IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17738 of 2024

Arising Out of PS. Case No.-14 Year-2023 Thana- E.C.I.R (GOVERNMENT OFFICIAL) District- Patna

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Kanhaiya Prasad son of Radha Charan Sah R/o- H.No-19, Moh- East Patel Nagar Phulwari Sharif Dist- Patna

... ... Petitioner/s

Versus

The Union of India through the Assistant Director, Zonal Office, Enforcement Directorate, Bank Road Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. S.D. Sanjay, Sr. Adv
		Mr. Vishal Kumar, Adv
		Mr. Lokesh Kumar, Adv.
		Ms. Sushmita, Adv.
For the Opposite Party/s	:	Mr. Dr. K.N. Singh (ASG)
	:	Mr. Tuhin Shankar, Adv.
	:	Mr. Shiraditya Dhari Sinha, AC to ASG

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 06-05-2024

Heard Mr. S.D. Sanjay learned senior counsel for the petitioner and Mr. K.N. Singh learned senior counsel for the Enforcement Directorate (hereinafter referred to as the 'ED') assisted by learned counsel Mr. Tuhin Shankar.

2. The petitioner seeks regular bail in connection with Special Trial (PMLA) Case No.8 of 2023 arising out of ECIR No. PTZO/14/2023 dated 15.03.2023 lodged under Sections 4 of the Prevention of Money Laundering Act, 2002.

3. Learned senior counsel for the ED submits that in the light of the order passed by this Court on 14.03.2024 in which the argument of the petitioner has already been acknowledged by the Court in the order sheet.

4. Learned senior counsel for the ED submits that reply to the bail petition has been filed as counter affidavit in the

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present case. He submits that in the order dated 14.03.2024, this Court has pleased to acknowledge Paragraph 9.7 of the complaint case in which the entire allegation relating to present petitioner has been made. He further submits that the petitioner along with his father was running a syndicate and involved in a business of sale of sand under the Banner of M/s Broadson Commodities Pvt. Ltd.

5. Learned senior counsel for the Union of India submits that during the investigation the statements of different witnesses have been recorded under Section 50 of the Prevention of Money Laundering Act, 2002 (Hereinafter referred to as PMLA, 2002) including the present petitioner who has narrated that he has invested money in his father's company and he has also received the money from the said company.

6. Learned Senior counsel further argued that the petitioner's father, namely, Radha Charan Sah was popularly known as *Seth Ji* from whom he has received Rs. 5 Crores, but he is not aware of the fact that from where his father has brought this money. He further submits that the Whatsapp conversation was also strived from the mobile phone of the petitioner and in which this fact has come to the knowledge of the Agency, that the petitioner has transferred Rs.11.90 Crores cash on different dates and Rs. 19,11,68,000/- through cheques. It has also come in the evidence that he has purchased one resort from the M/s Intercontinental Resort Pvt. Ltd. and the said resort was situated at Manali in which approximately Rs. 22 Crores were paid by banking channel and further Rs. 11.90 Crores was paid through cash by *Hawala Agents.* He further submits that not only the petitioner but also his wife namely,

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Reena Devi, his father, his mother all were the members of the business and running a society, namely, Kamla Agrawal Education Society. It has also been mentioned that the society runs school namely, MSD World School in Gaziabad which was constructed at the cost of Rs. 5,36,85,809/- in cash. The father of the petitioner has narrated in his statement under Section 50 of the PMLA, 2002 that it is the petitioner who shall disclose that from where the money has come.

7. Learned Senior counsel submits that the entire empire has been developed on the combined income of the family and it is the petitioner who is the king operator of the whole syndicate. He further submits that in the bank account of one LLP namely, M/s Ganinath Ventures LLP, Rs. 2.80 Crores were deposited through 140 persons by way of depositing Rs.2 Lakhs each in the bank account, but the petitioner failed to produce any details about the alleged 140 persons. He further submits that his brother namely, Basuki Nath Prasad also stated under section 50 of PMLA, 2002, that he is one of the director of M/s Intercontinental Resort Pvt. Ltd. Manali and is also associated with Kamala Agrawal Charitable Trust, but he is not the active participants in the business and his brother (the present petitioner) mainly looks after the work related to Resort in Manali, MSD World School Gaziabaad**,** Kamla Agrawal Charitable Trust and he has made transaction of Rs. 11.90 Crores cash for the purchase of Resort in Manali and Rs. 5.6 Crores cash for construction of MSD World School run by Kamla Agrawal Charitable Trust. Learned senior counsel conclusively submits his argument on the factual Matrix that petitioner, Kanhiya Prasad, who is actually involved in the process of concealing and possession of the proceeds of the

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crime to the tune of Rs. 20,06,85,809/- for carrying out renovation and maintenance work of the resort.

8. Learned Senior Counsel for Union further submits that the entire cash transaction is the proceed of the crime generated by his father (Radha Charan Sah) being a syndicate member by illegal sale of sand through M/s Broadson Commodities Pvt. Ltd. In support of his argument, learned senior counsel for the Union states that for the purpose of applicability of the PMLA, 2002, the definition of the offense of Money Laundering is necessary to be looked into. He submits that the definition of the offence of Money Laundering Act has been stated under Section 3 of the Statute where no whisper has been made for the scheduled offence rather it has been stated in section 3 of the PMLA, 2002 that

> "*a person shall be guilty of money laundering if such person has been found to have directly of indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with (the proceed of crime indulging its concealment, possession, acquisition, use and projecting or claiming) it as untainted property shall by guilty of offence of money laundering."*

9. Learned Senior counsel further submits that it is true that the argument of the petitioner is correct up to that extent that the petitioner is not accused in any of the scheduled offences which is 19 in number, but non filing of the scheduled case in his name does not mean that he has not committed the offence of the money laundering because for the purpose of punishment under the PMLA, 2002 it is not necessary to be accused in scheduled offences, rather it is necessary to be in

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possession of money laundering which is the proceed of crime of the scheduled offence. He submits that here in the present case, the petitioner is the elder brother of the family, his father (Radha Charan Sah) is the member of syndicate and earn money from the sale of sand with the help of company namely, M/s Broadson Commodities Pvt. Ltd. Learned Senior counsel in support of his argument has placed different provisions of law under the PMLA, 2002. The first provision he has stated is that Section 50 of the PMLA Act. According to him the PMLA, 2002 is a Special Act in which special power has been granted to the authorities regarding summons, production of documents and to give evidence, etc. He submits that section 50(4) of the Statute clearly states that every proceeding under Sub-Section 50(2) and Sub-Section 50(3) shall be deemed to be a judicial proceeding within the meaning of Section 193 and section 228 of the Indian Penal Code. He submits that since in the complaint case, during investigation, the material has come by virtue of statement taken under Section 50 of the PMLA Act, 2002, and therefore, it is not a statement as that of Section 161 of the Cr.P.C. Rather it is a statement of higher degree and upon its falsity by the party of the statement made, shall be subject to the punishment under Sections 193 and 228 of the Indian Penal Code. Learned Senior counsel further submits that under Section 4 of the PMLA, the punishment for committing offence under Money Laundering has been provided in which seven year punishment as well as fine is there and this punishment may extend upto 10 years also. He further submits that under Chapter 7 of the PMLA, 2002, trial has to be conducted before Special Court. Counsel submits that though cognizance has been taken upon filing of the complaint, but

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even though according to Section ***43(d)(ii)***, which states that *"the complaint shall be deemed to include any subsequent complaint in respect of further investigation that may be conducted or bring any further evidence, oral or documentary, against any accused persons involved in respect of the offence, for which complaint has already been filed, whether named in the original complaint or not.*"

10. Learned counsel submits that mere filing of the complaint and taking cognizance is not sufficient, further investigation is also going on and there is every possibility that accused may evade from further investigation, and therefore, continuation of custody is necessary.

11. Learned Senior counsel further submits that Section 45 of the Statute namely PMLA, 2002 is also relevant with regard to considering the bail application of the accused under PMLA, 2002. He submits that the proper opportunity to public prosecutor is necessary to be granted. He further submits that bail to an accused of PMLA case may be granted only on reasonable grounds for believing that he is not guilty of such offences and he is not likely to commit any offence while on bail.

12. Learned senior counsel further submits that there is a *prima-facie* statement under Section 50 by series of witnesses including the petitioner himself by which it becomes crystal clear that he is in possession of the proceeds of the crime and he is involved in the laundering of the money also. But so far his involvement in the present case is that he is not likely to commit any offence while on bail. It is the future aspect of the matter in which no one can say anything, but only preponderance of the probability may be drawn. He submit on

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this point that what are the material come against the petitioner by virtue of the evidences during the investigation taken under Section 50 of the PMLA, 2002, it is crystal clear that he is the person who is handling almost every organization i.e. Society, company, hotels from which money through bank, money through cash, money through different unknown sources were coming. This aspect has also been acknowledged by the Income Tax Department.

13. Learned senior counsel further submits that action done by any person, if comes within the preview of the income Tax Act, does not means that such action may not come under the PMLA, 2002 because for the applicability of the PMLA Act, 2002, it is the ingredient of Section 3 of the PMLA, 2002 which is necessary. For the Income Tax Act, it is the tax on the unexplained money which are necessary. So learned senior counsel for the ED submits that according to him, here in the present case, the petitioner does not deserve bail at any cost. In support of his argument, he relied upon the judgment of Hon'ble Supreme Court in case of ***Vijay Madan Lal Choudhary Vs. Union of India,*** reported in ***2022 SCC Online SC 929*** further in case of ***Pawana Dibbur Vs Directorate of Enforcement in Cr. App. No. 2779 of 2023.***

14. Learned senior counsel for the ED further submits that in the Judgment of ***Pawana Dibbur Vs Directorate of Enforcement (Supra),*** it has been categorically held by the Hon'ble Supreme Court that *a person who is unconnected with the schedule offence, knowingly assist the concealment of the proceeds of crime or knowingly assist the use of proceeds of crime. In that case, He can be held guilty of committing an offence under Section 3 of the PMLA, 2002.*

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15. Learned senior counsel further submits that here in the present case, though the petitioner's name is not present in the scheduled offence, but he is in the possession and laundering of the proceeds of the crime, therefore, he has committed crime under Section 3 of the PMLA, 2002. He further relied on the judgment of ***Vijay Madan Lal Choudhary Vs. Union of India,*** **(Supra)** and in crux states that "*the offence of money laundering is an offence of international community if any individual commits the offence of money laundering with a deliberate design with the motive to enhance his gains, disregarding the interests of the nation and society as a whole which by no stretch of imagination can be termed as offence of trivial nature and it is in the interest of the state that law enforcement agency should be provided with a proportionate effective mechanism, so as to deal with these types of offences as the wealth of the nation is to be safeguarded from these dreaded criminals. The conspiracy of money laundering which is a three staged process is hatched in secrecy and executed in darkness thus it becomes imperative for the state to frame such an stringent law which not only punishes the offenders proportionately but also helps in preventing the offence and creating a deterrent effect. On the point of section 45 of the PMLA, Act, i.e., offence to be cognizable and non-bailable, learned counsel relied on the extract of the said judgment made in paragraph 140 that it would be preposterous and illogical to hold that if a person applies for bail after arrest, he/she can be granted the relief only if the twin conditions are fulfilled in addition to other stipulation predicated in the 1973 Code but another person who is yet to be arrested in connection with the same offence of money laundering, will not be require to fulfill*

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such twin conditions whilst considering the application of grant of bail, the relief of bail be it in the nature of regular bail or anticipatory bail is circumscribed by the stipulation predicated in Section 45 of the PMLA, 2002".

16. Learned senior counsel also relied in case of ***Tarun Kumar Vs. Enforcement Directorate reported in 2023 INSC 2006*** in which it has been held by Hon'ble Supreme Court that:-

> "*keeping in view the aforesaid stated legal position, let us consider the submissions made by learned counsel for the parties, it is trite that court while considering an application seeking bail is not require to way the evidence collected by the investigating agency meticulously, nonetheless the Court should keep in mind the nature of accusation, the nature of evidence collected in support, thereof, the severity of the punishment prescribed for the alleged offences, the character of the accused, the circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with the larger interest of the public/State etc".*

17. In this background, learned senior counsel for the ED concludes his arguments relying on the judgment of Hon'ble Supreme Court in the case of **Rohit Tandon Vs. Directorate of Enforcement** reported in **(2018) 11 SCC 46** which states that "*the fact that the appellant has made declaration in the Income-Tax return and paid tax as per law does not extricate the appellant from disclosing the source of his receipt. No provision in the taxation laws has been brought to notice which*

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grants immunity to the appellant from prosecution for an offence of money laundering". Counsel at the time of conclusion of his argument has also put emphasis on section 24 of the PMLA, 2002 which talks about the burden of proof which states that in the case of person charged with the offence of money laundering under section 3, the Authority/Court shall, unless the contrary is proved, presume that such proceeds of crime are involved in money laundering and lastly submits that the petitioner has played an important role in possessing and laundering the proceeds of the crime and releasing him on bail, shall effect the prosecution, and therefore, the petitioner's bail application may be rejected.

18. Learned senior counsel for the petitioner who has already argued his case on 14.03.2024 and has submitted his reply in response of the submissions made by counsel for the Union of India today. In response of the oppose, he submits that there are certain aspect which may be taken into consideration at the time of arguing bail petition. He firstly submits that the petitioner is in custody since 18.09.2023 *i.e.,* about 9 months. He further submits that even if this allegation is said to be true then the punishment imposed under section 4 of the Prevention of Money Laundering Act (hereinafter referred to as "PMLA") is not less than 3 years and may extend upto 7 years. He further submits that the petitioner's wrong has been acknowledged under the Income-Tax Act which is not the scheduled offence of the PMLA, 2002.

19. Learned senior counsel for the petitioner has put emphasis on his arguments of the complaint which is the base allegation against the petitioner at the cost of repetition. He submits that the petitioner is not the accused in any of the

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scheduled offence. He submits that in the complaint filed by the prosecution (ED), there were in total 56 witnesses examined contained in page 298 to 302 of the bail petition.

20. Learned counsel further submits that the arguments of the counsel for ED may not be accepted on this point that investigation has not been completed as it is still going on. He submits that section 44 of the PMLA, 2002, when shall be read in totality then it means that the complaint is basically the result of investigation of the ED, but instead of charge-sheet of I.P.C., it has been called as complaint under the PMLA, 2002. Therefore the arguments of senior counsel that the investigation has not been completed against the present petitioner, may not be accepted. He submits that the investigation against the petitioner has already been completed in all respect of the matter and it is due to this reason that in the complaint petition, list of 56 witnesses have been mentioned.

21. Learned senior counsel further submits that so far as the petitioner's case is concerned, investigation has been concluded and then only complaint has been filed, and therefore, only charge has to be framed under the PMLA against the petitioner and he has to face the trial.

22. Learned senior counsel for the petitioner further submits that upon bare reading of section 44 of the PMLA, 2002, it is also clear that the trial of PMLA and the scheduled offence shall have to run together before the same court and the factual possession is that in the PMLA, investigation completed, complaint filed, but in the scheduled offence, not a single charge-sheet has come. Therefore, he has apprehension that in the trial, there shall be huge delay and no purpose shall be solved keeping the petitioner into custody particularly when

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all materials have come against the petitioner and he is in custody since 9 months.

23. Learned senior counsel further submits that under Section 44 *Explanation* II of the PMLA, 2002 clearly indicates that in case of further investigation that may be conducted or bring any further evidence (oral or documentary) against any accused persons involved in respect of the offence for which the complaint has already been filed whether named in original complaint or not, a subsequent complaint may be filed. Therefore in this view of the matter that if during further investigation against other accused persons, anything comes before the present petitioner then subsequent complaint may be filed and he has to face the consequences.

24. Learned senior counsel further submits that for the purpose of granting bail, there are 3 tests, the first is flight risk, second is tempering of evidence and third is the essential condition of Section 45 of the PMLA, 2002.

25. Counsel further submits that the petitioner has been made accused and he is permanent resident of the locality and having assets in the locality and there is no risk for him to go outside. He submits that all evidences under section 50 of the PMLA, 2002 has already come through 56 witnesses against him, so there is no question of tempering of any evidence.

26. Learned senior counsel further submits that gravity of offence is that the punishment is upto 7 years, but not less than 3 years. In section 420 of IPC also, the punishment is upto 7 years.

27. Learned senior counsel further argued that section 50 of PMLA, 2002 is the procedural powers under which the investigating authorities under the ED has got certain powers to

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call any person including the witness accused and it is not to the accused only. He further submits that the statement under section 50 of the PMLA, 2002 is not the sacrosanct, if given by the accused due to the reason that Article 20(3) of the Constitution of India provides certain rights to the accused persons and in this regard, he relied on judgment of **Vijay Madan Lal Choudhary vs. Union of India(supra)** in paragraph 425 where the Hon'ble Supreme Court of India at the time of comparing statement made under section 50 of the PMLA, 2002 has protected the right of the accused granted under Article 20(3) of the Constitution of India.

28. Learned senior counsel further submits that certain dates are relevant, and therefore, at the cost of repetition, he submits that from a letter attached in the bail petition as Annexure- P/4 page 313 that the search proceeding has been initiated on 07.02.2023. The petitioner has specifically sent a letter to the Assistant Director of Income Tax on 24.05.2023 in which acceptance of payment of Rs.11.90 crores in cash was accepted by him and he was ready to pay tax on the same.

29. Learned senior counsel submits that he has attached the tax payers counter foil in the bail application vide Annexure- P/5 by which it become clear that till filing of the present bail application, the petitioner has deposited in total of Rs.97 lacs, but today on the date of hearing of the bail application, he has deposited in total amount of Rs.3 crores and odd to the department and he is ready to pay the rest amount of tax in due course.

30. Learned senior counsel further submits that the said complaint of ED was filed against the petitioner on 10.11.2023. He also submits that in the complaint petition, the detail of

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appearance of petitioner has been mentioned. He submits that on various occasions, the petitioner has appeared before the ED and he has also narrated his statement on 01.09.2023, 04.09.2023, 18.09.2023, 23.09.2024, 24.09.2023, 25.09.2024, 26.09.2024, 27.09.2024 and 28.09.2024 respectively. He submits that only on two occasions, he could not appear and he was arrested on 17.09.2023, but remanded by ED on 18.09.2023.

31. Learned senior counsel submits that no further statement is required from the petitioner, but if any, he undertakes before this Court that whenever his requirement made by the ED, he shall produce himself before ED immediately and in case of non-production of his presence, his bail may be cancelled.

32. Learned senior counsel further submits that from the relevant dates mentioned above, it become very much clear that the petitioner, three months prior to sending his summons, has already offered to income tax to make payment, but even then he has been made accused in this case.

33. Learned senior counsel further relied on the question of *mens rea* and submits that the said judgment of **Vijay Madan Lal Choudhary & Ors. Vs. Union of India (supra)** in paragraphs 388 and 400 are clear on the mens rea.

34. Learned senior counsel further submits that there is absence of mens rea in the present case against the petitioner. He further put emphasis on section 3 read with section 2(1)(u) of the PMLA, 2002. He further submits that the ingredient of section 3 of PMLA, 2002 shall be operative only when the term proceed of crime shall construe against him and the definition of proceed of crime has been stated under section 2(1)(u) of the

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PMLA, 2002.

35. Counsel further submits that for the purpose of applicability of the proceed of crime, the existence/ derivation of property from the scheduled offence is necessary to be present. He submits that the petitioner is not accused in any of the scheduled offence. He submits that Section 3 of the PMLA, 2002 shall apply only when the proceed of crime has to come from the scheduled offence. Here in the present case, there is no such materials on record by which it transpires that the proceed of crime has come from scheduled offence.

36. Learned counsel again submits that the actual possession of the scheduled offence is that out of 19 cases, not a single charge-sheet has been filed in any cases. According to him, there is no connection between the scheduled offence and PMLA, 2002, particularly when the linkage starts from the proceed of the crime. In support of his argument, he relied on judgment of Vijay Madan Lal Choudhary of Paragraph 253 read with conclusive part paragraph 467(v)(d), according to which section 3 of the PMLA, 2002 is dependent on illegal gain of property as a result of criminal activities with regard to scheduled offence. It states that if person is finally discharged / acquitted of the scheduled offence or the criminal case against him, is quashed by the court of competent jurisdiction, there can be no offence of money laundering against him or anyone of claiming such property when property is linked to stated scheduled offence through him.

37. Learned senior counsel concludes his arguments and directly relied on case of **Sanjay Chandra Vs. CBI** reported in **(2012) 1 SCC 40** (para 39, 40 and 46). He further relied on the judgment of **Satendra Kumar Antil Vs. CBI** reported in

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(2022) 10 SCC 51 (para 86, 89 and 91) and subsequently, in case of **P. Chidambaram Vs. ED** reported in **(2020) 13 SCC 791** (para 23) (which has already discussed in the case of Satendra Kumar Antil (supra).

38. After considering the arguments of the petitioner and the public prosecutor, it is necessary to quote the following provisions of the PMLA, 2002 which are section 2(1)(u), section 3, section 4, section 43, section 44, section 45 and section 50 states as follows:-

> ***section 2(1)(u).*** *"proceeds of crime" means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property [or where such property is taken or held outside the country, then the property equivalent in value held within the country]*
>
> ***section 3****. Offence of money-laundering.- Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the [3][proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming] it as untainted property shall be guilty of offence of money-laundering*
>
> **section 4.** *Punishment for money-laundering. Whoever commits the offence of money-laundering shall be punishable with rigorous imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine [1][*]:*
> *Provided that where the proceeds of crime involved in money-laundering relates to any offence specified under paragraph 2 of Part A of the Schedule, the provisions of this section shall have effect as if for the words "which*

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may extend to seven years", the words "which may extend to ten years" had been substituted

***section 43**. Special Courts.-(1) The Central Government, in consultation with the Chief Justice of the High Court, shall, for trial of offence punishable under section 4, by notification, designate one or more Courts of Session as Special Court or Special Courts or such area or areas or for such case or class or group of cases as may be specified in the notification.*

***section 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, 2[*] 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

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Procedure, 1973 (2 of 1974) as it applies to a trial before a Court of Session.]

***section 45**. Offences to be cognizable and non-bailable. (1) [Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no person accused of an offence 2[under this Act] shall be released on bail or on his own bond unless-]*

(i) the Public Prosecutor has been given a opportunity to oppose the application for such release; and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:

***section 50**. Powers of authorities regarding summons, production of documents and to give evidence, etc.- (1) The Director shall, for the purposes of section 13, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely:-*

(a) discovery and inspection;

(b) enforcing the attendance of any person, including any officer of a [reporting entity] and examining him on oath;

(c) compelling the production of records;

(d) receiving evidence on affidavits;

(e) issuing commissions for examination of witnesses and documents; and

(f) any other matter which may be prescribed.

(2) The Director, Additional Director, Joint Director, Deputy Director or Assistant Director shall have power to summon any person whose attendance he considers necessary whether to give evidence or to produce any records during the course of any investigation or proceeding under this Act.

(3) All the persons so summoned shall be bound to attend in person or through authorised agents, as such officer may direct, and shall be bound to state the truth upon any subject respecting which they are examined or make

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statements, and produce such documents as may be required.

(4) Every proceeding under sub-sections (2) and (3) shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code (45 of 1860).

(5) Subject to any rules made in this behalf by the Central Government, any officer referred to in sub-section (2) may impound and retain in his custody for such period, as he thinks fit, any records produced before him in any proceedings under this Act:

Provided that an Assistant Director or a Deputy Director shall not-

(a) impound any records without recording his reasons for so doing; or

(b) retain in his custody any such records for a period exceeding three months, without obtaining the previous approval of the [1][Joint Director]

40. The relevant provisions of judgment of ***Vijay Madan Lal Choudhary Vs. ED reported in 2022 SCC online 929*** on which both the counsel relied and further on the relevant provisions of section 50 of the PMLA, 2002, the State relied on following paragraphs 395, 400, 406, 407 and 467 which states as follows:-

395*."This portion of the judgment of the Constitution Bench has not been noticed in Nikesh Tarachand Shah. Further, we do not agree with the observations suggestive of that the offence of money laundering is less heinous offence than the offence of terrorism sought to be tackled under TADA Act or that there is no compelling State interest in tackling offence of money-laundering. The international bodies have been discussing the menace of money-laundering on regular basis for quite*

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some time; and strongly recommended enactment of stringent legislation for prevention of money-laundering and combating with the menace thereof including to prosecute the offenders and for attachment and confiscation of the proceeds of crime having direct impact on the financial systems and sovereignty and integrity of the countries. That concern has been duly noted even in the opening part of the introduction and Statement of Objects and Reasons, for which the 2002 Act came into being. This declaration by the Parliament itself is testimony of compelling necessity to have stringent regime (enactment) for prevention and control of the menace of money -laundering. Be it noted that under Article 38 of the Constitution of India, it is the duty of the State to secure social, economic and political Justice and minimize income inequalities. Article 39 of the Constitution mandates the State to prevent concentration of wealth, thus, to realize its socialist goal, it becomes Imperative for the State to make such laws, which not only ensure that the unaccounted money is infused back in the economic system of the country, but also prevent any activity which damages the economic fabric of the nation. It cannot be gainsaid that social and economic offences stand on a graver footing as they not only involve an individual direct victim, but harm the society. as a whole. Thus, the Law Commission also in its 47th report recommended an increase in punishment for most of the offences considered therein. Further, the quantum of punishment for money- laundering offence, being only seven years, cannot be the basis to undermine

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the seriousness and gravity of this offence. The quantum of sentence is a matter of legislative policy. The punishment provided for the offence is certainly one of the principles in deciding the gravity of the offence, however, it cannot be said that it is the sole factor in deciding the severity of offence as contended by the petitioners. Money -laundering is one of the heinous crimes, which not only affects the social and economic fabric of the nation, but also tends to promote other heinous offences, such as terrorism, offences related to NDPS Act, etc. It is a proven fact that international criminal network that support home grown extremist groups relies on transfer of unaccounted money across nation States, thus, by any stretch of imagination, it cannot be said that there is no compelling State interest in providing stringent conditions of bail for the offence of money-laundering. In Ram Jethmalani v. Union of India, the Court expounded the theory of "soft state which is used to describe a nation which is not capable of preventing the offence of money-laundering. The Court held thus:

"13. The concept of a "soft state" was famously articulated by the Nobel Laureate, Gunnar Myrdal. It is a broad-based assessment of the degree to which the State, and its machinery, is equipped to deal with its responsibilities of governance. ***The more soft the State is, greater the likelihood that there is an unholy nexus between the law maker, the law keeper, and the law breaker."***

400. *It is important to note that the twin conditions*

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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, 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 ball 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 future 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

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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"

406. *It was urged that the scheduled offence in a given case may be a non-cognizable offence and yet rigors of Section 45 of the 2002 Act would result in denial of bail even to such accused. This argument is founded on clear misunderstanding of the scheme of the 2002 Act. As we have repeatedly mentioned in the earlier*

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part of this judgment that the offence of money-laundering is one wherein a person, directly or Indirectly, attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime. The fact that the proceeds of crime have been generated as a result of criminal activity relating to a scheduled offence, which incidentally happens to be a noncognizable offence, would make no difference. The person is not prosecuted for the scheduled offence by invoking provisions of the 2002 Act, but only when he has derived or obtained property as a result of criminal activity relating to or in relation to a scheduled offence and then indulges in process or activity connected with such proceeds of crime. Suffice it to observe that the argument under consideration is completely misplaced and needs to be rejected.

407. *Another incidental issue that had been raised is about the non- application of rigors of Section 45 of the 2002 Act in respect of anticipatory bail filed under Section 438 of the 1973 Code. This submission presumably is linked to the observation in paragraph 42 in the case of Nikesh Tarachand Shah, Similar argument was considered in The Asst. Director Enforcement Directorate v. Dr. V.C. Mohan, We are in agreement with the observation in this decision that it is one thing to say that Section 45 of the 2002 Act refers to a scheduled offence under the general law, but, as noted earlier, the offence under this Act in terms of Section 3 is specific to involvement in any process or activity connected with the*

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proceeds of crime which is generated as a result of criminal activity relating to a scheduled offence. It is also true that Section 45 does not make specific reference to Section 438 of the 1973 Code, but it cannot be overlooked that sub-section (1) opens with a non-obstante clause and clearly provides that anything contained in the 1973 Code (2 of 1974), no person accused of an offence under this Act shall be released on bail or on his own bond, unless the stipulations provided therein are fulfilled. On account of the non-obstante clause in Section 45(1) of the 2002 Act, the sweep of that provision must prevail in terms of Section 71 of the 2002 Act. Further, the expression "anticipatory bail" is not used either in the 1973 Code or the 2002 Act. The relief granted in terms of Section 438 of the 1973 Code is one of directing release of the person on "bail" in case of his arrest; and such a relief has been described in judicial pronouncements as anticipatory bail. Section 45(1) uses generic expression "bail" without reference to any provision of the 1973 Code, such as Sections 437, 438 and 439 of the 1973 Code. Concededly, Section 65 of the 2002 Act states that the provisions of the 1973 Code shall apply to the provisions under the Act insofar as they are not inconsistent with the provisions of the 2002 Act. Further, Section 71 of the Act gives overriding effect to the Act. Section 45 of the Act begins with a non-obstante clause, thus excluding the application of the 1973 Code in matters related to "bail". The word "anticipatory bail" has not been defined under the 1973 Code. In Sushila Aggarwal, it was held as under:

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"7.1. At the outset, it is required to be noted that as such the expression "anticipatory bail" has not been defined in the Code. As observed by this Court in Balchand Jain, "anticipatory bail" means "bail in anticipation of arrest". As held by this Court, the expression "anticipatory bail" is a misnomer inasmuch as it is not as if bail is presently granted by the court in anticipation of arrest. An application for "anticipatory bail" in anticipation of arrest could be moved by the accused at a stage before an FIR is filed or at a stage when FIR is registered but the charge sheet has not been filed and the Investigation is in progress or at a stage after the investigation is concluded. Power to grant "anticipatory bail" under Section 438 of the CrPC vests only with the Court of Session or the High Court. Therefore, ultimately it is for the court concerned to consider the application for "anticipatory bail" and while granting the "anticipatory bail" it is ultimately for the court concerned to impose conditions including the limited period of "anticipatory bail", depends upon the stages at which the application for anticipatory bail is moved. A person in whose favour a pre-arrest bail order is made under Section 438 of the CrPC has to be arrested. However, once there is an order of pre-arrest bail/anticipatory bail, as and when he is arrested he has to be released on bail. Otherwise, there is no distinction or difference between the pre-arrest bail order under Section 438 and the bail order under Section 437 & 439 CrPC. The only difference between the pre-arrest bail order under Section 438 and the bail order under Sections 437 and 439 is the stages at which the

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bail order is passed. The bail order under Section 438 CrPC is prior to his arrest and in anticipation of his arrest and the order of bail under Sections 437 and 439 is after a person is arrested. A bare reading of Section 438 CrPC shows that there is nothing in the language of the Section which goes to show that the pre-arrest bail granted under Section 438 has to be time-bound. The position is the same as in Section 437 and Section 439 CrPC.

*"**467(V)(d)**. In light of the above analysis, we now proceed to summarise our conclusion on seminal points in issue in the following terms:-*

The offence under Section 3 of the 2002 Act is dependent on illegal gain of property as a result of criminal activity relating to a scheduled offence. It is concerning the process or activity connected with such property, which constitutes the offence of money- laundering. The Authorities under the 2002 Act cannot prosecute any person on notional basis or on the assumption that a scheduled offence has been committed, unless it is so registered with the jurisdictional police and/or pending enquiry/trial including by way of criminal complaint before the competent forum. If the person is finally discharged/acquitted of the scheduled offence or the criminal case against him is quashed by the Court of competent jurisdiction, there can be no offence of money-laundering against him or any one claiming such property being the property linked to stated scheduled offence through him."

and the petitioner relied on paragraph 425 of Section 50 of the

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PMLA,2002 which states as follows:-

> ***"425**. Indeed, sub-section (2) of Section 50 enables the Director, Additional Director, Joint Director, Deputy Director or Assistant Director to issue summon to any person whose attendance he considers necessary for giving evidence or to produce any records during the course of any investigation or proceeding under this Act. We have already highlighted the width of expression "proceeding" in the earlier part of this judgment and held that it applies to proceeding before the Adjudicating Authority or the Special Court, as the case may be. Nevertheless, sub-section (2) empowers the authorised officials to issue summon to any person. We fail to understand as to how Article 20(3) would come into play in respect of process of recording statement pursuant to such summon which is only for the purpose of collecting information or evidence in respect of proceeding under this Act. Indeed, the person so summoned, is bound to attend in person or through authorised agent and to state truth upon any subject concerning which he is being examined or is expected to make statement and produce documents as may be required by virtue of sub-section (3) of Section 50 of the 2002 Act. The criticism is essentially because of subsection (4) which provides that every proceeding under sub-sections (2) and (3) shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the IPC. Even so, the fact remains that Article 20(3) or for that matter Section 25 of the Evidence Act, would come into play only when the person so summoned is an accused of any offence at the*

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relevant time and is being compelled to be a witness against himself. This position is well-established. The Constitution Bench of this Court in M.P. Sharmases had dealt with a similar challenge wherein warrants to obtain documents required for investigation were issued by the Magistrate being violative of Article 20(3) of the Constitution. This Court opined that the guarantee in Article 20(3) is against "testimonial compulsion" and is not limited to oral evidence. Not only that, it gets triggered if the person is compelled to be a witness against himself, which may not happen merely because of issuance of summons for giving oral evidence or producing documents. Further, to be a witness is nothing more than to furnish evidence and such evidence can be furnished by different modes. The Court went on to observe as follows: "Broadly stated the guarantee in article 20(3) is against "testimonial compulsion". It is suggested that this is confined to the oral evidence of a person standing his trial for an offence when called to the witness-stand. We can see no reason to confine the content of the constitutional guarantee to this barely literal import. So to limit it would be to rob the guarantee of its substantial purpose and to miss the substance for the sound as stated in certain American decisions. The phrase used in Article 20(3) is "to be a witness". A person can "be a witness" not merely by giving oral evidence but also by producing documents or making intelligible gestures as in the case of a dumb witness (See section 119 of the Evidence Act) or the like. "To be a witness" is nothing more than "to furnish

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evidence", and such evidence can be furnished through the lips or by production of a thing or of a document or in other modes. So far as production of documents is concerned, no doubt Section 139 of the Evidence Act says that a person producing a document on summons is not a witness. But that section is meant to regulate the right of cross-examination. It is not a guide to the connotation of the word "witness", which must be understood in its natural sense, i.e., as referring to a person who furnishes evidence. Indeed, every positive volitional act which furnishes evidence is testimony, and testimonial compulsion connotes coercion which procures the positive volitional evidentiary acts of the person, as opposed to the negative attitude of silence or submission on his part. Nor is there any reason to think that the protection in respect of the evidence so procured is confined to what transpires at the trial in the court room. The phrase used in article 20(3) is "to be a witness" and not to "appear as a witness". It follows that the protection afforded to an accused in so far as it is related to the phrase "to be a witness" is not merely in respect of testimonial compulsion in the court room but may well extend to compelled testimony previously obtained from him. It is available therefore to a person against whom a formal accusation relating to the commission of an offence has been levelled which in the normal course may result in prosecution. Whether it is available to other persons in other situations does not call for decision in this case."

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41. After going through the judgments and relevant provisions, it transpires to this Court that the provisions of Article 20(3) of the Constitution of India shall prevail upon section 50 of the PMLA, 2002.

42. In support of section 44 of the PMLA, 2002, counsel for the State submits that the continuation of investigation is an essential ingredient under section 44 (2)(D) *Explanation II* whereas counsel for the petitioner submits that further investigation has not to be done in the routine matter. It has to be looked into in consonance with section 173(8) of the Cr.P.C.

43. Upon hearing the parties on this point, this Court is of the firm view that for the purpose of filing the complaint against any accused persons, the PMLA authorities have to take statement of all the accused persons and whatever the relevant materials come and on the basis of those materials, the complaint has been filed. Here in the present case, cognizance has been taken against the present petitioner and the further process has left that charge shall be framed upon commencement of trial, therefore this Court is of the view that keeping the accused in custody after taking cognizance particularly when complaint has been filed after completion of investigation and in situation of further evidence, the right has already with the ED to file subsequent complaint. In that case, the discretion is with the ED, therefore this Court is of the view that no purpose shall be solved keeping the accused in custody.

44. On the point of proceed of the crime which is most essential factor for applicability of section 3 of the PMLA. This Court hereby quotes the relevant extracts and findings of the three Judges Bench decision of the Hon’ble Supreme Court in case of Vijay Madan Lal Choudhary (supra) which is in

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paragraphs 467(v)(d) states as follows:-

> *d) The offence under Section 3 of the 2002 Act is dependent on illegal gain of property as a result of criminal activity relating to a scheduled offence. It is concerning the process or activity connected with such property, which constitutes the offence of money laundering. The Authorities under the 2002 Act cannot prosecute any person on notional basis or on the assumption that a scheduled offence has been committed, unless it is so registered with the jurisdictional police and/or pending enquiry/trial including by way of criminal complaint before the competent forum. If the person is finally discharged/acquitted of the scheduled offence or the criminal case against him is quashed by the Court of competent jurisdiction, there can be no offence of money-laundering against him or any one claiming such property being the property linked to stated scheduled offence through him*

and subsequent paragraphs 252 and 253 states as follows:-

> ***252.*** *Be it noted that the definition clause includes any property derived or obtained "indirectly" as well. This would include property derived or obtained from the sale proceeds or in a given case in lieu of or in exchange of the "property" which had been directly derived or obtained as a result of criminal activity relating to a scheduled offence. In the context of Explanation added in 2019 to the definition of expression "proceeds of crime", it would inevitably include other property which may not have been derived or obtained as a result of any criminal activity relatable to the scheduled offence. As noticed*

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from the definition, it essentially refers to "any property" including abroad derived or obtained directly or indirectly. The Explanation added in 2019 in no way travels beyond that intent of tracking and reaching upto the property derived or obtained directly or indirectly as a result of criminal activity relating to a scheduled offence. Therefore, the Explanation is in the nature of clarification and not to increase the width of the main definition "proceeds of crime". The definition of "property" also contains Explanation which is for the removal of doubts and to clarify that the term property includes property of any kind used in the commission of an offence under the 2002 Act or any of the scheduled offences. In the earlier part of this judgment, we have already noted that every crime property need not be termed as proceeds of crime but the converse may be true. Additionally, some other property is purchased or derived from the proceeds of crime even such subsequently acquired property must be regarded as tainted property and actionable under the Act. For, it would become property for the purpose of taking action under the 2002 Act which is being used in the commission of offence of money-laundering. Such purposive interpretation would be necessary to uphold the purposes and objects for enactment of 2002 Act.

***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-*

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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."

as well as on the point of mens rea, the finding of the Hon'ble Court is that *" the duty of the Court at this stage not to way the evidence meticulously, but to arrive at the finding on the basis of brought probabilities.*" Further the Court is required to record a finding as to the possibility of the accused committing in crime which is an offence under the Act after grant of bail. This Court after going through the provisions of law, discussion made and reading the relevant extract of those judgments, is of

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the finding that the possibility of accused committing a crime of PMLA after bail is less due to the reason that the money for which case is going on, he has already accepted to pay the tax before income tax prior to filing of the case and he has proceeding in payment of the tax on the same.

45. In the light of the decisions on bail given by the Hon'ble Supreme Court whose extracts are as follows:-

Satendra Kumar Antil (supra) paragraphs 86, 89 and 91 states as follows:-

> ***86***. *Now we shall come to Category C. We do not wish to deal with individual enactments as each special Act has got an objective behind it, followed by the rigour imposed. The general principle governing delay would d apply to these categories also. To make it clear, the provision contained in Section 436-A of the Code would apply to the Special Acts also in the absence of any specific provision. For example, the rigour as provided under Section 37 of the NDPS Act would not come in the way in such a case as we are dealing with the liberty of a person. We do feel that more the rigour, the quicker the adjudication ought to be. After all, in these types of cases number of witnesses would be very less and there may not be any justification for prolonging the trial. Perhaps there is a need to comply with the directions of this Court to expedite the process and also a stricter compliance of Section 309 of the Code.*
>
> ***89.*** *We may clarify on one aspect which is on the interpretation of Section 170 of the Code. Our discussion made for the other offences would apply to these cases also. To clarify this position, we may hold that if an*

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accused is already under incarceration, then the same would continue, and therefore, it is needless to say that the provision of the Special Act would get applied thereafter. It is only in a case where the accused is either not arrested consciously by the prosecution or arrested and enlarged on bail, there is no need for further arrest at the instance of the court. Similarly, we would also add that the existence of a pari materia or a similar provision like Section 167(2) of the Code available under the Special Act would have the same effect entitling the accused for a default bail. Even here the court will have to consider the satisfaction under Section 440 of the Code.

91. *P. Chidambaram v. Directorate of Enforcement71: (SCC pp. 804-805, para 23)*

"23. Thus, from cumulative perusal of the judgments cited on either side including the one rendered by the Constitution Bench of this Court, it could be deduced that the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial. However, while considering the same the gravity of the offence is an aspect which is required to be kept in view by the Court. The gravity for the said purpose will have to be gathered from the facts and circumstances arising in each case. Keeping in view the consequences that would befall on the society in cases of financial irregularities, it has been held that even economic offences would fall under the category of "grave offence" and in such circumstance

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while considering the application for bail in such matters, the Court will have to deal with the same, being sensitive to the nature of allegation made against the accused. One of the circumstances to consider the gravity of the offence is also the term of sentence that is prescribed for the offence the accused is alleged to have committed. Such consideration with regard to the gravity of offence is a factor which is in addition to the triple test or the tripod test that would be normally applied. ƒ In that regard what is also to be kept in perspective is that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case since there is no such bar created in the relevant enactment passed by the legislature nor does the bail jurisprudence provide so. Therefore, the underlining conclusion is that irrespective of the nature and gravity of charge, the precedent of another case alone will not be the basis for either grant or refusal of bail though it may have a bearing on principle. But ultimately the consideration will have to be on case-to-case basis on the facts involved therein and securing the presence of the accused to stand trial."

and in the judgment of **Sanjay Chandra Vs. CBI** (supra) of paragraph 46 which states as follows:-

46.“We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardise the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge-sheet is already filed before the Special

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Judge, CBI, New Delhi. Therefore, their presence in d the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to ally the apprehension expressed by CBI."

and in the judgment of **Rohit Tandon vs. Directorate of Enforcemen**t reported in **2018 (11) SCC 46** which states as follows:-

"Court should consider whether accused was possessed of requisite mens rea Court has to record its findings on basis of broad probabilities regarding possibility of accused committing offence under the Act after grant of bail Court should maintain delicate balance between judgment of acquittal and conviction and order granting bail before commencement of trial- Attempt made by appellant and others to frustrate demonetisation policy by first making huge deposit of old currency in bank, getting demand drafts issued in fictitious names and then obtaining monetised currency by cancelling drafts subsequently Such attempt when made to project proceeds of crime as untainted money, burden of proof that monies were not proceeds of crime and not tainted shifts on accused under S. 24 of PMLA Act, 2002 but appellant in instant case failed to discharge that burden Alleged activities come within sweep of criminal activity relating to scheduled offence and fall under Ss. 3 and 4 of PMLA Act, 2002, being a case of money laundering - Held, appellant failed to satisfy Court about existence of reasonable grounds for believing that appellant is not guilty of such offence and that he is not likely to commit any offence while on bail - Hence Sessions Court and High Court, after careful analysis of allegations against appellant and material on record, rightly rejected f bail application of appellant Criminal Procedure Code, 1973 - S. 439- Penal Code, 1860, Ss. 420, 406, 409, 468, 471, 188 and 120-B."

46. In the present facts and circumstances and

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submissions by the parties, let the petitioner above named, be granted bail on furnishing bail bonds of Rs.1,00,000/- (Rupees One lacs only) with two sureties of the like amount each to the satisfaction of learned Special Judge, PMLA -cum- District and Sessions Judge, Patna in connection with Special Trial (PMLA) Case No.8 of 2023 arising out of ECIR No. PTZO/14/2023, subject to the following terms and conditions:-

a) The petitioner shall furnish a personal bond with a surety in the sum of Rs. 1,00,000 to the satisfaction of the Trial Court;

b) The petitioner shall give up his citizenship of Dominican Republic within a period of 1 week from the date of release and documentary proof of the same be placed before the learned Trial Court;

c) The petitioner shall not leave the country during the bail period and surrender his Dominican Republic passport at the time of release before the Trial Court;

d) The petitioner shall join the investigation as and when called by the ED authority concerned;

e) The petitioner shall appear before the Court as and when the matter is taken up for hearing;

f) The petitioner shall provide his mobile number to the ED authority concerned at the time of release, which shall be kept in working condition at all times. The applicant shall not switch off, or change the same without prior intimation to the ED authority concerned, during the period of bail;

g) In case he changes his address, he will inform the ED authority concerned and this Court concerned also;

h) The petitioner shall not indulge in any criminal activity during the bail period;

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i) The petitioner shall not communicate with or intimidate or influence any of the prosecution witnesses or tamper with the evidence of the case.

47. Accordingly, the present bail application is hereby allowed with the aforesaid conditions.

(Dr. Anshuman, J.)

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