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

Reserved on: 16th April, 2024

Pronounced on: 09th May, 2024

\+ BAIL APPLN. 1268/2023

SANJAY KANSAL .....Applicant

Through: Mr. Siddharth Agarwal, Sr. Adv. with Mr. Malak Bhatt, Ms. Neeha Nagpal, Ms. Arshia Ghose, Ms. Smridhi & Mr. Ayush Shrivastava, Advs.

versus

ASSISTANT DIRECTOR, DIRECTORATE OF ENFORCEMENT

..... Respondent

Through: Mr. Zoheb Hossain, Spl. Counsel for ED with Mr. Vivek Gurnani & Mr. Kartik Sabharwal, Advocates.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT

AMIT SHARMA, J.

1. The present application under Section 439 of the Code of Criminal Procedure, 1973 (for short, 'CrPC') read with Section 45 of the Prevention of Money Laundering Act, 2002 (for short, 'PMLA') seeks regular bail in Complaint Case No. 25/2022 arising out of ECIR/DLZO-I/06/2020 under Sections 44 and 45 of the PMLA. The aforesaid ECIR was recorded on the basis of the scheduled/predicate offence which had arisen out of the FIR No.

RC2202020E0005 (EO-II, CBI, New Delhi) dated 26.02.2020, registered under Sections 120B read with Sections 420/468/471 of the Indian Penal Code (for short 'IPC') and under Section 13 (2) read with Section 13 (1) (d) of Prevention of Corruption Act, 1988 (for short 'PC Act').

2. The aforesaid FIR was registered by the CBI on a complaint of Shri Mukesh Dhingra, Deputy General Manager, Stressed Asset Management Branch II, State Bank of India, alleging that M/s Shree Bankey Bihari Exports Ltd. (hereinafter referred to 'SBBEL') a public limited company promoted by Shri Amar Chand Gupta, was engaged in processing of agro commodities i.e., Gram Dal, Wheat Products, Besan etc. It was alleged that M/s SBBEL had availed credit facilities of Rs. 625 Crore from the consortium of 7 lenders with SBI as a lead lender and on account of irregular payment of the said loan, same was classified as Non-Performing Asset ('NPA') on 27.02.2017. It is alleged that thereafter, on conduct of forensic audit, the said loan was declared as fraud on account of fudging of balance sheets, diversion of funds and related party transactions. It was further alleged that M/s SBBEL and its director have caused a wrongful loss to the tune of Rs. 604.81 Crore. It was further alleged that accused company and its directors were involved in bogus transactions relating to inventories and receivables, as the funds available with the company by way of proceeds from the sale of inventory and realization of receivables were diverted and not appropriated to reduce the outstanding loan. It was alleged that the company misappropriated the legitimate fund obtained for working capital from the bank.

3. After investigation in the aforesaid ECIR, the respondent/ED filed a complaint before the learned Special Court against 47 persons including the present applicant, who has been arrayed as accused No. 42 at serial No. (A-42) for commission of offence of money laundering as defined under Section 3 and punishable under Section 4 of the PMLA Act.

4. During the course of investigation, the applicant was arrested on 27.08.2022 and has been in judicial custody since then. The role of the present applicant as alleged in the complaint is that he was nephew of accused Amar Chand Gupta (A-2), who was promoter and director of M/s SBBEL and in connivance with the latter; he had played an instrumental role in opening of various firms on papers. It is alleged that in furtherance of the criminal conspiracy, the present applicant induced indigent people to open up paper firms at his behest. It is alleged that the said paper firms were dummy entities and were involved in bogus sales and purchases with M/s SBBEL. It is alleged that the present applicant was responsible for laundering of money at the behest and in furtherance of conspiracy with the co-accused persons to an amount of almost Rs. 50 Crore.

SUBMISSIONS ON BEHALF OF THE APPLICANT

5. Learned Senior Counsel appearing on behalf of the applicant submits that M/s SBBEL was heading a group of 8 companies. It was submitted that CBI had registered 8 RCs and accordingly, 8 ECIRs were registered by Enforcement Directorate. After completion of investigation one complaint was filed with respect to 7 ECIRs and one separate complaint was filed in the present ECIR. It was submitted the applicant was not named in the FIR, on the basis of which

ECIR in the present case was registered. It was submitted that the applicant has been made an approver with respect to the FIR registered at the instance of the CBI and has been cited as a witness in the chargesheet filed by the CBI in RC-059/2021/A0001/2021 titled 'CBI v. M/s Gagan Pulses Pvt. Ltd. &Ors.' It was submitted that the applicant was a mere employee acting in the capacity of field boy carrying out the instructions of director of M/s SBBEL namely, Mr. Amar Chand Gupta. It was argued that beneficiary of the alleged transactions were the directors of the said company and the present applicant was not a beneficiary. It is further submitted that the applicant, even as per the case of the prosecution, was not a Key Managerial Person (KMP) in the said company. It was submitted that the complaint in the present complaint stands filed, charges have not been framed and the trial is likely to take considerable period of time, therefore, the applicant may be released on bail.

6. It was further submitted that the material on which the prosecution relies upon are the statements made by witnesses which are not reliable as the same suffer from practice of being identical to the extent that the cut, copy, paste technique has been used to array the applicant as an accused. It was argued that in the statement of the applicant wherein references have been made towards paper firms are identical to the extent of being cut, copy, paste; thus, casting aspersions over the veracity of the statements. It was further submitted that similarly situated accused persons have not been arrested by the Enforcement Directorate. It was submitted that brother of the present applicant, who was a Chief Accountant has been arrayed as a co-accused without arrest. Attention of this Court was drawn to the portion of the complaint to demonstrate that the

other co-accused persons, who have admitted to opening of the paper firms and assisted the main accused relating to bogus sham transactions, have not been arrested.

7. Learned Senior Counsel has relied upon following judgments: -

i. Vijay Madanlal Choudhary & Ors. v. Union of India & Ors., 2022 SCC Online SC 929;

ii. Mohd. Muslim alias Hussain v. State (NCT of Delhi), 2023 SCC OnLine SC 352;

iii. Vernon v. State of Maharashtra, 2023 SCC OnLine SC 885;

iv. Vijay Agrawal Through Parokar v. Directorate of Enforcement, BAIL APPLN. 1762/2022 decided on 29.05.2023 by a Co-ordinate Bench of this Court;

v. Ashish Mittal v. SFIO, BAIL APPLN. 251/2023 decided on 03.05.2023 by a Co-ordinate Bench of this Court;

vi. Pavana Dibbur v. Directorate of Enforcement, 2023 SCC OnLine SC 1586;

vii. Jai Narayan Sharma v. Asst. Director, Directorate of Enforcement, Order dated 05.09.2023 in Criminal Appeal No. 2726/2023 (Arising out of S.L.P. (Crl.) No. 11287/2023);

viii. Benoy Babu v. Directorate of Enforcement, Order dated 08.12.2023 in S.L.P. (Crl.) No. 11644-11645/2023;

ix. Sanjay Agarwal v. Directorate of Enforcement, 2022 SCC OnLine SC 1748;

x. Union of India v. K.A. Najeeb, (2021) 3 SCC 713;

xi. Raman Bhuraria v. Directorate of Enforcement, BAIL APPLN. 4330/2021 decided on 08.02.2023 by a Co-ordinate Bench of this Court;

xii. Ramesh Manglani v. Directorate of Enforcement, BAIL APPLN. 3611/2022 decided on 30.05.2023 by a Co-ordinate Bench of this Court;

xiii. Chandra Prakash Khandelwal v. Directorate of Enforcement, BAIL APPLN. 2470/2022 decided on 23.02.2023 by a Co-ordinate Bench of this Court;

xiv. Dr. Bindu Rana v. SFIO, BAIL APPLN. 3643/2022 decided on 20.01.2023 by a Co-ordinate Bench of this Court;

xv. State of Madhya Pradesh v. Sheetal Sahai & Ors. (2009) 8 SCC 617;

xvi. Soma Chakravarty v. State through CBI, (2007) 5 SCC 403;

xvii. Chanda Deepak Kochhar v. CBI, 2023 SCC OnLine Bom 72;

xviii. Santosh v. State of Maharashtra. (2017) 9 SCC 714;

xix. Shri Pradeep Koneru v. Directorate of Enforcement & Anr., Order dated 23.08.2019 passed by Division Bench of this Court in W.P. (Crl.) No. 2353/2019;

xx. Satish Babu Sana v. Directorate of Enforcement &Anr., Order dated 23.08.2019 passed by Division Bench of this Court in W.P. (Crl.) No. 2903/2019;

xxi. Gurdev Singh v. Directorate of Enforcement, Order dated 25.01.2024 in SLP (Crl.) No. 16688/2023;

xxii. Sanjay Jain v. Enforcement Directorate, BAIL APPLN. 3807/2022 decided on 07.03.2024 by Co-ordinate of Bench of this Court.

SUBMISSIONS ON BEHALF OF DIRECTORATE OF ENFORCEMENT/RESPONDENT

8. Learned Special Counsel for Directorate of Enforcement (for short 'ED') has submitted that the applicant has not been able to satisfy the twin test as laid down in Section 45 of the PMLA. It is submitted that public money of more than Rs. 604.81 Crore have been siphoned off by the accused company M/s SBBEL. It was submitted that the present applicant who is the nephew of accused Amar Chand Gupta (A-2) has played a vital role in the entire conspiracy. It was submitted that the present applicant was proprietor of entities, namely, Kansal Enterprises and Munshi Ram and Sons, who has been shown as supplier to M/s SBBEL, and has actively participated in the creating bogus transactions. It was alleged that the present applicant was assigned the work of predating indigent people as entry operators. It was pointed out that, during the course of investigation, the proprietors of the dummy firms were examined, who had named the present applicant, as the person to whom they had handed over the cheque books after appending signatures on both sides. It was further submitted that proprietors of these firms had also named the present applicant as a person at whose behest the bank accounts were opened to accommodate the entries to various group companies of M/s SBBEL. Attention of this Court was drawn to various portion of the complaint wherein the gist of examination of these proprietors has been recorded. It was submitted that most of these operators were

from indigent background and were lured to open bogus firms to provide entries to M/s SBBEL through the present applicant. It was further argued that the present applicant in his statement under Section 50 of the PMLA Act had also admitted the fact that he had opened the firms and the accounts at the behest of accused Amar Chand Gupta (A-2). It was argued that *modus operandi* adopted by accused no.1 company M/s SBBEL was that the bogus business entities under its control was projecting circular movement of funds under the garb of bogus sale and bogus purchase with the intention to siphoning off the bank fund and simultaneously to enhance its bogus turn over as well.

9. Finally, it was submitted that the present applicant knowingly assisted in the commission of crime of money laundering by accommodating bogus sale and bogus purchase of M/s SBBEL through his firms. It was alleged that M/s Munshi Ram and Sons, of which the present applicant was a proprietor, had accommodated bogus sale to the tune of Rs.9,40,67,750/-. Similarly, the other proprietorship firm of the present applicant namely, M/s Kansal Enterprises had accommodated bogus sale to the tune of Rs. 10,02,55,323/- and paper purchase to the tune of Rs. 3,25,63,820/-. It was argued that the present applicant was maintaining day-to-day transactions with the paper entities as mentioned hereinabove under the garb of fake sale and purchase. It is also argued that the applicant had used the cheques of these paper entities to purchase jewelleries in the name of his wife, son, brother-in-law and mother-in-law. It was further submitted that so far as the fact that the applicant has been made an approver in the other FIR filed by the CBI, the same would have no bearing in the present PMLA complaint.

10. Learned Special Counsel for the ED has been placed reliance on the following judgments: -

A. <u>Section 3 of the Prevention of Money Laundering Act, 2002: Definition of the 'Money-Laundering'</u>

i. Vijay Madanlal Choudhary & Ors. v. Union of India &Ors., 2022 SCC Online SC 929; (*Paras* 263-284)

ii. V. Balaji v. Karthik Desari & Anr., 2023 SCC Online SC 645 (*Para* 100)

iii. Anoop Bartaria vs. Dy. Director of Enforcement Directorate & Anr. SLP (Crl.) No. 2397-98/2019 (*Paras* 27-28)

B. <u>Twin Conditions for the Grant of Bail in PMLA Cases</u>

i. Vijay Madanlal Choudhary &Ors. v. Union of India &Ors., 2022 SCC Online SC 929;(*Paras* 371-421);

ii. Satyendar Kumar Jain v. Directorate of Enforcement, in BAIL APPLN. 3590/2022 decided on 06.04.2023 by a Coordinate Bench of this Court: 2023:DHC:2380;

iii. The Asstt. Director Enforcement Directorate v. Dr. V.C. Mohan, Order dated 04.01.2022 passed by the Hon'ble Supreme Court in Criminal Appeal No. 21 of 2022 (arising out of SLP (Crl.) No. 8441/2021);

iv. The Directorate of Enforcement v. M. Gopal Reddy & Anr., decided by Hon'ble Supreme Court *vide* judgment dated 24.02.2022 in Criminal Appeal No. 534/2023 (arising out of SLP (Crl.) 8260/2021);

v. Union of India v. Varinder Singh, (2018) 15 SCC 248;

vi. Bimal Kumar Jain v. Directorate of Enforcement, BAIL APPLN 2438/2022 decided on13.09.2022 by a learned Single Judge of this Court;

vii. Bimal Kumar Jain &Anr. v. Directorate of Enforcement, 2021 SCC Online 3847;

viii. Christian Michael James v. Directorate of Enforcement, BAIL APPLN. 2566/2021 decided on 11.03.2022 by a Coordinate Bench of this Court;

ix. Raj Singh Gehlot v. Directorate of Enforcement, BAIL APPLN. 425/2021, decided on 02.03.2022 by a Coordinate Bench of this Court.

x. Sajjan Kumar v. Directorate of Enforcement, BAIL APPLN. 926/2022, decided on 13.06.2022 by a Coordinate Bench of this Court;

xi. Bimal Kumar Jain v. Directorate of Enforcement, Order dated 27.02.2023 in SLP (Crl.) 9656/2022;

xii. Bimal Kumar Jain v. Directorate of Enforcement, Order dated 04.01.2022 in SLP (Crl.) 7942/2021;

xiii. Raj Singh Gehlot v. Directorate of Enforcement, Order dated 31.05.2022 in SLP (Crl.) 4761/2022;

xiv. Gautam Thapar v. Directorate of Enforcement, BAIL APPLN. 4185/2021, decided on 02.03.2022 by a Coordinate Bench of this Court: 2022:DHC:799;

C. Witness in Predicate Offence can be made an accused in PMLA

i. State of Bombay v. Kathi Kalu Oghad, 1961 SCC Online SC 74;

ii. Ramanlal Bhogilal Shah v. D.K. Guha, (1973) 1 SCC 696;

iii. Laxmipat Choraria v. State of Maharashtra, 1967 SCC Online SC 30;

iv. Mohan Lal Rathi v. Union of India Through Directorate of Enforcement, Zonal Office, LKo, And Another., 2023: AHC-LKO:59826;

v. Mohan Lal Rathi v. Union of India & Anr., Order dated 28.11.2023 in SLP (Crl.) No. 12870/2023.

vi. Tarun Kumar v. Assistant Director Directorate of Enforcement, 2023 INSC 1006.

REJOINDER ON BEHALF OF THE APPLICANT

11. Learned Senior Counsel by way of rejoinder submitted that the scheduled/predicate offences are directly related to offences under the PMLA and the fact that the present applicant has been granted status of approver in the chargesheet filed with respect to scheduled/predicate offence, the same would be relevant for the purpose of present bail application. It is pointed out that during the pendency of the present bail application, the applicant's application to become an approver has been allowed by the learned Special Judge in the predicate offence of the present ECIR. It is further submitted in the other predicate offences, the applicant has been granted anticipatory bail. It is submitted that jewellery as claimed by the prosecution in the complaint is worth

about Rs. 1 Lakh. It is further submitted that the respondent in their complaint itself have made distinct category of accused and the present applicant has been cited as A-42. Attention of this Court was drawn to *paras* no. 10.20, 10.21 and 10.22 of the complaint filed by the ED, to reflect that Amit Kansal, brother of the present applicant, who was working as Chief Accountant in M/s SBBEL, has been chargesheeted without arrest. Similarly, Naresh Kumar Punia and Sanjiv Kumar, both working as accountants in M/s SBBEL, despite giving inculpatory statements have been cited as witnesses. It is submitted that the present applicant is also similarly placed; therefore, the prosecution has adopted the policy of pick and choose without any justifiable reason. It is further submitted that the applicant has joined investigation at least 18 times and had cooperated with the same. The complaint stands filed and further investigation is continuing and therefore, there is no necessity of the applicant being kept in judicial custody and his continued custody would tantamount to pre-trial conviction.

FURTHER SUBMISSIONS ON BEHALF OF THE RESPONDENT

12. Learned Special Counsel draws the attention of this Court to Section 44 of the PMLA: -

SECTION 44 (1) AND EXPLANATION TO SECTION 44(1)

> **"44. Offences triable by Special Courts.**—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—
>
> (a) an offence punishable under section 4 and any scheduled offence connected to the offence under that section shall be triable by the Special Court constituted for the area in which the offence has been committed:

Provided that the Special Court, trying a scheduled offence before the commencement of this Act, shall continue to try such scheduled offence; or;

(b) a Special Court may, *** upon a complaint made by an authority authorised in this behalf under this Act take cognizance of offence under section 3, without the accused being committed to it for trial;

Provided that after conclusion of investigation, if no offence of money-laundering is made out requiring filing of such complaint, the said authority shall submit a closure report before the Special Court; or

(c) if the court which has taken cognizance of the scheduled offence is other than the Special Court which has taken cognizance of the complaint of the offence of money-laundering under sub-clause (b), it shall, on an application by the authority authorised to file a complaint under this Act, commit the case relating to the scheduled offence to the Special Court and the Special Court shall, on receipt of such case proceed to deal with it from the stage at which it is committed.

(d) a Special Court while trying the scheduled offence or the offence of money-laundering shall hold trial in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) as it applies to a trial before a Court of Session.

Explanation.—For the removal of doubts, it is clarified that,—

(i) the jurisdiction of the Special Court while dealing with the offence under this Act, during investigation, enquiry or trial under this Act, shall not be dependent upon any orders passed in respect of the scheduled offence, and the trial of both sets of offences by the same court shall not be construed as joint trial;"

It is pointed out that trial of the scheduled offence as well as the trial under the PMLA will not be construed as a joint trial and he further relies upon *para* 19 of the judgment of the Hon'ble Supreme Court in **Kathi Kalu Oghad (*supra*).**

13. Reliance was also placed on judgment of learned Single-Judge of Allahabad High Court in **Mohan Lal Rathi v. Union of India Thru. Directorate Of Enforcement, 2023:AHC-LKO:59826**, wherein it has been recorded as under: -

> "**56.** Grant of pardon under Section 306 Cr.P.C. 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'* used by the Hon'ble Supreme Court in **Vijay Madanlal Chaudhary** (Supra). The pardon granted under Section 306 Cr.P.C. 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 also**.**"

14. Learned Special Counsel also drew the attention of this Court to the judgment of the Hon'ble Supreme Court in **State (Delhi Administration) v. Jagjit Singh, 1989 Supp (2) SCC 770**, to demonstrate that the person, who has been granted status of approver under Section 306 of the Cr.P.C. would be legally bound to answer any question which is relevant to the case in which he has become an approver even if the answer to such a question is likely to incriminate him directly or indirectly. It was submitted that proviso to Section 132 of the Indian Evidence Act, 1872 (for short 'IEA'), expressly provides that such an answer given by a witness shall not subject him to any arrest or prosecution and nor the same can be proved against him in any criminal proceedings except for a prosecution for giving false evidence by such answer.

ANALYSIS AND FINDINGS

15. Heard learned counsel for the parties and perused the record.

16. This Court will first deal with the issue, whether the fact that the applicant has become an approver in the predicate offence in the present ECIR would have any bearing in the proceedings under the PMLA. The contention of the learned Senior Counsel for the applicant is that once a person becomes an approver then, he is given a pardon in the said case and becomes a witness to the prosecution subject to conditions mentioned in the order granting him pardon. It was further contented that once such a pardon is granted, the applicant in the predicate offence stands discharged and, therefore, the following observation of the Hon'ble Supreme Court in **Vijay Madanlal Choudhary *(supra)*** gets attracted: -

> "**253.** Tersely put, it is only such property which is derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence can be regarded as proceeds of crime. The authorities under the 2002 Act cannot resort to action against any person for money-laundering on an assumption that the property recovered by them must be proceeds of crime and that a scheduled offence has been committed, unless the same is registered with the jurisdictional police or pending inquiry by way of complaint before the competent forum. For, the expression "derived or obtained" is indicative of criminal activity relating to a scheduled offence already accomplished. Similarly, in the event the person named in the criminal activity relating to a scheduled offence is finally absolved by a Court of competent jurisdiction owing to an order of discharge, acquittal or because of quashing of the criminal case (scheduled offence) against him/her, there can be no action for money-laundering against such a person or person claiming through him in relation to the property linked to the stated scheduled offence. This interpretation alone can be countenanced on the basis of the provisions of the 2002 Act, in particular Section 2(1)(u) read with Section 3. Taking any other view would be rewriting of these provisions and disregarding the express language of definition clause "proceeds of crime", as it obtains as of now."

17. The Hon'ble Supreme in **Pavana Dibbur *(supra)*** was adjudicating upon an issue wherein the appellant had not been arrayed as accused in the chargesheet filed with respect to alleged scheduled offences, but was made an accused for offence punishable under Section 3 of the PMLA. The appellant therein relied upon the aforesaid paragraph of the **Vijay Madanlal Choudhary *(supra)*** and it was submitted that the case of the appellant therein was on a better footing as she was not shown as accused in the scheduled/predicate office. The Hon'ble Supreme Court after examining the issue held and observed as under: -

> **"15.** The condition precedent for the existence of proceeds of crime is the existence of a scheduled offence. On this aspect, it is necessary to refer to the decision of this Court in the case of ***Vijay Madanlal Choudhary***[1]. In paragraph 253 of the said decision, this Court held thus:
>
> **"253.** Tersely put, it is only such property which is derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence can be regarded as proceeds of crime. The authorities under the 2002 Act cannot resort to action against any person for money-laundering on an assumption that the property recovered by them must be proceeds of crime and that a scheduled offence has been committed, unless the same is registered with the jurisdictional police or pending inquiry by way of complaint before the competent forum. For, the expression "derived or obtained" is indicative of criminal activity relating to a scheduled offence already accomplished. Similarly, in the event the person named in the criminal activity relating to a scheduled offence is finally absolved by a Court of competent jurisdiction owing to an order of discharge, acquittal or because of quashing of the criminal case (scheduled offence) against him/her, there can be no action for money-laundering against such a person or person claiming through him in relation to the property linked to the stated scheduled offence. This interpretation alone can be countenanced on the basis of the provisions of the 2002 Act, in particular Section 2(1)(u) read with Section 3. Taking any other view would be rewriting of these provisions and disregarding

the express language of definition clause "proceeds of crime", as it obtains as of now."

(underline supplied)

16. In paragraphs 269 and 270, this Court held thus:

> **"269.** From the bare language of Section 3 of the 2002 Act, it is amply clear that the offence of money-laundering is an independent offence regarding the process or activity connected with the proceeds of crime which had been derived or obtained as a result of criminal activity relating to or in relation to a scheduled offence. The process or activity can be in any form — be it one of concealment, possession, acquisition, use of proceeds of crime as much as projecting it as untainted property or claiming it to be so. Thus, involvement in any one of such process or activity connected with the proceeds of crime would constitute offence of money-laundering. This offence otherwise has nothing to do with the criminal activity relating to a scheduled offence — except the proceeds of crime derived or obtained as a result of that crime.
>
> **270.** Needless to mention that such process or activity can be indulged in only after the property is derived or obtained as a result of criminal activity (a scheduled offence). It would be an offence of money-laundering to indulge in or to assist or being party to the process or activity connected with the proceeds of crime; and such process or activity in a given fact situation may be a continuing offence, irrespective of the date and time of commission of the scheduled offence. In other words, the criminal activity may have been committed before the same had been notified as scheduled offence for the purpose of the 2002 Act, but if a person has indulged in or continues to indulge directly or indirectly in dealing with proceeds of crime, derived or obtained from such criminal activity even after it has been notified as scheduled offence, may be liable to be prosecuted for offence of money-laundering under the 2002 Act — for continuing to possess or conceal the proceeds of crime (fully or in part) or retaining possession thereof or uses it in trenches until fully exhausted. The offence of money-laundering is not dependent on or linked to the date on which the scheduled offence or if we may say so the predicate offence has been committed. The relevant date is the date on which the person indulges in the process or activity connected with such

proceeds of crime. These ingredients are intrinsic in the original provision (Section 3, as amended until 2013 and were in force till 31.7.2019); and the same has been merely explained and clarified by way of Explanation vide Finance (No. 2) Act, 2019. Thus understood, inclusion of Clause (ii) in Explanation inserted in 2019 is of no consequence as it does not alter or enlarge the scope of Section 3 at all."

(underline supplied)

17. Coming back to Section 3 of the PMLA, on its plain reading, an offence under Section 3 can be committed after a scheduled offence is committed. For example, let us take the case of a person who is unconnected with the scheduled offence, knowingly assists the concealment of the proceeds of crime or knowingly assists the use of proceeds of crime. In that case, he can be held guilty of committing an offence under Section 3 of the PMLA. To give a concrete example, the offences under Sections 384 to 389 of the IPC relating to "extortion" are scheduled offences included in Paragraph 1 of the Schedule to the PMLA. An accused may commit a crime of extortion covered by Sections 384 to 389 of IPC and extort money. Subsequently, a person unconnected with the offence of extortion may assist the said accused in the concealment of the proceeds of extortion. In such a case, the person who assists the accused in the scheduled offence for concealing the proceeds of the crime of extortion can be guilty of the offence of money laundering. Therefore, it is not necessary that a person against whom the offence under Section 3 of the PMLA is alleged must have been shown as the accused in the scheduled offence. What is held in paragraph 270 of the decision of this Court in the case of *Vijay Madanlal Choudhary*[1] supports the above conclusion. The conditions precedent for attracting the offence under Section 3 of the PMLA are that there must be a scheduled offence and that there must be proceeds of crime in relation to the scheduled offence as defined in clause (u) of sub-section (1) of Section 3 of the PMLA.

18. In a given case, if the prosecution for the scheduled offence ends in the acquittal of all the accused or discharge of all the accused or the proceedings of the scheduled offence are quashed in its entirety, the scheduled offence will not exist, and therefore, no one can be prosecuted for the offence punishable under Section 3 of the PMLA as there will not

be any proceeds of crime. Thus, in such a case, the accused against whom the complaint under Section 3 of the PMLA is filed will benefit from the scheduled offence ending by acquittal or discharge of all the accused. Similarly, he will get the benefit of quashing the proceedings of the scheduled offence. However, an accused in the PMLA case who comes into the picture after the scheduled offence is committed by assisting in the concealment or use of proceeds of crime need not be an accused in the scheduled offence. Such an accused can still be prosecuted under PMLA so long as the scheduled offence exists. Thus, the second contention raised by the learned senior counsel appearing for the appellant on the ground that the appellant was not shown as an accused in the chargesheets filed in the scheduled offences deserves to be rejected."

18. Similarly, the learned Single-Judge of Allahabad High Court in **Mohan Lal Rathi *(supra)*** while examining the following issue: -

"13. The applicant has sought quashing of the proceedings under the Prevention of Money Laundering Act on the ground that he has been made an approver and has been granted pardon in the scheduled offence. Now, he is no more an accused in the scheduled offence. The proceedings under the Prevention of Money Laundering Act cannot continue only against a person who is an accused in a scheduled offence and having been granted pardon in the scheduled offence, he cannot be tried for the offence under PMLA also.";

after the detailed analysis of the precedents has observed and held as under: -

"**56.** Grant of pardon under Section 306 Cr.P.C. 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'* used by the Hon'ble Supreme Court in **Vijay Madanlal Chaudhary** (Supra). The pardon granted under Section 306 Cr.P.C. 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 also**.**"

SLP against the said judgment has been dismissed as withdrawn by Hon'ble Supreme Court *vide* order dated 28.11.2023 in SLP (Crl.) No. 12870/2023.

19. In any case, since the present applicant has been granted pardon in the scheduled/predicate offences, the evidence sought to be given at his instance in those proceedings cannot be used for the purposes of present proceedings under the PMLA. Even in the scheduled/predicate offence the status of the present applicant remains as a witness subject to his full and complete disclosure in terms of the Section 308 of the CrPC. This Court agrees with the judgment given by the learned Single-Judge of Allahabad High Court in **Mohan Lal Rathi *(supra)***, that the grant of pardon would bring an accused in the category of witness however, the same, as pointed out hereinabove, is subject to certain conditions enshrined under Sections 306 and 307 of the CrPC and cannot be considered as absolute absolvement in the predicate offence.

20. As pointed out hereinabove, the Hon'ble Supreme Court in **Pavana Dibbur *(supra)*** held that offence under Section 3 of the PMLA can be committed by a person who otherwise has initially not been named as an accused for the scheduled/predicate offence. It was further observed that if the prosecution in the scheduled offence ends in acquittal of all or discharge of all accused persons then, the scheduled offence will no longer exist and thus, no one can be prosecuted for the offence under Section 3 of PMLA as there will be no

proceeds of crime. The present case is not covered under such an exception. The present application for bail, therefore, has to be considered on the basis of the material placed by the respondent *qua* the applicant in the complaint pending before the learned Special Court.

21. The case of the applicant has to be dealt with while keeping in mind the provisions of Section 45 of PMLA. The Hon'ble Supreme Court in **Vijay Madanlal Choudhary *(supra)*** has observed and held as under:

> **"388.** There is no challenge to the provision on the ground of legislative competence. The question, therefore, is : whether such classification of offenders involved in the offence of money-laundering is reasonable? Considering the concern expressed by the international community regarding the money-laundering activities world over and the transnational impact thereof, coupled with the fact that the presumption that the Parliament understands and reacts to the needs of its own people as per the exigency and experience gained in the implementation of the law, the same must stand the test of fairness, reasonableness and having nexus with the purposes and objects sought to be achieved by the 2002 Act. Notably, there are several other legislations where such twin conditions have been provided for[617]. Such twin conditions in the concerned provisions have been tested from time to time and have stood the challenge of the constitutional validity thereof. **The successive decisions of this Court dealing with analogous provision have stated that the Court at the stage of considering the application for grant of bail, is expected to consider the question from the angle as to whether the accused was possessed of the requisite *mens rea*.** The Court is not required to record a positive finding that the accused had not committed an offence under the Act. The Court ought to maintain a delicate balance between a judgment of acquittal and conviction and an order granting bail much before commencement of trial. **The duty of the Court at this stage is not to weigh the evidence meticulously but to arrive at a finding on the basis of broad probabilities. Further, the Court is required to record a finding as to the possibility of the accused committing a crime which is an offence under the Act after grant of bail.**

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400. It is important to note that the twin conditions provided under Section 45 of the 2002 Act, though restrict the right of the accused to grant of bail, but it cannot be said that the conditions provided under Section 45 impose absolute restraint on the grant of bail. The discretion vests in the Court which is not arbitrary or irrational but judicial, guided by the principles of law as provided under Section 45 of the 2002 Act. While dealing with a similar provision prescribing twin conditions in MCOCA, this Court in *Ranjitsing Brahmajeetsing Sharma*[634], held as under:

"**44. The wording of Section 21(4), in our opinion, does not lead to the conclusion that the court must arrive at a positive finding that the applicant for bail has not committed an offence under the Act. If such a construction is placed, the court intending to grant bail must arrive at a finding that the applicant has not committed such an offence. In such an event, it will be impossible for the prosecution to obtain a judgment of conviction of the applicant. Such cannot be the intention of the legislature. Section 21(4) of MCOCA, therefore, must be construed reasonably. It must be so construed that the court is able to maintain a delicate balance between a judgment of acquittal and conviction and an order granting bail much before commencement of trial.** Similarly, the Court will be required to record a finding as to the possibility of his committing a crime after grant of bail. However, such an offence in futuro must be an offence under the Act and not any other offence. Since it is difficult to predict the future conduct of an accused, the court must necessarily consider this aspect of the matter having regard to the antecedents of the accused, his propensities and the nature and manner in which he is alleged to have committed the offence.

45. It is, furthermore, trite that for the purpose of considering an application for grant of bail, although detailed reasons are not necessary to be assigned, the order granting bail must demonstrate application of mind at least in serious cases as to why the applicant has been granted or denied the privilege of bail.

46. The duty of the court at this stage is not to weigh the evidence meticulously but to arrive at a finding on the basis of broad probabilities. However, while dealing with a special statute like MCOCA having regard to the provisions contained in sub-section (4) of Section 21 of the Act, the court may have to probe into the matter deeper so as to enable it to arrive at a finding that the materials

> **collected against the accused during the investigation may not justify a judgment of conviction. The findings recorded by the court while granting or refusing bail undoubtedly would be tentative in nature, which may not have any bearing on the merit of the case and the trial court would, thus, be free to decide the case on the basis of evidence adduced at the trial, without in any manner being prejudiced thereby"**
>
> (emphasis supplied)
>
> **401.** We are in agreement with the observation made by the Court in *Ranjitsing Brahmajeetsing Sharma*[635]. **The Court while dealing with the application for grant of bail need not delve deep into the merits of the case and only a view of the Court based on available material on record is required.** The Court will not weigh the evidence to find the guilt of the accused which is, of course, the work of Trial Court. **The Court is only required to place its view based on probability on the basis of reasonable material collected during investigation and the said view will not be taken into consideration by the Trial Court in recording its finding of the guilt or acquittal during trial which is based on the evidence adduced during the trial.** As explained by this Court in *Nimmagadda Prasad*[636], the words used in Section 45 of the 2002 Act are "reasonable grounds for believing" which means the Court has to see only if there is a genuine case against the accused and the prosecution is not required to prove the charge beyond reasonable doubt."
>
> **(emphasis supplied)**

22. As noted hereinabove, the Hon'ble Supreme Court in **Vijay Madanlal Choudhary *(supra)*** has held that the Court at the stage of grant of bail is expected to consider the issue as to whether the accused had requisite '*mens rea'*. It was further observed by the Hon'ble Supreme Court that the Court is not required to record a positive finding that the accused has not committed an offence under the Act. In other words, the Court at the stage of bail can examine

the case on the basis of broad probabilities and can give a finding on the basis of material on record for the purposes of bail.

23. The Coordinate Benches of this Court in **Vijay Agrawal *(supra)*** and **Sanjay Jain *(supra)*** have taken a similar view.

24. The primary material against the present applicant is in the form of statements under Section 50 of the PMLA Act made by the applicant himself as well as the other accused persons. The Coordinate Bench of this Court in **Sanjay Jain *(supra)*** while dealing with the statements under Section 50 of the PMLA has observed and held as under: -

> **"**56. The principle that emerges from ***Vijay Madanlal Choudhary*** *(supra)*, as well as the above decisions as regards the statement recorded under Section 50 of the Act is that such statements are recorded in a proceeding which is deemed to be a judicial proceeding within the meaning of Section 193 and Section 228 of the Indian Penal Code and is admissible in evidence. The said statements are to be meticulously appreciated only by the Trial Court during the course of the trial and there cannot be a mini-trial at the stage of bail. However, when the statements recorded under Section 50 of PMLA are part of the material collected during investigation, such statements can certainly be looked into at the stage of considering bail application *albeit* for the limited purpose of ascertaining whether there are broad probabilities, or reasons to believe, that the bail applicant is not guilty. Meaning thereby, the statements under Section 50 of the PMLA have to be taken at their face value, but in case any such statement is patently self-contradictory or two separate statements of the same witness are inconsistent with each other on material aspects, then such contradictions and inconsistencies will be one of the factors that will enure to the benefit of the bail applicant whilst ascertaining the broad probabilities, though undoubtedly the probative value of the statement(s) of the witnesses and their credibility or reliability, will be analyzed by the trial court only at the

stage of trial for arriving at a conclusive finding *apropos* the guilt of the applicant."

25. In the present case, admittedly the applicant was not a key managerial personnel and was not holding any designation in M/s SBBEL which would indicate that he was responsible or in-charge of running day-to-day affairs of the said company. The thrust of allegation in the prosecution complaint is that the present applicant was involved in creating paper companies by allegedly inducing indigent persons in order to show sham sale and purchase of goods thereby diverting the loan amount received by the said company. The case of the prosecution *qua* the present applicant as recorded in the complaint in paragraph no. 11.5 is as under: -

> "Sanjay Kansal is the proprietor of M/s Munshi Ram & Sons and M/s Kansal Enterprises. He has knowingly assisted in the crime of money laundering by accommodating bogus sale and paper purchase from M/s SBBEL through his firms. It has transpired that M/s Munshi Ram & Sons had accommodated bogus sale to the tune of Rs. 9,40,67,750/-. The firm M/s Kansal Enterprises had accommodated bogus sale to the tune of Rs. 10,02,55,323/- and paper purchase to the tune of Rs. 3,25,63,820/-. Investigation has further revealed that he in connivance with his maternal uncle Shri Amar Chand Gupta had opened bank accounts of several paper entities. He was also associated with maintaining day to day transactions for the paper entities under the garb of fake sale and purchase. He has also used cheques of various paper entities to purchase jeweleries in the name of his wife, son, brother-in-law and mother in law. **He has knowingly assisted in the crime of money laundering by diverting and siphoning off the funds of Cash Credit Limit provided by the bank.** Thus there are conclusive and cogent evidence that Shri Sanjay Kansal was directly indulged in the process and activity of concealment of proceeds of crime."
>
> (emphasis supplied)

26. Learned Special Counsel for the respondent had submitted that the applicant was directly involved in projecting the proceeds of crime as untainted money as well as using the same. However, it is not the case of prosecution that any property belonging to the present applicant has been attached, which related to the alleged proceeds of crime.

27. The issue therefore, is that whether the present applicant has the requisite *mens rea* demonstrating that he was having knowledge that the funds which are being routed through the paper companies were part of the loan amount extended to M/s SBBEL by the consortium of bank headed by SBI. As already noted above and even as per the case of the prosecution, the applicant was not key managerial personnel or person responsible for running day-to-day affairs of the company.

28. The statement of the present applicant recorded under Section 50 of the PMLA have been placed on record by the respondent/department alongwith their response to the present application. The statements placed on record are dated: 13.08.2021; 17.08.2021; 24.06.2022; 29.06.2022; 08.07.2022. A perusal of the aforesaid statements reflect that in the statement dated 24.06.2022, the applicant has stated that he was working as a field boy with Shri Amar Chand Gupta, Shri Ram Lal Gupta, Shri Raj Kumar Gupta and used to look after their companies/firms as per their instructions. Similarly, as per the statement dated 13.08.2021, the applicant has stated that Shri Amar Chand Gupta is his maternal uncle and he had worked with him from 1990 to 1999 and thereafter, from 2012 till 2017. He has stated that he was handling the cheque and cash transactions of

all entities of Shri Amar Chand Gupta, Shri Ram Lal Gupta, Shri Raj Kumar Gupta, as per their instructions and was drawing a salary of Rs. 20,000/- cash per month from the period extending from 2012 to 2017. It is pertinent to note that in none of these statements relied upon by the respondent in the complaint has the applicant stated that he was having the knowledge of the fact that the money which was allegedly being siphoned off through the paper companies was from the loan taken by M/s SBBEL. The applicant, like the other proprietors of the paper entities, have given the statement that all these transactions were being done on commission basis of 50 *paise* per quintal (out of Re. 1 per quintal) with some entities and on a fixed commission on monthly basis ranging between Rs. 7,000/- to Rs. 20,000/- with other entities. In the statements relied upon by prosecution, applicant has stated that all the actions taken by him were on the instructions of Shri Amar Chand Gupta and others and nowhere has it been stated that he was privy to the alleged objective behind the sham transactions. In other words, whether the applicant had the requisite knowledge that the transactions in which he is involved relates to proceeds of crime cannot be presumed at this stage. So far as the transactions from the applicant's sister concerns are concerned, the same are similar to that of other paper entities and their proprietors who are either being arrayed as co-accused without arrest or cited as witnesses. As pointed out hereinabove, taking these statements into consideration, the applicant is stated to have made these aforesaid transactions through his concerns on commission basis. The applicant like the other persons also allegedly got a commission for the said purpose. A Co-ordinate Bench of this Court in **Vijay Agrawal Through Parokar (*supra)*** has observed as under:-

> "35. In the present case, the petitioner is stated to be renowned developer and his plea that he did not know that he is dealing with the tainted money cannot be brushed aside mechanically. If the liberty of an individual is concerned, the Court cannot proceed merely on the basis of assumptions and presumptions. The evidentiary value of the statement recorded under Section 50 of PMLA has to be tested at the end of the trial and not at the stage of bail. The twin conditions of Section 45 do not put an absolute restrain on the grant of bail or require a positive finding qua guilt.
> 36. A bare perusal of the Section 2 (u) of the Prevention of Money Laundering Act, 2005 which provides for the definition of "proceeds of crime" indicates that it is the property derived or obtained, directly or indirectlywhich relates to criminal activity relating to a scheduled offence.Similarly in order to be punished under Section 3 of PMLA, It is necessary that person dealing with the "Proceed of crime" must have some knowledge that it is tainted money. Though, the direct evidence in this regard may not be possible and the Court is also conscious of the fact that at this stage, the evidence cannot meticulously be examined for this purpose. At the same time, for the purposethat evidencecannot be meticulously examinedat this stage, the Court cannot merely proceed on the basis of assumption. There has to be some substantial link between the money received and criminal activity relating to scheduled offence which can be attributed to the petitioner."

29. Learned Special Counsel for the ED has relied on a judgment of Hon'ble Supreme Court in **Tarun Kumar (*supra*)** to demonstrate that the appellant therein while not being named in the FIR or in the first three prosecution complaints was implicated on the basis of the statement under Section 50 of the PMLA. It is noted that the appellant, therein, was Vice President of Purchases and thus, in the said capacity was responsible for the day-to-day operations of the said company. It is further noted that the Hon'ble Supreme Court has further observed that the role of the appellant, therein, was also made out from the financials, where direct loan funds were siphoned to other sister concerns of the said company where the appellant, therein, was either a shareholder or a director.

It was further observed that the appellant, therein, was a beneficiary of the proceeds of crime. As pointed out hereinabove, applicant herein, admittedly, was neither holding any Key Managerial Position in the company, M/s SBBEL, nor any other executive post. As per the statements relied upon by the prosecution, the applicant was a field boy and was working on the instructions of the co-accused namely, Shri Amar Chand Gupta, Shri Ram Lal Gupta, Shri Raj Kumar Gupta. It is also matter of record that no property belonging to the applicant has been attached by way of attachment or otherwise, which can be shown as being obtained out of proceeds of crime.

30. It is a matter of record that similarly placed accused persons who have been arrayed as an accused have not been arrested. By way of illustration role assigned to the accused Nos. A-46, Amit Kansal, brother of the present applicant and Naresh Kumar, A-47, accountant at M/s SBBEL, is reproduced as under:-

"Name of the Accused	**46. Shri Amit Kansal S/o Late Shri Laxman Das Kansal R/o House No. A-1/63B, Keshav Puram, Delhi – 110035**
Role in the case	He is the proprietor of M/s Om Sai Traders and M/s Ram Narain Laxman Das. He assisted in the crime of money laundering by accommodating bogus purchase from M/s SBBEL to the tune of Rs. 3,00,18,890/- through his firm M/s Ram Narain Laxman Das in the FY 2013-14. He had also accommodated bogus purchase to the tune of Rs. 14,00,753/- in the FY 2016-17 through his firm M/s Om Sai Traders. He in connivance with his maternal uncle Shri Amar Chand Gupta had fudged the books of account of M/s SBBEL. He was the person who used to operate Financial Account Software (MYFAS/TRFAS) of Bankey Behari Group of Companies and knowingly assisted directors of M/s SBBEL in fudging of

	financial records such as creation of false journals, ledgers, profit and loss account and balance sheet in the accounting software. He was the person responsible for creating bogus book debts by the help of customized accounting software so as to inflate the turnover of the company. Thus, there are sufficient evidence against Shri Amit Kansal that he was directly indulged in the process and activity of concealment of proceeds of crime
Name of the Accused	**47. Shri Naresh Kumar, S/o Shri Ratan Lal, R/o House No. B-36, Kewal park, Rameshwar Nagar, Azadpur, Delhi-110033**
Role in the case	He is involved in the crime of Money laundering by knowingly assisting Shri Amar chand Gupta in concealing Property No. - 2647-48, Gali Raghunandan, Naya Bazaar, New Delhi which was purchased out of proceeds of crime. He in connivance with Shri Amar Chand had registered the property in his name and for the purchase of said property paid an amount of Rs. 20 Lakhs which was also provided by Shri Amar Chand in cash. Therefore, there are conclusive and cogent evidence that Shri Naresh Kumar was directly indulged in the process of concealment of proceeds of crime."

Admittedly, the aforesaid persons amongst many others have not been arrested by the ED in the present case. At this stage, it is apposite to refer to the observation made by a Co-ordinate Bench of this Court in **Sanjay Jain *(supra)*** wherein it has been observed as under:-

> "94. There is merit in the contention of the learned Senior Counsel for the petitioner that non-arrest of co-accused is a relevant factor which can be taken into account in addition to other surrounding factors to grant the concession of bail to the petitioner. Reference in this regard may be had to the judgment of this Court in ***Dr. Bindu Rana vs. Serious Fraud Investigation Office*** in BAIL APPLN. 3643/2022 dated 20.01.2023, wherein it was held as under:

"45. The fact is that the complaint has been filed by the SFIO without feeling the need of any custody of the 53 out of 55 accused persons. The main accused even as per the SFIO has not been arrested, being protected by the order passed by this Court in Writ Petition (Criminal) No. 1242 of 2022. The said writ petition was filed by accused namely 'Vinod Kumar Dandona' and others including the main accused 'Shantanu Prakash' seeking quashing of the order dated 17.08.2018 passed by the MCA under Section 212(1)(c) of the Companies Act, which led to the start of investigation into the affairs of ESL.

46. The coordinate bench of this court, considering the facts of the case, by its order dated 26.05.2022, had directed SFIO not to take any coercive steps against the petitioners therein, which includes the main accused 'Shantanu Prakash'.

47. From the perusal of the complaint, it is apparent that even in relation to the charges which are alleged against the present applicant, there are various other accused persons who have been named as co-accused. The role assigned to them at this stage is no different than the Applicant. However, surprisingly the SFIO did not feel any need or ground to arrest those co-accused persons and proceeded to file the complaint praying the learned Special Court to take cognizance of the offences."

95. Similarly in ***Ramesh Manglani vs. ED***, 2023 SCC OnLine Del 3234, this Court has held as under:-

*"**56. Insofar as the ED not having arrested similarly placed co-accused persons; and not even having arraigned some other persons evidently connected with the offending transactions as accused in the prosecution complaint, though these aspects would not be dispositive of a bail plea one way or the other, they are also not wholly irrelevant and the 'doctrine of parity' is not immaterial.** As held by this court in Ashish Mittal (supra) considering the nature of the offence, where the gravamen of the offence is that several persons acting in concert have siphoned-off and 'laundered' monies, it is manifestly arbitrary for the ED to have made selective arrests and arraignments. It has also been brought to the notice of this court that Sanjay Godhwani, who may be viewed as one of the main accused in this case, has been granted bail by the learned trial court vide order dated 09.05.2023 in Bail Application No. 688/2023 "...*

on merits as well as on medical grounds…". This circumstance must also weigh in favour of the petitioner being granted bail, considering that his role in the allegedly offending transactions is evidently far more peripheral than that of coaccused, Sanjay Godhwani."

(emphasis supplied)

31. In the considered opinion of this Court, the applicant has been able to make out a case under Section 45 of the PMLA. Apart from the above, complaint in the present has been filed. The applicant has been in judicial custody since 25.08.2022 and has undergone incarceration for approximately one year and nine months. It is also not disputed that the applicant has been granted bail in the predicate/scheduled offence apart from the fact that he has now become an approver. It is a matter of record that the applicant had joined investigation as and when directed by the Investigating Officer till he was arrested in the present ECIR.

32. In totality of the facts and circumstances of the case, the application is allowed. The applicant is directed to be released on bail upon his furnishing a personal bond in the sum of Rs. 50,000/- alongwith two sureties of like amount to the satisfaction of the learned Trial Court/Link Court, further subject to the following conditions:

i. The memo of parties shows that the applicant is residing at A-1/63-B, Keshav Puram, Onkar Nagar, North West Delhi –110035. In case of any change of address, the applicant is directed to inform the same to the learned Trial Court and the Investigating Officer.

ii. The applicant shall not leave the country without the prior permission of the learned Trial Court.

iii. The applicant is directed to give all his mobile numbers to the Investigating Officer and keep them operational at all times.

iv. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witnesses in any manner.

v. The applicant shall join the investigation, as and when required by the Investigating Officer.

vi. In case it is established that the applicant tried to tamper with the evidence, the bail granted to the applicant shall stand cancelled *forthwith*.

33. The application stands disposed of along with all the pending application(s), if any.

34. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made are only for the purpose of the present application.

35. Copy of the judgment be sent to the concerned Jail Superintendent for necessary information and compliance.

36. Judgment be uploaded on the website of this Court, *forthwith.*

AMIT SHARMA
JUDGE

MAY 09, 2024/nk/*sn*