SCC OnLine Del 445, Mohammad Gasuddin vs. State



of Maha, 2017 SCC OnLine Del 10056 and *Directorate of Enforcement vs. Gagandeep Singh*, 2022 SCC OnLine Del 514.

46. It is submitted that the allegations of substantive offence of money laundering under Section 3 of PMLA, 2002 involves the amount of less than Rs. 1,00,00,000/-. Therefore, Section 45 of the PMLA, 2002 is not applicable to the petitioner who is entitled to its proviso. Reference has been made to *Rajeev Sharma vs. Enforcement Directorate*, (2022) 1 HCC (Del) 66 and *Sidhique Kappan vs. Directorate of Enforcement*, 2022 SCC OnLine All 898.

47. The bail has also been sought on the *doctrine of parity* to argue that the respondent cannot adopt the *pick and choose policy* which clearly depicts the discrimination *qua* the petitioner.

48. It has been claimed that the accused persons who are being investigated are powerful and influential persons as despite filing of three Chargesheets against the main conspirator and beneficiaries, they have not been arrested. In fact, most of them have not been arrayed as accused and those who are arrayed as an accused, were Chargesheeted without arrest. The petitioner being a witness in the RC, had joined the investigations on multiple occasions and he is not a flight risk and has never tampered with the evidence or violated any of the parameters for grant of interim bail. The petitioner had been arrested illegally and detained for approximately 7 hours before being formally arrested.

49. Reliance has been placed by the petitioner on the recent judgment of the Apex Court in *Sanjay Jain vs. Enforcement Directorate*, 2024 SCC OnLine Del 1656, wherein the ground of parity has been endorsed. Similar observations have been made in *Ramesh Manglani vs. ED*, 2023 SCC



OnLine Del 3234, *Ajmer Singh vs. State of Haryana*, (2010) 3 SCC 746 and *State of M.P. vs. Sheetla Sahai*, (2009) 8 SCC 617.

50. It is further contended that the investigations *qua* the petitioner are based on bald averments without any credible evidence against him which clearly establishes that he has not committed any scheduled offence and is not a beneficiary from the alleged scheduled offence.

51. It is claimed that even though the twin condition are not applicable in the case of the petitioner, but even otherwise, he satisfies the twin conditions as there are reasonable grounds made to believe that he is not guilty of the alleged offence. Moreover, the petitioner satisfies the *triple test* for grant of bail as there is no possibility of tampering with the evidence, influencing the witnesses or fleeing from justice.

52. Therefore, the prayer is made that the petitioner may be granted regular bail in the said ECIR.

53. **The Status Report** has been filed on behalf of the respondent, wherein *preliminary objections* have been taken that the petitioner had previously been admitted to *interim bail on medical grounds* as he required an urgent cardiac procedure as well as bariatric surgery in view of the morbid obesity, by the learned Special Court *vide* Order dated 05.02.2024 for a period of one month.

54. The petitioner then moved another Application for extension of his medical bail on 25.02.2024 on the grounds that he has been diagnosed with the depression, metabolic syndrome, sleep apnea, insomnia, dementia, no motion of left side, numbness, chest pain, hear issues, morbid obesity. The medical opinion was sought from the RML Hospital, DDU Hospital as well as the Statements under Section 50 of PMLA, 2002 of the Doctors of Apollo



Hospital and Medanta Hospital were recorded which clearly establish that the accused-petitioner was trying to mislead the learned Special Court by hiding the actual medical condition. The medical bail of the petitioner was extended for a period of about two months. The petitioner during the pendency of the Application dated 25.02.2024 has undergone bariatric surgery from Medanta Hospital. The Angiography of the petitioner was carried out at Apollo Hospital, and the reports have been placed on record.

55. The petitioner again sought extension of Medical Bail which was declined *vide* Order dated 30.04.2024, which had not been challenged by the petitioner. The petitioner surrendered himself before the Jail Authority on 01.05.2024.

56. The regular Bail Application of the petitioner has been dismissed by the Special Judge, PMLA *vide* Order dated 22.05.2024.

57. The present Bail Application has been contested on the ground that the *twin conditions of Section 45 of PMLA, 2002 have not been satisfied.*

58. It is submitted that the twin conditions under Section 45 of PMLA, 2002 are necessarily required to be satisfied for consideration of bail under PMLA, 2002, for which, reliance has been placed on the decision in Directorate of Enforcement vs. Raj Singh Gehlot, decided *vide* CRL.M.C. 3713/2022. Though the petitioner has been asserting that he requires medical treatment but appropriate medical treatment has been made available to him by the Jail Authority. The petitioner cannot take it as a ground for bail by referring to *proviso to Section 45 of PMLA, 2002.*

59. The reliance has been placed on the decision in State vs. Jaspal Singh Gill, (1984) 3 SCC 555 and State of U.P. vs. Gayatri Prasad Prajapati,



2020 SCC OnLine Sc 843.

60. The exceptional grounds of sickness for seeking bail should be exercised sparingly and in a cautious manner and every nature of sickness would not entitle an accused to be released on bail, for which, a reference has been made to Sanjay Jain, (supra).

61. The proviso to Section 45 of PMLA, 2002 is a *pari materia* to the proviso to Section 437 of Cr.P.C., 1973. The term sick or infirm in the proviso has been interpreted by the Apex Court and other Courts of India to be sickness of serious and life threatening nature. It has been repeatedly held that any kind of sickness would not entitle any person to invoke medical bail in serious non-bailable offences. Reliance has been placed by the respondent on the decisions in Mahendra Manilal Shahand Etc. vs. Rashmikant Mansukhai & Anr., (2009) SCC OnLine Bom 2095, Fazal Nawaz Jung and Anr. vs. State of Hyderabad, 1951 SCC OnLine Hyd 60, State vs. Godadhar Baral, 1988 SCC OnLine Ori 281, Pawan Alias Tamatar vs. Ram Prakash Pandey and Anr., (2002) 9 SCC 166 and Surinder Kairam & Anr. vs. State, (2002) SCC OnLine Del 920.

62. In case the medical bail is granted even for conditions which are not in serious or life threatening, it would amount to diluting the twin conditions provided under Section 45 of PMLA, 2002, as observed by the Apex Court in the case of Vijay Madanlal Chaudhary, (supra).

63. When a person is found to be otherwise stable, he should not be enlarged on Medical Bail as has been held in the case of Asha Ram vs. State of Rajasthan, decided *vide* SLP (Crl) 6202/2016 by the Apex Court on 30.01.2017, Surjeet vs. State (Govt. of NCT of Delhi), 2021 SCC OnLine Del 228, Karim Morani vs. Central Bureau of Investigation, 2011 SCC



OnLine Del 2967, Rajkishor Sunnidhi Dash vs. State of Maharashtra, 2020 SCC OnLine Bom 11261, Akhtar Parvez vs. State of West Bengal, 2022 SCC OnLine Cal 471 and Nasir Abdul Kadar Keval vs. State of Maharashtra, 2018 SCC OnLine Bom 1562.

64. **The Counter Affidavit** has been filed on behalf of the respondent, wherein the role of the petitioner and other accused persons is described as having knowingly and directly indulged in the possession, concealment of proceeds of crime and is guilty of offence of money laundering as defined under Section 3 of PMLA, 2002 and punishable under Section 4 of PMLA, 2002.

65. The respondent has contended that the *legality of arrest* cannot be questioned after a Competent Court had passed an Order of Remand which is a judicial function especially when the Remand Order has not been assailed.

66. It is a matter of fact that after the initial arrest on 11.11.2023 and remand on the same day, the respondent had filed an Application seeking further custody which was granted for a further period of six days by the learned Special Judge, *vide* Order dated 16.11.2023. The respondent has been filing the Application thereafter seeking judicial custody which is being extended from time to time. Therefore, the legality of initial arrest and remand cannot be challenged at this stage, while at the same time it is claimed that there was no legality in the arrest and remand of the respondent. Reliance has been placed on the decision in Serious Fraud Investigation Office vs. Rahul Modi, (2019) 5 SCC 266, wherein it has been observed that the legality at the time of arrest does not render the subsequent remand orders to be invalid.



67. Reliance has been placed by the respondent on the decision in Basanta Chandra Ghose vs. King-Emperor, 1945 SCC OnLine FC 3, Naranjan Singh Nathawan vs. State of Punjab, (1952) 1 SCC 118, Talib Hussain vs. State of J&K, (1971) 3 SCC 118, Col. B. Ramchandra Rao (Dr) vs. State of Orrisa, (1972) 3 SCC 256, Kanu Sanyal vs. Distt. Magistrate, (1974) 4 SCC 141, Sanjay Dutt, (supra), Bhagwan Singh vs. State of Rajasthan, 2005 SCC OnLine Raj 861, Saurabh Kumar vs. Jailor, Koneila Jail, (2014) 13 SCC 436, State of Maharashtra vs. Tasneem Rizwan Siddiquee, (2018) 9 SCC 745, Rahul Modi, (supra) and State vs. H. Nilofer Nisha, (2020) 14 SCC 161.

68. The contention of the petitioner in this regard is asserted to be misplaced and based on incorrect understanding of the terms ‘custody’ ‘detention’ and ‘arrest’ which have been explained in the case of Sundeep Kumar Bafna vs. State of Maharashtra, (2014) 16 SCC 623. This Court has explained the same concept in Gautam Thapar vs. Directorate of Enforcement, 2021 SCC OnLine Del 4599.

69. In the present case, the arrest of the petitioner was in accordance with Section 19 of the PMLA, 2002 and the grounds of arrest were supplied to the petitioner, the receipt of which was duly acknowledged by him in writing.

70. Without prejudice to these averments, it is asserted that the petitioner has falsely claimed that he was taken into custody at 05:30 P.M. Admittedly, the arrest took place at 01:44 A.M. and the petitioner was produced within 24 hours in accordance with Section 19 of PMLA, 2002. Reliance has been placed by the respondent on the case of Rami Kishore Arora vs. Directorate of Enforcement, 2023 SCC OnLine SC 1682.



71. It is further explained that it is not necessary for an accused under PMLA, 2002 to be also an accused in the scheduled offence. The offence of money laundering is independent of the investigations conducted by the predicate agency and is well-settled that a person may be an accused under PMLA, 2002 without being an accused in the scheduled offence. This is evident from the Explanation 1 to Section 44 PMLA which has also been considered by the Apex Court in Vijay Madanlal Chaudhary, (supra) and also in Pavana Dibbur, (supra).

72. There is no bar in arraying the petitioner as an accused in the offence of money laundering only because he is a witness in the predicate offence in the said RC, for which reliance has been placed by the respondent on Saumya Chaurasia vs. Directorate of Enforcement, 2023 SCC OnLine SC 167.

73. It is contended that taking of cognizance *prima facie* establishes guilt of the accused as has been held in the case of Manharibhai Mulijibhai Kakadia & Anr. vs. Shaileshbhai Mohanbha Patal & Ors., (2012) 10 SCC 517.

74. The role of the petitioner has been explained in detail. It is asserted that the petitioner was deeply involved in the conspiracy of getting illegal gratification in lieu of the jobs in the Indian Railways with Lalu Prasad Yadav and Prem Chand Gupta and had played a key role in acquisition, possession, concealment of proceeds of crime. The petitioner acquired several immovable properties in Patna on the directions of Lalu Prasad Yadav and handed over M/s AK Infosystems Pvt. Ltd to Rabri Devi and Tejaswi Yadav along with its assets worth Rs. 1.35 crore against the payment of Rs. 1,00,000/- only in 2014. The market value of the properties



was about 3-4 times higher. In the year 2017, a payment of Rs. 1.35 crore was made to the petitioner by M/s AK Infosystems Pvt. Ltd. This payment was the consequence of proceedings of Income Tax Department under Benami Act.

75. Suman Kumar Nayak, Chartered Accountant of Lalu Prasad Yadav, and the petitioner in the wake of I-T benami proceedings and other cases against Lalu Prasad Yadav and his family members, met at the residence of Rabri Devi in Patna 2017, wherein it was decided that the affairs of the Companies linked to Lalu Prasad Yadav should be regularised to avoid detection by authorities and to project things in a way which add tinge of legality to the past transactions/asset acquisition of the Companies to cover the loopholes left during handing over the Company with an intention to avoid the inquiries from various Agencies. This is evident from the fact that from the Financial Year 2017-18, Suman Kumar Nayak started receiving the salary as an Auditor of M/s AK Infosystems Pvt. Ltd. and M/s AB Exports Pvt. Ltd. There is an amendment made in the Balance Sheets of M/s AK Infosystems Pvt. Ltd. during the year 2017-18 to include assets worth Rs. 70,00,000/- purchased by the petitioner in the name of M/s AK Infosystems Pvt. Ltd. in 2010. Part payment was made against the past liabilities of M/s ABEPL using proceeds of crime. Registered address of M/s AK Infosystems Pvt. Ltd. is changed to D-1088, New Friends Colony from the residential address of the petitioner i.e., C-654, New Friends Colony, New Delhi in the year 2017-18. Moreover, the petitioner remained the Director in M/s AK Infosystems Pvt. Ltd. till January, 2015, despite transferring 100% share in July, 2014. The petitioner had initially contended in his Statement dated 18.04.2023 that the movable assets acquired by M/s AK



Infosystems Pvt. Ltd. were meant for Guest House. However, later the petitioner admitted that except 1-2 land parcels, remaining immovable properties were acquired under the instructions of Lalu Prasad Yadav and Prem Chand Gupta for the family of Lalu Prasad Yadav.

76. The investigations further revealed that in 2010, M/s AK Infosystems Pvt. Ltd., through the petitioner, purchased the immovable property from Tejaswi Yadav and Tej Pratap Yadav, both sons of Lalu Prasad Yadav, for Rs. 70,00,000/- which was handed back to Tejaswi Yadav and Rabri Devi in 2014 along with assets of Company through transfer of shares for a payment of Rs. 1,00,000/-.

77. The petitioner was involved in manipulation of Balance Sheets of M/s AK Infosystems Pvt. Ltd. The entry regarding transaction of Rs. 70,00,000/- pertaining to the year 2010 was not made till 2017-18.

78. The petitioner has been actively assisting Lalu Prasad Yadav and his family members in every step while handling the proceeds generated from corrupt practices of Lalu Prasad Yadav being the Railway Minister. The petitioner has been associated with the family of Lalu Prasad Yadav since 2006 as Chanda Yadav, daughter of Lalu Prasad Yadav and her mother-in-law were the Directors in his Company i.e. M/s Iceberg Distilleries Pvt. Ltd. during the year 2008-2014. Misha Bharti and her husband also acted as Directors during 2006-2009 in the petitioner's Company i.e., M/s Kingdom Hotels & Resorts Pvt. Ltd.

79. The petitioner had also controlled another Company called M/s ABEPL, wherein there were no actual business/commercial operations being done by the said Company.

80. The petitioner is also connected with the property involved in the



money laundering i.e., D-1088, New Friends Colony, New Delhi.

81. The petitioner has concealed the proceeds of crime from its true origin. The petitioner consciously projected receipt of the proceeds of crime as legitimate transactions by keeping a shareholding of M/s AK Infosystems Pvt. Ltd. to himself and later transferring it to Tejaswi Yadav and Rabri Devi.

82. In regard to the contention of parity on the ground of non-arrest of other persons, it has been contended that this is an irrelevant factor while considering the Bail and this principle would apply a *fortiori* for a person seeking bail under Section 45 of PMLA, 2002, wherein he has to make out reasonable ground for believing that he is not guilty, as held by the Supreme Court in CBI vs. Vijay Sai Reddy, (2013) 7 SCC 452.

83. It is further claimed that the land parcel purchased at price consideration of Rs. 10.83 lakh was received as illegal gratification for providing appointment to the relatives of Hazari Rai. The land parcels had been purchased at a much lower value than the prevalent circle rate.

84. Moreover, M/s AK Infosystems Pvt. Ltd. which had facilitated the illegal gratification of land parcels to the family members of Lalu Prasad Yadav in the guise of transferring of shares of the Company to them against a meagre payment of Rs. 1,00,000/-, though the business value was much higher.

85. Likewise, in M/s ABEPL, while there were no actual business/commercial operations, it purchased one house Property No. D-1088, New Friends Colony, New Delhi in 2007 for about Rs. 5,00,00,000/-. The funds for purchase of the said property came from shell Companies in the form of optional fully convertible Debentures. After the purchase of the



property, the shareholding of M/s AB Exports was transferred to the family members of Lalu Prasad Yadav in December, 2010. Tejaswi Yadav received Rs. 5,00,000/- from the petitioner's Company i.e., Krrish Reality Nirman Pvt. Ltd. on 26.07.2010 which was utilised in payment of Rs. 3.91 lakhs on 18.12.2010 for purchasing the shares of M/s ABEPL.

86. It is asserted that the petitioned had been the close associate of Lalu Prasad Yadav and proceeds of crime worth Rs. 1,00,00,000/- were integrated into mainstream economy through creation of assets and towards acquisition of this property. The proceeds of crime are not less than Rs. 1,00,00,000/- and, therefore, the twin conditions under Section 45 of PMLA, 2002 are required to be satisfied.

87. It is asserted that the economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The nature of accusations in the present case, the gravity of the offence, especially in the light of the economic offence, need to be considered. The petitioner played an active role in this offence and reasonable possibility of not securing the presence of the petitioner; reasonable apprehension of the witnesses being influenced, the larger interests of the public/State and other similar considerations must be considered before grant of bail.

88. **On merits**, all the averments made in the present petition are denied.

89. Therefore, the present petition for Bail has been vehemently opposed on behalf of the respondent.

90. **Rejoinder** to the counter-affidavit of the respondent has been filed, wherein the petitioner has reiterated the averments as made in the present petition.

91. Learned Senior Advocate on behalf of the petitioner and the learned



Special Counsel on behalf of the respondent have argued *in extenso*, essentially on the grounds as have been detailed in the present petition and counter-affidavit and also in their respective Written Submissions.

92. **Submissions heard.**

93. Essentially, the case of the respondent is that petitioner was the Director of M/s AK Infosystems Pvt. Ltd. and he had projected and concealed the property which was proceed of crime in relation to a schedule offence and was a beneficiary under the schedule offence. The Company, namely, M/s Iceberg Industries Ltd, previously known as Iceberg Consultants Limited, was incorporated in the year 29.07.1994 and the petitioner became its Director. The said Company was acquired for the purpose of setting up breweries and distilleries plant and it purchased the land parcel in Bihta, Bihar. In the year 2006, M/s AK Infosystems Pvt. Ltd. was incorporated. Since the petitioner was having business interest in Bihar, he started purchasing small chunk of land/plot in Bihar for the purpose of expansion/or for godown/guest house in the other companies. The Company purchased various properties in Danapur District and Gardanibagh District of Bihar. The properties were purchased by borrowing money from the sister concerns and its Director, Promoters, including the petitioner. The distillery in Bihar was sold to one of the largest American Beer Company. Subsequently, the petitioner resigned from the Directorship and completely exited from the Company.

94. Thereafter, the petitioner was in the process of winding up its business and properties in Bihar. M/s AK Infosystems Pvt. Ltd. was sold to Smt. Rabri Devi and Tej Pratap Yadav by transfer of complete shareholding. Subsequently, the petitioner resigned from the Directorship and completely



exited from the said Company as well.

95. As per the investigations, three parcels of land situated at Village Mahuabagh and Village Kunjwa, Patna were transferred in the names of Smt. Rabri Devi and Smt Misha Bharti. In lieu of the same, engagement of total nine persons as substitute in Group-D in Central Railways was approved in close proximity of the transfer of land parcels. One parcel of land of Hazari Rai was purchased by the Promoter/Director of M/s AK Infosystems Pvt. Ltd. by payment of sale consideration amount to the tune of Rs. 10.83 lakhs to Hazari Rai.

96. It is claimed that the petitioner by using his Companies along M/s ABEPL has laundered the money acquired by main accused persons, namely, Lalu Prasad Yadav and his family members.

97. The objection taken on behalf of the petitioner is that he has been cited as a witness in the said RC, wherein his statement has been recorded under Section 164 of Cr.P.C., 1973. However, in the ECIR, he has been made an accused. This position of the petitioner in the two offences is incongruous and irreconcilable under the law.

98. It is no longer *res integra* that the predicate offence and the offence under PMLA, 2002 are independent offences and even if the person is not an accused in the predicate offence, he can still be arrayed as an accused under PMLA, 2002.

99. The petitioner may have been an offender by indulging in the scheduled offence, but there is *prima facie* evidence to show that the proceeds of crime generated through scheduled offences have been laundered by him. The petitioner can be an accused under PMLA, 2002 without being an accused in the said RC/CBI case/predicate offence.



100. This aspect has been clarified by the Apex Court in the case of Pavana Dibbur, (supra) and Vijay Madanlal Chaudhary, (supra).

101. Similar observations have been made by the Bombay High Court and the Punjab and Haryana High Court in the case of Deepak Kumar vs. The Enforcement Directorate Mumbai Zonal Office, decided vide Bail Application No. 31/01/2023 and Dilip Lalwani and Another vs. CBI and Anr., 2022 SCC OnLine P & H 4240 respectively.

102. In Laxmipat Choraria vs. State of Maharashtra, 1967 SCC OnLine SC 30, the Apex Court observed that Section 118 of the Indian Evidence Act, all persons are competent to testify unless the Court considers that they are prevented from understanding the questions put to them for reasons indicated in that Section. Under Section 132 of the Indian Evidence Act, a witness shall not be excused from answering any question as to any matter relevant to the matter in issue in any criminal proceeding upon the ground that the answer to such question will incriminate or may tend directly or indirectly to expose him to a penalty or forfeiture of any kind. The safeguard to this compulsion is that no such answer which the witness is compelled to give, exposes him to any arrest or prosecution or can it be proved against him in any criminal proceeding except prosecution for giving false evidence by such answer.

103. The protection is further fortified by Article 20(3) of the Constitution which says that no person accused of any offence shall be compelled to be a witness against himself. This article protects a person who is accused of an offence and not those questioned as witnesses. A person who voluntarily answer questions from the witness box, waives the privilege which is against being compelled to be a witness against himself. Section 132 of the Indian



Evidence Act sufficiently protects him since his testimony does not go against himself. In this respect, the witness is in no worse position than the accused who volunteers to give evidence on his own behalf or on behalf of a co-accused. There too, the accused waives the privilege conferred on him by the Article since he is subjected to cross-examination and may be asked questions incriminating him.

104. Similarly, in Mohan Lal Rathi vs. Union of India Thru. Directorate of Enforcement, 2023:AHC-LKO:59826, it was observed that grant of pardon under Section 306 Cr.P.C., 1973 would not fall within the purview of the words “*finally absolved by a Court of competent jurisdiction*” owing to an order of discharge, acquittal or because of quashing of the scheduled offence against him. The Pardon granted under Section 306 Cr.P.C., 1973 to a person in a scheduled offence would not ipso facto result in his acquittal in the offence under the PMLA, unless, of course, the accused person seeks pardon in the case under PMLA also by making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence under PMLA.

105. As has been explained on behalf of the respondent, the reliance has been placed on the statements of the petitioner given by him in the capacity of a witness before the predicate agency and in the Statement recorded under Section 164 of Cr.P.C., 1973 which is still in a sealed cover. Therefore, the offence under PMLA, 2002 is based on independent evidence with no reference to the statements of the petitioner in the predicate offence. This argument of the petitioner that he cannot be made an accused under PMLA, 2002 is, therefore, not tenable.

106. In the present case, from the details as narrated hereinabove, it is evident that the proceeds of crime have been generated by one set of accused persons against whom the CBI case has been registered. However, the petitioner herein



was roped in subsequently for laundering the proceeds of crime which had been generated by the accused persons in the predicate offence. Merely because those persons against whom the predicate offence has been registered, are also an accused under PMLA case would not in any way dilute or impact the involvement of the present petitioner whose role essentially has been determined to be in laundering the proceeds of crime. The argument, therefore, as projected by the petitioner, is not tenable.

107. The petitioner has contended that principal accused person i.e., Lalu Prasad Yadav, was the Minister for Railways from the year 2004-2009. He gave appointment to the post of substitute (Group-D) under the various zones of the Indian Railways, commonly known as Job for Land Scam, which travelled to him and his family members.

108. According to the respondent, the land parcel was purchased worth Rs. 10.83 lakhs from Hazari Rai by the Company of the petitioner i.e., M/s AK Infosystems Pvt. Ltd. which was eventually transferred to Tejaswi Yadav and Rabri Devi in 2014 along with all the assets for a meagre sum of Rs. 1,00,00,000/-

109. There are 14 main accused persons who were Member of Parliament or Member of Legislative Assembly or beneficiaries, but none of them has been arrested, except the petitioner which shows the role assigned to him is only of acquiring the land parcel worth Rs. 10.83 lakhs and the subsequent transfer of the company to Rabri Devi and Tejaswi Yadav in 2014 for a meagre amount of Rs. 1,00,00,000/-. The petitioner's role is miniscule essentially to the extent of Rs. 10.83 lakhs. While in this regard, it is pertinent to observe that while considering the grant of Bail, the parity is not so much essential considering as the role of the petitioner in the commission



of offence.

110. It is not disputed that out of 17 accused in PMLA, none of the accused even though they are the main perpetrators/beneficiaries of the offence under PMLA, have not been arrested and the prosecution Complaint had been filed against them without their arrest.

111. It is also significant to observe that the petitioner had joined the investigations in response to the Notice under Section 50 PMLA on 06.10.2023, 08.10.2023, 10.10.2023 and 11.10.2023. He had received the summons on 08.11.2023 for appearance on 10.11.2023. The petitioner had duly informed the respondent vide his reply dated 09.11.2023 that he was travelling on the said date and may be granted permission to appear later on 10.11.2023. While he reached Airport around 05:00/05:45 P.M to travel to Ranchi and was waiting at the Boarding Gate of IGI Airport, he was stopped by the Investigating Officer and was served with fresh Summons under Section 50 PMLA for appearing before the Investigating Officer on the same day at 05:45 P.M at the office of Directorate of Enforcement, Pravartan Bhawan, New Delhi. His mobile phone was seized around 05:45 P.M and he was orally informed that he has been arrested, though his formal arrest was shown at 01:44 hours.

112. The record therefore, reflects that despite there being no arrest of any other accused and irrespective of the fact that the petitioner had joined investigations pursuant to every Notice under Section 50 of PMLA, he has apparently been arrested unceremoniously on 10.11.2023 from the IGI Airport, while he was travelling to Ranchi. The necessity of arrest of the petitioner has not been explained by the respondents. This in itself reflects not only a pick and choose policy of the respondent which has been



deprecatated by the Apex Court in the case of Sheetla Sahai (Supra) case, but also entitles the petitioner to bail on the principle that the role of the present petitioner is much less than that of the other accused persons for which reference may be made to Ajmer Singh (Supra).

113. Even if it is accepted that the non-arrest of the main accused persons may not be a relevant fact and the role of each accused has to be considered individually and that in itself would not entitle the petitioner to bail, what thus, becomes important to consider is whether the allegations made against the petitioner entitle him to the benefit of proviso to S.45 PMLA wherein he need not satisfy the twin test in order to get Bail.

114. In this regard, it becomes significant and pertinent to examine the role of the petitioner in the present case. The allegations against him are that he had acquired a land valuing 10.83 lacs, which was the tainted money on the premise that the proceeds of sale are less than Rs. 1,00,00,000/-. It has been vehemently contended on behalf of the respondent that as per the prosecution, essentially the allegations made against the petitioner are that he had purchased the land parcel worth Rs. 10.83 lakhs which he transferred subsequently to the other main accused persons but actually the value of the land parcel was much more than its purchase value. Also, the Companies of the petitioner had been used for laundering the proceeds of crime. Though it has been contended that the proceeds of crime that were laundered were of much more value, but the only allegations made against the petitioner in the said ECIR is in regard to the land parcel worth Rs. 10.83 lakhs. At no place has the respondent quantified the value of proceeds of crime to be more than that. Even if it is accepted as has been contended by the respondent, that the value of the land parcel was 3-4 times more than the value reflected but then



too, it would be less than Rs. 1,00,00,000/-. The case of the petitioner is covered by the *proviso* thereby exempting him from satisfying the twin conditions under Section 45 of PMLA, 2002 for grant of bail.

115. Even otherwise, it is the respondent itself which has stated that the transfers made in the year 2010 till 2014 of the Company were not reflected in the books of accounts and subsequently, the accounts have been rectified in the year 2017-18 when the transactions were questioned by the Income Tax Department.

116. While the ED has sought to show the role of the petitioner over a period of time in facilitating the laundering of the money generated by the main accused persons/beneficiaries, but pertaining to this particular case of land scam, the only allegation is confined to one piece of land valuing 10.83 lacs. In the light of the specific case of the ED, it has to be held that it gets covered in the proviso and therefore, the *Twin Test* would not be applicable.

117. In this regard, it may also be referred that the petitioner has shown his chronic physical ailment in detail which reflect that he can be terms as a person in the category of 'sick and infirm' entitling him to bail without satisfying the Twin Test of Section 45.

118. In Prem Prakash v. Union of India through ED, 2024 SCC OnLine SC 2270, the Apex Court has held that the fundamental right enshrined under Article 21 cannot be arbitrarily subjugated to the statutory bar in Section 45 of PMLA, 2002 which has been reiterated by the Apex Court while granting bail under the PMLA 2002 in Vijay Nair v. Directorate of Enforcement in SLP (CrI.) No. 22137/2024 *vide* order dated 02.09.2024.

119. Having considered all the aforesaid facts, it may be observed that he is not a flight risk, as he has all throughout been joining the investigations



and at no point of time tried to evade the summons or to join the investigations. There has been no endeavour him to tamper with the evidence which is essentially documentary in nature or to influence the witnesses. The Triple Test for grant of bail is, therefore, satisfied by him.

120. In the end, it may be observed that the investigations vis-à-vis him already stands concluded and the Prosecution Complaint stand filed. He is in judicial custody since 10.11.2023. The trial may take long to get concluded. No purpose for his further detention in judicial custody has been made out.

121. In the light of the aforesaid discussion, the applicant is directed to be released *forthwith* on bail in connection with the ECIR No. ECIR/31/DLZO-I/2022 dated 16.08.2022, registered by the Directorate of Enforcement, subject to furnishing a personal bond in the sum of Rs.10,00,000/- with two sureties of the like amount; to the satisfaction of the learned Special Judge/Trial Court with the following conditions:

- a. The Applicant shall appear before the Court as and when the matter is taken up for hearing.
- b. The Applicant shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number, without prior intimate to the Investigating Officer concerned.
- c. The Applicant shall not change his residential address and in case of change of the residential address, the same shall be intimated to this Court, by way of an affidavit.
- d. The Applicant shall surrender his passport with the learned Special Court;



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- e. The Applicant shall report to the Investigating Officer on every Monday and Thursday between 10:00 to 11:00 AM;
 - f. The Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.
 - g. The Applicant shall not leave the country, without permission of this Court.
 - h. The Applicant shall not make any attempt to tamper with the evidence or influence the witnesses;
122. Any observation made herein is without prejudice to the trial.

(NEENA BANSAL KRISHNA)
JUDGE

SEPTEMBER 17, 2024
S.Sharma