



**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

**Bail App No.99/2025
CrIM No.591/2025**

**Reserved on: 30.03.2026
Pronounced on: 08.04.2026
Uploaded on:- 08.04.2026.**

*Whether the operative part or
full judgment is pronounced: Yes*

**Assistant Director,
Directorate of Enforcement**
5 A/C, Green Belt Park,
Gandhi Nagar, Jammu

.....Applicant

Through :- Mr. Vishal Sharma, DSGI with
Mr. Eishan Dadhichi, CGSC

V/S

1. **Yatin Yadav** S/O Deshraj Yadav,
B/86 B, Vikas Nagar,
Gali No. 5, Rewari, Haryana.
2. **Anil Kumar Yadav** S/O Om Parkash
R/O Village Lehroda, Tehsil Narnaul,
District Mahendragarh, Haryana.

.....Respondent(s)

Through :- Mr. Asheesh Singh Kotwal, Adv.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

JUDGMENT

1. Applicant- Directorate of Enforcement, through this application moved under Section 483(3) BNSS [Section 439(2) of CrPC] read with Section 528 of BNSS [Section 482 of CrPC], seeks setting aside the order dated 26.11.2024 passed by the Court of learned Special Judge Anticorruption (CBI cases) Specially Designated Court under the Prevention of Money Laundering Act, 2002 ('Special Court'), in Bail Application filed by respondent No.1- Yatin Yadav in File No. 657/2024 and Respondent No. 2- Anil Kumar Yadav in File No.658/2024 pertaining to ECIR Bearing No. ECIR/JMSZO/01/2023 dated 31.03.2023 arising out of FIR No. RC0042022A0008 dated 03.08.2022 registered by ACB, CBI Jammu, whereby both of them were admitted to regular bail. It was prayed to cancel the bail granted in favour of the respondents.



2. Applicant has assailed the impugned order, on the grounds that the same suffers from various infirmities, overlooking relevant facts and legal positions as the Special Court has dived into merits of the case, at the stage of consideration of bail and ignored the case established against the respondents alongwith the possibility of tampering with the material evidence and influencing the witnesses; that twin conditions laid down under Section 45 of PML Act 2002, applicable to the bail, granting opportunity to Public Prosecutor to oppose the bail plea and recording of satisfaction by the court regarding reasonable grounds for believing that the person seeking bail is not guilty of such offence and that he/she is not likely to commit any offence while on bail are preconditions to be satisfied before grant of bail; that the burden to discharge that application was not guilty of such offence is on the applicant and not the prosecution, as wrongly observed by the Special Court, in terms of Section 23 of PML Act; that both the respondents were directly involved in the leakage of J&K Staff Selection Recruitment Board Examination for the posts of Police Sub Inspectors, as money trail of the proceeds of the crime estimated at about Rs.2.52 Crore was established against them for disseminating question papers for money.

3. Pursuant to notice, reply/objections on behalf of respondents stand filed, stating that the present application is not maintainable in law and is liable to be dismissed, outrightly. The petition is misconceived, based on incorrect facts, and amounts to an abuse of the process of law; that the respondents have complied with all bail conditions and have neither violated any condition nor misused the liberty granted to them; that the application under Section 582 BNSS is not maintainable as the bail order cannot be challenged under the said provision; that the respondents are regularly appearing before the trial court in the PMLA proceedings and are fully cooperating with the investigation. No



adverse conduct has been attributed to them. It is also submitted that the grounds raised are repetitive and no new circumstance has been shown to warrant interference; that the earlier order of cognizance has been quashed by this Court and fresh cognizance is underway, after filing of supplementary challan. Lastly, it is prayed that the present application deserves to be dismissed.

4. Mr. Vishal Sharma, DSGI, learned counsel for the applicant, argued that the specific role of the accused was ignored; that the impugned order does not adequately consider the distinct and active roles attributed to the accused in the distribution of leaked examination papers and in handling the proceeds of crime; that material collected during investigation, including statements recorded under Section 50 PMLA and the money trail, prima facie, indicates their involvement; that the magnitude of the proceeds of crime and the nature of allegations were not properly appreciated; that approach of the Court, therefore, overlooks relevant material bearing on the culpability of the accused; that there was non-compliance of twin conditions under Section 45 PMLA. It is further submitted that the learned Special Court granted bail, without recording the mandatory satisfaction required under Section 45 PMLA; that there is no proper consideration of whether there were reasonable grounds to believe that the accused were not guilty of the offence; that the likelihood of the accused committing any offence while on bail was also not assessed; that the order reflects a mechanical application of general bail principles, contrary to the statutory mandate.

5. It is further submitted by the learned counsel for the applicant that the impugned order overlooks the statutory presumption and reverse burden of proof envisaged under Section 24 PMLA; that the burden shifts upon the accused to demonstrate that the proceeds of crime are untainted, which was not considered. The observations of the Court reflect a misinterpretation of the legal position



governing PMLA offences. This has resulted in an erroneous exercise of discretion while granting bail; that the learned Court ventured into a detailed appreciation of facts and merits of the case, which is impermissible at the stage of bail; that the selective consideration of certain aspects of the evidence led to a premature assessment akin to a mini-trial; that the prima facie material on record and the gravity of the offence were not given due weight. The potential risk of witness tampering and interference with the investigation was also not properly evaluated. Finally, it is prayed that the bail application be allowed and the impugned order be set aside by cancelling the bail granted by the court below.

6. Learned counsel for the respondents, ex adverso, argued that the accused/respondents have been falsely implicated in the commission of offences punishable with a sentence of imprisonment upto seven years; that after being in incarceration during investigation, the respondents were admitted to regular bail vide impugned order, after filing of the complaint U/S 44 r/w 45 PMLA; that there is no circumstance pleaded or urged by the applicant that either of them had misused the concession of bail, to thwart their prosecution or attempted in any manner to influence the witnesses. It was further argued that once bail having been granted can only be cancelled when any of the conditions while granting bail, would have been violated by the accused and it was finally prayed that the application seeking cancellation of bail, granted by the trial court be dismissed.

7. Heard learned counsel for the parties, perused the file and considered the matter.

8. Factual background of the case is that, Case No. ECIR/JMSZO/01/2023 was recorded on 31.03.2023, Sub Zonal Office in the ED Jammu, on the basis of FIR No. RC0042022A0008 dated 03.08.2022, registered by CBI, Jammu under Sections 120-B, 420 IPC, 1860, falling under Part A,



Paragraph 1 of the Schedule to the PMLA, 2002 being scheduled offences as defined u/s 2(1)(y) of PMLA, 2002; that CBI later filed charge-sheet No.09 dated 12.11.2022 against Anil Kumar, Yatin Yadav and other accused persons; that the facts of the case relate to paper leak of examination dated 27.03.2022 conducted by J&K Services Selection Board (JKSSB) for the recruitment of 1200 Sub-Inspectors of J&K Police, against monetary benefits by the accused persons, including the respondents herein; that the accused persons were also involved in leaking other recruitment exams conducted by JKSSB in the month of March 2022 viz. Account Assistant (Finance) exam and Junior Engineer (Civil) Exam, along with Sub Inspectors (SI) Exam; that as per charge-sheet, respondents along with other accused charged Rs. 10 lakhs per candidate from Jammu based accused touts Ashwani Kumar and others for providing leaked SI exam paper; that in respect of the payments collected against the leaked SI exam paper, the touts collected the total amount charged by them from the candidates immediately after the exam, mostly in cash; that the same was handed over by Ashwani Kumar and others to the respondents and also part proceeds of crime were routed via bank accounts, relating to the respondent no.2 were detailed.

9. ED case is that the proceeds of crime primarily dealt in cash were not track-able and had been siphoned off by respondents, however, certain inter connected transactions, routing the proceeds of crime were traced relating to them; that the Directorate of Enforcement (ED) filed a prosecution complaint on 22.08.2024 U/S 44 r/w 45 PMLA against respondents herein and others and the trial court vide its order dated 30.09.2024 took cognizance of the offence of money laundering as defined U/S 3 PMLA against the persons including respondent no.2- Anil Kumar on the basis of prosecution complaint filed by ED; that the respondents were arrested on 24.06.2024 and 10.07.2024 respectively U/S 19 PMLA, 2002; that the prosecution complaint in the present matter under



investigation has been filed before the Id. Designated PMLA Special Court on 22.08.2024 and cognizance on the same was taken on 30.09.2024. Both the non-applicants were admitted to bail by the Designated PMLA Court on 26.11.2024. Aggrieved of the impugned order dated 26.11.2024, granting bail to respondents- Yatin Yadav and Anil Kumar, the petitioner has approached this court seeking cancellation of bail granted to them.

10. A three-Judge Bench of Apex Court in a judgment dated 20.05.2022 passed in 'Deepak Yadvav V/S State of U.P. & anr.' observed that the Apex Court has reiterated in several instances that bail once granted, should not be cancelled in a mechanical manner, without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concessions of bail during trial, held that in case of cancellation of bail, very cogent and overwhelming circumstances are necessary for an order directing cancellation of bail. A two-Judge Bench of the Apex Court in '*Dolat Ram & Ors. Vs. State of Haryana*' reported as **(1995) 1 SCC 349** laid down the grounds for cancellation of bail which are:-

- (i) interference or attempt to interfere with the due course of administration of justice;
- (ii) evasion or attempt to evade the due course of justice;
- (iii) abuse of the concession granted to the accused in any manner;
- (iv) possibility of accused absconding;
- (v) likelihood of/actual misuse of bail; and
- (vi) likelihood of the accused tampering with the evidence or threatening witnesses.

11. The Apex Court in a case '*Himanshu Sharma V. State of M.P.*' reported as **2024 INSC 139** has held that bail to accused can only be cancelled if



the Court is satisfied that after being released on bail, (a) the accused has misused the liberty granted to him; (b) flouted the conditions of bail order; (c) that the bail is granted in ignorance of statutory provisions restricting the powers of the Court to grant bail; (d) or that the bail was procured by misrepresentation or fraud.

12. Applying the aforesaid observations made by the Hon'ble Apex Court to the facts of the case on hand, it is observed that none of the aforesaid conditions have been made out by the applicant for cancellation of bail in view of the above deliberations.

13. The Apex Court in *'Neeru Yadvav Vs. State of Uttar Pradesh & Anr'* reported as **(2014) 16 SCC 508** observed that it is well settled in law that cancellation of bail after it is granted because the accused has misconducted himself or of some supervening circumstances warranting such cancellation have occurred is in a different compartment altogether than an order granting bail which is unjustified, illegal and perverse.

14. The applicant- Enforcement Directorate has not alleged or sought cancellation of bail granted in favour of the respondents for any supervening circumstances, which may have resulted into violation of conditions of bail or having made any attempt to tamper with the prosecution evidence in any manner.

15. The contention of the learned counsel for the applicant is that the Special Court has not considered the rigor of bail under Section 45 of PMLA, which provided that the bail can be granted only on a satisfaction by the Court that the accused are not guilty of offence punishable under the PMLA of 2002. The Special Court, while dealing with this argument that the respondents had been admitted to bail in the predicate offences that against claim of Rs.2.5 crores having been transacted as money realized from sale of leakage of question



paper, only an amount of Rs. 25 lakhs was recovered and seized by the CBI from accused Suresh Kumar Sharma and Amit Kumar Sharma, who had not been arrested and despite the two respondents herein having been remanded to ED custody for 14 days, it has not been able to extract even a single penny or get it recovered from the respondents or at their behest.

16. The Special Court, while relying upon the law laid down in Vijay Madanlal Choudhary & Ors. Vs. Union of India & Ors. and Ranjitsing case came to the conclusion that it is now legally established that the duty of the Court at the stage of grant and refusal of bail is not to weigh the evidence meticulously but to arrive at a finding on the basis of broad probabilities and in doing so, the finding recorded at the time of bail would be tentative in nature and which may not have any bearing on the merits of the case which has to be decided on the strength of evidence led.

17. In the considered opinion of this court, the Special Court has rightly come to the conclusion that the foundational facts which require to be considered in apropos to Section 45 of the PMLA of 2002 require to be satisfied by the prosecution and it has to produce the material by which the Court can draw satisfaction that there are reasonable grounds for believing that accused is guilty of such offence, and that he is likely to commit such offences while on bail. The Special Court on the basis of the fact that nothing had been recovered from the respondents-accused during their custody, the accused were held entitled to bail as the prosecution had not been able to satisfy the rigors followed under Section 45 of the PMLA.

18. On a consideration of the matter, the Special Court appears to have dealt with the matter with regard to the rigor of Section 45 PMLA on the basis of the evidence that had been collected by the applicant against the respondents and on a prima facie view, the court had come to the conclusion that the



prosecution had not been able to satisfy the rigors provided under Section 45 of the PMLA. The Special Court has, thus, pass the order following the precedents of the judgments passed by the Apex Court on the subject and cannot be stated to have not followed the law by passing the impugned order granting bail in favour of the respondents.

19. As already pointed out, no supervening circumstances of contravention of any bail condition or tampering with the evidence has been pleaded or urged, therefore, bail granted in favour of the respondents by the Special Court requires no interference by this Court.

20. Viewed thus, the petition is dismissed and the impugned order is upheld.



(M A Chowdhary)
Judge

JAMMU
08.04.2026.
Raj Kumar