



2026:AHC:129755

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 38900 of 2025

Sanjay Kumar @ Sanjay Dhiman

.....Applicant(s)

Versus

Directorate of Enforcement

.....Opposite Party(s)

Counsel for Applicant(s) : Arun Kumar Sharma, Raghav Dev
Garg
Counsel for Opposite Party(s) : Sushant

Reserved on:15.05.2026

Delivered on: 01.07.2026

Court No. 55

HON'BLE VIKRAM D. CHAUHAN, J.

1. Heard Sri Raghav Dev Garg, learned counsel for applicant and Sri Sushant Chandra, learned counsel for opposite party.
2. The present bail application is preferred by applicant- Sanjay Kumar @ Sanjay Dhiman to enlarge the applicant on bail in Special Case No.01/2025 ECIR/HQ/01/2024 registered by Directorate of Enforcement under Sections 3 & 4 of Prevention of Money Laundering Act, 2002, pending before the court of learned Special Judge (Anti-Corruption), CBI-2, Ghaziabad.
3. As per prosecution case, opposite party-Directorate of Enforcement has initiated ECIR/HQ/01/2024 based on schedule offence detailed hereunder:-

- a) FIR No.114/2019 dated 22.9.2019 at P.S. Damtal, District Kangra (H.P.) under Section 411 of Indian Penal Code, 1860 and Section 21 of Mines and Minerals (Development and Regulation) Act, 1957. (Status: Closure report submitted and accepted by Ld. Court on 16.11.2022)
- b) FIR No. 5/2018 dated 4.1.2018 at P.S. Haroli, District Una (H.P.) under Sections 34, 406 and 420 of Indian Penal Code, 1860 and Section 22 of Mines and Minerals (Development and Regulation) Act, 1957. (Status: Closure report submitted and accepted by Ld. Court on 25.6.2019)
- c) FIR No. 12/2018 dated 5.1.2018 at P.S. Una Sadar, District Una (H.P.) under Sections 120-B & 420 of Indian Penal Code, 1860, Section 21 of Mines and Minerals (Development and Regulation) Act, 1957 and Section 194 of Motor Vehicles Act, 1988. (Status: Closure report submitted and accepted by Ld. Court on 17.1.2023).
- d) FIR No. 229/2018 dated 17.5.2018 at P.S. Una Sadar, District Una (H.P.) under Sections 120-B & 420 of Indian Penal Code, 1860 and Section 21 of Mines and Minerals (Development and Regulation) Act, 1957. (Status: Closure report submitted in court on 9.8.2018 and accepted by Ld. Court on 22.6.2019).
- e) FIR No 120/2023 dated 28.8.2023 at P.S. Gagret, District Una (H.P.) under Sections 120-B & 420 of Indian Penal Code, 1860 and Section 21 of Mines and Minerals (Development and Regulation) Act, 1957. (Status: Closure report submitted in court on 30.11.2024).
- f) FIR No 7/2023 dated 5.1.2023 at P.S. Una Sadar, District Una (H.P.) under Sections 34 & 379 of Indian Penal Code, 1860, Section 21 of Mines and Minerals (Development and Regulation) Act, 1957, Section 3 of Prevention of Damage to Public Property Act, 1984 and Section 15 of Environment Protection Act, 1986. (Status: Closure report submitted in court on 12.11.2024).

4. The above-mentioned First Information Reports (schedule offences) were registered at different police station in District Kangra and Una in Himachal Pradesh alleging that certain tippers, proclams, JCBs and tractors were actively engaged in illegal mining in District Una and Kangra of Himachal Pradesh. The aforesaid vehicles were involved

in illegally extracting of minerals and consequently unlawfully transporting the minerals to stone crushers by overloaded vehicles. The illegal mining was on government land.

5. The Enforcement Directorate has received formal complaints and intelligence inputs alleging illegal sand mining operations on riverbed of Beas river by M/s Jai Maa Jwala Stone Crusher located in Adhwani Village, Jwalamukhi Tehsil, Kangra District, Himanchal Pradesh. M/s Jai Maa Jwala Stone Crusher is a proprietorship concern of Shri Gian Chand (co-accused). It is alleged that for securing raw material (sand, stone and bajri) to feed into Stone crusher, the said owner of Stone crusher has violated mining lease terms by mining beyond the area permitted by mining lease. Further, owner was also involved in illegal night time mining activity to source raw material for the stone crusher. Further, allegations/complaints were also received that stone crusher has been involved in selling crushed stone in cash. Further, National Green Tribunal has mandated closure of operation of M/s Ambay Stone Crusher-Cum-Mixer Plant (which is a partnership firm in which Shri Gyan Chand, Shri Hans Raj Kaundal and Shri Deepak Joshi are equal partners), the aforesaid Stone crusher was positioned within 100 metres from water bodies.

6. Further, during investigation by Directorate of Enforcement under PMLA Act, 2002 and search proceedings, it was revealed that Shri Gian Chand, Proprietor of M/s Jai Maa Jwala Stone Crusher purchased another stone crusher namely Garhwal Stone Crusher located in Saharanpur (U.P.) for consideration of Rs. 4.70 crore in 2023-24. Out of Rs. 4.70 Crore, Rs 1.60 Crore was paid in cash generated from sale of illegal mine and minerals/sand of Jai Maa Jwala Stone Crusher. Therefore, proceeds of crime generated from sale of illegally mined and crushed riverbed material were alienated by investing in new stone crusher in another State (Uttar Pradesh) to project the tainted fund as untainted.

7. A search action dated 26.9.2024 was carried out at official premises of Garhwal Stone Crusher at Tehsil Behat, District Saharanpur (U.P.). During course of search, it is revealed that Garhwal Stone Crusher was also involved in illegal purchase and sale of illegally mined riverbed mineral in the basin of Yamuna riverbed. Therefore, offence of illegal mining/purchase – sale of illegally mined material subsequent laundering proceeds continued from river basin of Beas to river basin of Yamuna.

8. Further, search proceeding also revealed that State GST department on 20.6.2024 has seized excess river bed material to the tune of Rs. 62.14 lakh at the official premises of Garhwal Stone Crusher. Investigation further revealed that excess riverbed material seized by State GST was illegally mined from Yamuna riverbed. The aforesaid seized material was sold by Garhwal Stone Crusher.

9. Accordingly, information was shared with Government of Uttar Pradesh on 11.10.2024. On the basis of complaint filed by Mining Inspector, Mining Department, District Magistrate Office, Saharanpur (U.P.), a first information report bearing No.0360 was registered on 7.11.2024 by Behat Police Station against Shri Gian Chand, Partner in M/s Garhwal Stone Crusher, Shri Sanjay Sharma, Partner in M/s Garhwal Stone Crusher, Shri Sanjay Kumar (Applicant), Shri Dharmendra Singh, Partner in M/s Garhwal Stone Crusher, Shri Deepak Chaudhary, Partner in Star Mines, Shri Kapil Vaish, Partner in Star Mines and unknown person under Sections 379, 413, 415, 417, 418, 424, 471, 120-B of IPC, Section 3(2) Prevention of Damage to Public Property Act, 1984, and Sections 4 & 21 of Mines and Minerals (Regulation and Development) Act, 1957. The aforesaid offence was made addendum to ECIR bearing No.ECIR/HQ/01/2024 by including schedule offence under Sections 413, 417, 418, 424, 471 and 120B IPC.

10. It is prosecution case that as per applicant's statement, the applicant is partner in Garhwal Stone Crushers and Time Builder Stone Crusher and the person handling day to day affairs of M/s Jai Maa Jwala Stone Crusher.

11. Prosecution further asserts that in Garhwal Stone Crushers, Shri Gian Chand was having 75% share while the applicant was having a 9% share (While Shri Sanjay Sharma and Dharmendra owned 8% each share). During investigation it is revealed:-

- i) Garhwal Stone Crusher is involved in acquisition/purchase of illegally minded minerals.
- ii) The GST Department found that Garhwal Stone Crusher was in possession of excess mined minerals implying illegal mining.
- iii) The GST department had seized the minerals worth Rs.62.14 lakhs, however, aforesaid seized minerals were sold illegally without any permission of GST department.

iv) It was further found that there were excess mined materials to the tune of 1182 cubic meter (24,822 quintals) lying at official premises of Garhwal Stone Crusher.

12. In respect of possession and generation of proceeds of crime by Garhwal Stone Crusher, prosecution relies upon following proceeds of crime:-

a) The Garhwal Stone Crusher was purchased by Gian Chand and applicant for consideration of Rs.4.70 crore, out of aforesaid amount, an amount of Rs.1.80 crore was generated and intermingled with Rs. 2.9 crore of bank deposit. Out of said amount of Rs. 1.80 crore, Rs. 1.60, was generated by Jai Maa Jwala Stone Crusher from sale of illegal mined riverbed mineral in riverbed of Beas (Himanchal Pradesh).

b) Garhwal Stone Crusher is involved in acquisition/purchase and sale of illegal mined rivedbed minerals.

c) The GST department had seized the minerals worth Rs.62.14 lakhs, however, the aforesaid seized minerals were sold illegally without any permission of GST department.

d) M/s Star Mines has sold illegally mined river bed material of 143552 quintals (value of Rs. 21,53,280) to Garhwal Stone Crusher.

13. As per Table No. 6 of complaint (of Directorate of Enforcement before court concerned), the property of Shri Gian Chand was seized by Enforcement Directorate including residence, cash, time deposit, current account of M/s Jai Maa Jwala Stone Crusher. The said Table No.6 does not disclose that any property of applicant has been seized by Enforcement Directorate under PMLA Act, 2002.

14. It is the prosecution case that applicant was one of main person, who handles activity of Jai Maa Jawala Stone Crusher, applicant is not the proprietor of Jai Maa Jawala Stone Crusher and proprietor of Jai Maa Jawala Stone Crusher is Gian Chand-co-accused.

15. In respect of allegation that Garhwal Stone Crusher was purchased from proceeds of illegal mining in Himachal Pradesh (arising out of First Information Report – schedule offence at Himachal Pradesh). Following material was found by the Investigating Officer :-

- a) Statement of applicant was recorded by investigating agency which revealed that Garhwal Stone Crusher was purchased in 2023 for about Rs. 4.70 crore out of which Rs 2.9 crore were paid through bank transaction and remaining Rs.1.80 was paid in cash. Out of Rs 1.8 Crore, Rs 1.60 crore were paid by Gian Chand and Rs.20 lakhs were paid by Applicant.
- b) Statement of Sanjay Sharma (Partner of Time Builder Stone Crusher, Garhwal Stone Crusher and one of the main persons who handles activities of Jai Maa Jawala Stone Crusher) recorded by the investigating agency who has stated that Gian Chand paid Rs.1.60 croe in cash, out of cash sale of Jai Maa Jawala Stone Crusher and remaining amount of Rs. 20 lakhs were paid by applicant.
- c) Statement of Gian Chand, proprietor of Jai Maa Jawala Stone Crusher and Partner in Garhwal Stone Crusher was recorded which revealed that cash used for purchase of Garhwal Stone Crusher was made out of cash receipt of Jai Maa Jawala Stone Crusher.
- d) Statement of Vijay Kumar, accountant of Gian Chand was recorded by investigating agency which revealed that Jai Maa Jawala Stone Crusher only had Rs.2.4 lakh as cash in hand as on 31st March, 2023 in Tally software and he admitted that it is impossible that cash of Rs.1.6 crore would have been paid for legitimate sale mining minerals by Jai Maa Jawala Stone Crusher for purchase of Garhwal Stone Crusher on 1.5.2023.
- e) Further, statement of Vijay Kumar, accountant of Gian Chand was recorded by investigating agency on 4.1.2025 which revealed that opening balance of cash in hand as per cash book for month of April 2023 is Rs. 2,40,781/-. The sale of Jai Maa Jawala Stone Crusher during the said period is Rs.1,23,71,566. Out of said Rs.1,23,71,566/- cash sale was made of Rs.55,33,380/-. Out of said Rs.55,33,380/-, Rs.31,50,000/- were deposited in Bank accounts of Jai Maa Jawala Stone Crusher. He has further stated that he has not observed any considerable cash movement which could enable Gian Chand to acquire/purchase Garhwal Stone Crusher by paying Rs.1.6 crore in cash. From the aforesaid it is concluded that the purchase price of Garhwal Stone Crusher was deposited by Gian Chand from the sale of illegally mined minerals by Jai Maa Jawala Stone Crusher.

f) From the statement of Vijay Kumar, accountant of Gian Chand, it is revealed that Jai Maa Jawala Stone Crusher received an amount of Rs.33,53,710/- from sale of illegally crushed material for the period from 21.4.2024 to 27.4.2024.

16. In respect of Garwhal Stone Crusher, statement of applicant was recorded where it is stated that Rs.1.60 crore was paid by Gian Chand and Rs.20 lakh was paid by applicant for purchase of Garwhal Stone Crusher. Further, prosecution alleges that applicant did not provide documentary evidence with regard to source from which Rs.20 lakh was paid. Garhwal Stone Crusher was involved in sale and purchase of illegally mined material.

17. The complainant (Enforcement Directorate) in para 5 of complaint further discloses proceeds of crime which are detailed herein under:-

a) The prosecution case is that Gian Chand, Sanjay Kumar @ Sanjay Dhiman (Applicant), Sanjay Sharma and others were engaged in mining of river bed material and selling the same after crushing them on their stone crusher. The mining has been made beyond permissible limit and beyond lease area. By these activities Jai Maa Jawala Stone Crusher acquired proceeds of crime to the tune of Rs. 5 crore annually totalling to Rs. 12.5 crores approximately.

b) The 28 bank accounts mentioned in Table No. 6 belonging to Jai Maa Jawala Stone Crusher and Gian Chand were seized. Further, the Directorate has seized cash amount of Rs.8,08,300/- from the residential premises of Gian Chand. The said seizer are proceeds of crime.

c) During the course of investigation further proceeds of crime in the shape of Garhwal Stone Crusher is also attached as the same was acquired from proceeds of crime (arising out of income of Jai Maa Jawala Stone Crusher) and further became instrumental in generating further proceeds of crime.

d) During investigation, the Star mines, a partnership firm of Deepak Chaudhary, Bhanu Karnwal and Ravinder Kumar Malik sold 143552 quintals of illegally mined minerals to Garhwal Stone Crusher. Thus, the Star mines to acquire proceeds of crime to the tune of Rs.21,53,280/-.

18. It is submitted by learned counsel for applicant that initially six First Information Reports were lodged in Himanchal Pradesh which were the foundation for proceedings under the PMLA Act. It is further submitted that in the above-mentioned First Information Reports, after investigation final cancellation report has been submitted by the investigating agency before the learned court and some of the aforesaid reports have been accepted. Learned counsel submits that co-accused Gian Chand have already been enlarged on bail by the trial court. It is further stated that the applicant was not named in the First Information Report lodged in Himachal Pradesh. The applicant was not the owner of the Stone Crusher at Himachal Pradesh. Once no schedule offence has been found by the investigating agency in Himachal Pradesh then the income generated at Himachal Pradesh cannot be considered as proceeds of crime and as a result of same Garhwal Stone crusher would not be considered as proceeds of crime. The prosecution has further failed to identify any proceeds of crime in respect of applicant in Uttar Pradesh. One First Information Report was registered on 7th November 2024 in Uttar Pradesh, in the aforesaid also no proceeds of crime have been identified. The applicant has been in jail for about 18 months (since 18.11.2024) and as such is entitled for being enlarged on bail. In case applicant is released on bail, he will not misuse the liberty of bail and will cooperate in the trial.

19. Learned counsel for Enforcement Directorate has opposed the bail application and submitted that the applicant along with other person were engaged in illegal mining activities at Himachal Pradesh in respect of which six First Information Reports being schedule offence were lodged at Himachal Pradesh. It is further submitted that the income generated from illegal mining activities at Himachal Pradesh were used for purchase of Garhwal Stone Crusher at Uttar Pradesh. It is further submitted that proceeds of crime have been detailed in paragraph 5 of the complaint. It is further submitted that Garhwal Stone Crusher was also involved in purchase and sale of illegal minerals at Uttar Pradesh. The proceeds of crime attached under the PMLA are detailed in paragraph 2.3(e) of the complaint. Learned counsel has relied upon the statement of Vijay Kumar (Chartered Accountant), statement of applicant, statement of Gian Chand. On the search being conducted by the mining department the Garhwal Stone Crusher was found to be having 1182 cubic meter of mined material being out of books. Further, attached GST minerals were sold by Garhwal Stone Crusher without any permission. Statement of Kapil Vaish, Manager, Garhwal Stone Crusher have also been relied upon. Learned counsel for the Enforcement

Directorate, however, could not dispute the fact that six First Information Reports lodged in Himachal Pradesh where after investigation cancellation reports have been submitted by the investigating agencies and some of the aforesaid reports have been accepted by the learned court.

20. The applicant is proceeded under Sections 3 & 4 of Prevention of Money Laundering Act, 2002 (for brevity hereinafter referred to as "PMLA Act, 2002"). Section 4 of PMLA Act, 2002 provides for punishment of money laundering. Whereas Section 3 of PMLA Act, 2002 provides for offence of money laundering. Section 3 of said Act provides that 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 proceeds of crime and projecting it as untainted property shall be guilty of offence of money laundering. The ingredients of said offence is as under:-

- a) whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved;
- b) in any process or activity connected with proceeds of crime and
- c) projecting proceeds of crime as untainted property;

shall be guilty of offence of money laundering.

21. One of essential ingredients of offence under Section 3 of PMLA Act, 2002 is "process or activity connected with proceeds of crime". The expression "proceeds of crime" is defined under Section 2(u) of PMLA Act 2002 and the same is quoted herein below :

"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"

22. The proceeds of crime or property must be as a result of criminal activity relating to schedule offence. As per section 2(y) of PMLA, Act, 2002, schedule offence is specified under Part A of Schedule to PMLA Act, 2002 or offences specified under Part B of Schedule if the total value involved in such offences is thirty lakh rupees or more. In this respect Section 2(y) of PMLA Act, 2002 is quoted hereinbelow :-

"scheduled offence" means--

- (i) the offences specified under Part A of the Schedule; or

(ii) the offences specified under Part B of the Schedule if the total value involved in such offences is thirty lakh rupees or more”

23. Further, the term “property” is defined under Section 2(v) of PMLA Act, 2002 means any property or assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and includes deeds and instruments evidencing title to, or interest in, such property or assets, wherever located.

24. In the present case, as per prosecution, initially schedule offence are six First Information Reports (detailed provided hereinabove) lodged in Himanchal Pradesh. The said First Information Reports pertains to illegal mining at Himanchal Pradesh by M/s Jai Maa Jawala Stone Crusher of which co-accused Gian Chand is the proprietor. It is not in dispute between the parties that applicant was not named in six First Information Reports (at Himachal Pradesh) as an accused. In respect of said six First Information Reports (at Himachal Pradesh), following is the status:-

a) In FIR No.229/2018 (under Sections 420, 120B I.P.C. and Section 21 of Mines and Minerals (Development and Regulation) Act, 1957 (Suresh Kumar Vs State of Himanchal Pradesh) by order dated 22.6.2019 passed by Chief Judicial Magistrate, Una, the cancellation report by the investigation agency has been accepted (Annexure A-7 to Bail Application). The complaint of Enforcement Directorate rest upon this FIR being one of schedule offences. The effect of cancellation report is that no schedule offence was found by investigating agency arising out of FIR No. 229/2018.

b) In FIR No.12/2018 (under Sections 420, 120B of I.P.C., Section 21 of Mines and Minerals (Development and Regulation) Act, 1957 and Section 194 of Motor Vehicles Act, 1988 (Ashwani Vs State of Himanchal Pradesh JMFC, Una (H.P.) was pleased to cancel FIR No.12/2018 by order dated 17.1.2023 of learned court. The complaint of Enforcement Directorate rest upon this FIR being one of the schedule offences. The effect of cancellation report is that no schedule offence was found by investigating agency arising out of FIR No.12/2018.

c) In FIR No.114/2019 (under Section 411 I.P.C. and Section 21 of Mines and Minerals (Development and Regulation) Act, 1957), by order dated 16.11.2022 passed by JMFC, Indora,

District Kangra (H.P.), cancellation report by the investigation agency has been accepted. The complaint of Enforcement Directorate rest upon this FIR being one of schedule offence. The effect of cancellation report is that no schedule offence was found by investigating agency arising out of FIR No.114/2019.

d) In FIR No.5/2018 (under Sections 420, 406, 34 I.P.C. and Section 22 of Mines and Minerals (Development and Regulation) Act, 1957, by order dated 25.6.2019 passed by court concerned, the cancellation report by the investigation agency has been accepted. The complaint of the Enforcement Directorate rest upon this FIR being one of the schedule offences. The effect of cancellation report is that no schedule offence was found by investigating agency arising out of FIR No 5/2018.

e) In respect of two First Information Reports being FIR No.7/2023 and FIR No.120/2023 lodged at Himachal Pradesh, the cancellation report has been filed by investigation agency before the court concerned on 12.11.2024 and 30.11.2024, respectively. The complaint of Enforcement Directorate rest upon these FIRs being one of schedule offences. The effect of cancellation report is that no schedule offence was found by investigating agency arising out of two FIRs.

25. The opposite party has lodged ECIR/HQ/1/2024 dated 2.7.2024 (under PMLA Act, 2002) after abovementioned four cancellation reports in schedule offence was accepted by the court concerned. Therefore, foundation of ECIR being schedule offence was not in existence on the date when the ECIR was registered. Further, other two above-mentioned First Information Report (schedule offence), cancellation report has been submitted by investigation officer. It has not been disclosed by opposite party that any material evidence was found against applicant in respect of schedule offence registered at Himachal Pradesh.

26. It is prosecution case that Jai Maa Jwala Stone Crusher was engaged in illegal mining activities in Himachal Pradesh [in respect of which abovementioned six First Information Report was lodged in Himachal Pradesh] and on the strength of aforesaid FIRs, it is alleged that proceeds of crime to the tune of Rs.12.5 crore was generated by Gian Chand- co-accused. In the above-mentioned six First Information Reports lodged in Himachal Pradesh, closure report has been submitted

by investigating agency and court have accepted four closure reports. Therefore, no material foundation exists that Jai Maa Jawala Stone Crusher or applicant has committed schedule offence in Himanchal Pradesh and have generated proceeds of crime by illegal mining activity at Himachal Pradesh. It is to be noted that applicant was neither owner nor partner of above-mentioned Jai Maa Jwala Stone Crusher. As per Opposite Party, applicant was involved in day-to-day activity of Jai Maa Jawala Stone Crusher.

27. Further, opposite party alleges that Gian Chand, Sanjay Kumar @ Sanjay Dhiman (Applicant), Sanjay Sharma and others were engaged in mining of river bed material and selling the same after crushing them on their stone crusher at Himanchal Pradesh. As per allegation, mining has been made beyond permissible limit and beyond lease area, by these activities Jai Maa Jawala Stone Crusher acquired proceeds of crime to the tune of Rs.5 crore annually totalling two Rs.12.5 crores approximately. Applicant was neither owner nor partner of above-mentioned Jai Maa Jwala Stone Crusher. The "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 as per PMLA Act, 2002. The First Information Report in respect of schedule offence in Himachal Pradesh have not found any schedule offence being made out by filing of cancellation report before the court concerned by the investigating agency of the schedule offence. Therefore, income generated from the activities at Himachal Pradesh by Jai Maa Jawala Stone Crusher may not arise from any schedule offence.

28. It is further alleged by opposite party that income generated (detailed hereinabove) at Himachal Pradesh by Jai Maa Jawala Stone Crusher/Gian Chand by illegal mining activities (being the schedule offence) have been used for purchase of Garhwal Stone Crusher at Uttar Pradesh and therefore Garhwal Stone Crusher itself is a proceed of crime arising out of schedule offence committed at Himachal Pradesh.

29. It is to be seen that once the schedule offence arising out of six First Information Reports at Himachal Pradesh have culminated in filing of cancellation report and four cancellation reports have been accepted by the court and before this Court no independent material by opposite party has been shown in respect of any schedule offence at Himachal Pradesh, it cannot be said that Garhwal Stone Crusher is proceed of crime arising out of schedule offence. It is admitted case of Enforcement Directorate that in respect of six First Information Reports lodged at

Himachal Pradesh, cancellation reports have been submitted by investigating agencies in the aforesaid schedule offence. Out of aforesaid six cancellation reports, four cancellation reports have been accepted by courts at Himanchal Pradesh.

30. The opposite party also alleges that in Garhwal Stone Crusher, accused Gian Chand is having 75% shares whereas applicant is having 9% share and other accused persons, namely, Sanjay Sharma and Dharmendra are having 8% share each. Garhwal Stone Crusher was purchased for consideration of Rs 4.70 crore in the year 2023-24, out of aforesaid amount, Rs.1.60 crore was paid in cash generated from sale of illegal mining minerals/sand of Jai Maa Jawala Stone Crusher. It is not in dispute between parties that Jai Maa Jawala Stone Crusher conducted mining activities at Himachal Pradesh. The opposite party in para 1(v) of complaint has stated that proceeds of crime generated from sale of illegally mined and crushed riverbed minerals were alienated by investing in new Stone Crusher in another State (Uttar Pradesh) to project the tainted fund as untainted. The opposite party on the strength of mining activity at Himachal Pradesh, in respect of which six First Information Report was lodged (which ended in submission of cancellation report) has alleged that proceeds of crime from illegal mining activity at Himanchal Pradesh in which no offence was found by investigating agency at Himanchal Pradesh then how the proceeds for purchase of Garhwal Stone Crusher can be considered as proceeds of crime. It is to be seen that it is different to state that any income is generated by tax evasion or illegal means compared to proceeds of crime arising out of schedule offence.

31. It is the prosecution case that applicant had paid a sum of Rs. 20 lakh for purchase of Garhwal Stone Crusher out of total purchase consideration of Rs 4.7 crore. The co-accused Gian Chand had paid Rs. 1.60 crore in cash towards his share in Garhwal Stone Crusher out of the proceeds of Jai Maa Jawala Stone Crusher with regard to illegal mining activities at Himachal Pradesh. The co-accused Gian Chand has already been enlarged on bail by trial court. The opposite party relies upon statement of Gian Chand to submit that Garhwal Stone Crusher was purchased out of cash receipt of Jai Maa Jawala Stone Crusher. The opposite party further alleges that applicant failed to provide documentary evidence of Rs.20 lakhs to be paid in cash in respect of purchase of Garhwal Stone Crusher. Once after investigation of schedule offence it is not found that the accused person has committed any schedule offence in Himachal Pradesh arising out of above-mentioned

six First Information Reports then the cash amount used for purchase of Garhwal Stone Crusher which has not been accounted for, cannot be presumed to be proceeds of crime arising out of schedule offence, although the same may be in violation of taxation laws.

32. The opposite party also alleges (in paragraph 5 of complaint) that Garhwal Stone Crusher have been purchased from the proceeds of crime (which has been discussed hereinabove) and further became instrumental in generating further proceeds of crime. Once it is found that Garhwal Stone Crusher is not purchased from proceeds of crime arising out of schedule offence at Himachal Pradesh (as detailed hereinabove), further generation of income by Garhwal Stone Crusher by itself may not be proceeds of crime.

33. It is further to be noted that paragraph 5 of complaint filed by opposite party discloses and identifies proceeds of crime in respect of present case. One of proceeds of crime identified in para 5 of complaint case is to the effect that during investigation, the star mines, partnership firm of Deepak Chaudhary, Bhani Karnwal and Ravinder Malik sold 143552 quintals of illegally mined minerals to Garhwal Stone Crusher. Thus, Star Mines too acquired the proceeds of crime to the tune of Rs. 21,53,280/- considering the value of illegally RBM at the rate of Rs.15 quintal. The Star Mines used the said proceeds of crime in day-to-day affairs of Star Mines, therefore, the same is not available for attachment, therefore, bank account of Star Mines was attached to the tune of Rs. 21,53,280/-.

34. The opposite party on basis of investigation in ECIR found that Garhwal Stone Crusher was involved in illegal purchase and sale of river bed material in the basin of Yamuna river bed. On the aforesaid basis First Information Report bearing No.0360 was registered on 7.11.2024 (after the registration of ECIR) by Police Station Behat, Saharanpur (U.P.) on the basis of complaint lodged by Mining Inspector, District Magistrate Office, Saharanpur, Uttar Pradesh. The said First Information Report was lodged against Gian Chand, Applicant, Sanjay Sharma, Dharmendra Singh (all partners in Garhwal Stone Crusher), Deepak Chaudhary, Kapil Vaish, Partner of Star Mines and other unknown persons. The aforesaid First Information Report was lodged on the basis of information shared by opposite party with the government of Uttar Pradesh on 11th October 2024. After lodging of above-mentioned First Information Report, the addendum to ECIR bearing No.

ECIR/HQ/01/2024 has been made by including schedule offence under Sections 413, 417, 418, 424, 471 and 120B of I.P.C.

35. The above-mentioned First Information Report dated 7.11.2024 at Uttar Pradesh, it is alleged that illegally mined crushed material to the tune of 1182 cubic meter (24822 quintals) have been found at Garhwal Stone Crusher as per joint inspection report of mining Inspector in the presence of Enforcement Directorate officials. Further records of unaccounted/illegal sale and purchase of minerals have been seized. The aforesaid records indicate that Garhwal Stone Crusher was involved in illegal purchase of river bed material and after crushing the same different products like sand, bujri, boulder, stone dust etc. was sold. It is further alleged that seized stock of crushed and mined material having value of Rs 62.14 lakhs have been sold without the permission of GST department. Further, some of illegally mined material have been purchased from Star Mines by Garhwal Stone Crusher.

36. A perusal of paragraph 5 of complaint of opposite party-Enforcement Directorate would show that it is also alleged that Garhwal Stone Crusher after being acquired became instrumental in generating further proceeds of crime. Section 2(u) of PMLA Act, 2002 defines “proceed of crime” as any property derived or obtained as a result of criminal activity relating to schedule offence. As per case of Enforcement Directorate, offence in the present case is sale and purchase of illegally mined material by Garhwal Stone Crusher. The expression “property” under Section 2(v) of PMLA Act, 2002 means assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible. The sale and purchase of illegally mined material may be an offence in itself, however, the proceeds of crime are required to be identified by identification of assets obtained or derived by the criminal activity in respect of schedule offence. In paragraph 5 and 2.3(e)(i) of complaint (under PMLA Act, 2002) no property has been identified as proceeds of crime from the sale and purchase of illegal mining material by Garhwal Stone Cursher.

37. Money laundering is the process of hiding the illegal origin of money so it looks like it came from a legitimate source. Such illegal origin of money is described as proceeds of crime under PMLA Act, 2002. The “proceeds of crime” are assets derived from criminal activity relating to schedule offence. As per prosecution, in the present case one of the illegal activity is alleged as sale and purchase of illegal mined minerals by Garhwal Stone Crusher. The assets derived from such

criminal activity have not been identified. A perusal of report dated 26.9.2024 (as page 65 of complaint) would show that storage of minerals at departmental portal was 776 ghan meter whereas on the spot inspection 1182 ghan meter was found in excess. The said report also refers to licence Id of Garhwal Stone Crusher. Therefore, it is the case of prosecution that Garhwal Stone Crusher have stored 1182 ghan meter excess of minerals at site from permissible limit of licensee (of Garhwal Stone Crusher) as per department portal. From the facts and circumstances hereinabove narrated it is the fact that Garhwal Stone Crusher was having license for sale and purchase of mines and mineral, however, the aforesaid Stone Crusher have exceeded the storage limit prescribed under the license. In these circumstances, it was all the more imperative that the assets or property, derived or obtained from the criminal activity of schedule offence is identified from those assets derived from legitimate means. In the complaint, no assets of applicant have been attached or have been shown to have been derived from schedule offence. Nor it has been described in the complaint as to the assets acquired by Garhwal Stone Crusher from illegal activity of sale and purchase of minerals.

38. A perusal of paragraph 2.3(e)(iii) of complaint of Enforcement Directorate would go to show that from residence of Gian Chand (co-accused who is already enlarged on bail) cash amount of Rs. 8,08,300/- is seized and time deposit receipts maintained by Gian Chand at HDFC Bank, State Bank and Kangra Co-operative Bank Ltd. were frozen by Enforcement Directorate, further one current account maintained by M/s Jai Maa Jwala Stone Crusher in HDFC BANK was frozen. Insofar as assets of Jai Maa Jwala Stone Crusher is concerned, the same pertains to offence at Himachal Pradesh in respect of which investigating agency in aforesaid cases have submitted cancellation report and applicant has not been found to be involved in the aforesaid offence. It is not disputed that Garhwal Stone Crusher was having the license to sale and purchase of minerals and it is the prosecution case that excess stored minerals were found at the site than permissible limits, it was therefore necessary that assets/proceeds of crime arising out of schedule offence (of Garhwal Stone Crusher) should have been identified from other assets derived from legitimate means. It has not been shown that the seized assets were part of assets derived from schedule offence in Uttar Pradesh. A person may have assets derived from unknown source of income, however, that by itself cannot be presumed that the aforesaid assets are derived from schedule offence. Even otherwise no assets of applicant have been seized by Enforcement Directorate. The investigating agency has not found any

schedule offence in respect of six First Information Reports lodged in Himanchal Pradesh. Further, in Uttar Pradesh no proceeds of crime has been identified in respect of applicant. Applicant not found in offence alleged to be committed in Himanchal Pradesh.

39. It is further to be noted that co-accused Gian Chand has already been enlarged on bail and investigation in present case (under PMLA Act, 2002) has been completed and complaint has been preferred by Enforcement Directorate before court concerned. It is further to be considered that punishment provided under Section 4 of PMLA Act, 2002 is not less than three years but may extend to seven years and shall also be liable to fine. The conclusion of trial will take time.

40. Even otherwise, applicant in present case is in jail since 18.11.2024 and till date the trial has not been completed.

41. In **Ramkripal Meena V. Directorate of Enforcement, (2024) 12 SCC 682**, Hon'ble Supreme Court has granted bail to accused on one year of custody and paragraph 5 to 7 is quoted herein below.

“5. It is, however, not in dispute that after the investigation, the petitioner at PS Balaghat, District Karauli is not found involved in the case FIR No. 298 of 2021, registered under Sections 302, 365 and 120-BIPC read with Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at PS Balaghat, District Karauli as the petitioner has not been charge-sheeted in the said case.

6. The only scheduled offence against the petitioner is the one under Section 420IPC, which is in relation to the leakage of REET question paper, and in which the petitioner has already been enlarged on regular bail by this Court.

7. Adverting to the prayer for grant of bail in the instant case, it is pointed out by learned counsel for ED that the complaint case is at the stage of framing of charges and 24 witnesses are proposed to be examined. The conclusion of proceedings, thus, will take some reasonable time. The petitioner has already been in custody for more than a year. Taking into consideration the period spent in custody and there being no likelihood of conclusion of trial within a short span, coupled with the fact that the petitioner is already on bail in the predicate offence, and keeping in view the peculiar facts and circumstances of this case, it seems to us that the rigours of Section 45 of the Act can be suitably relaxed to afford conditional liberty to the petitioner. Ordered accordingly.”

42. Further, in **Union of India Vs. K.A. Najeeb, (2021) 3 SCC 713**, Hon'ble Supreme Court has observed as under:-

“15. This Court has clarified in numerous judgments that the liberty guaranteed by Part III of the Constitution would cover within its protective ambit not only due procedure and fairness but also access to justice and a speedy trial. In Supreme Court Legal Aid Committee (Representing Undertrial Prisoners) v. Union of India [Supreme Court Legal Aid Committee

(Representing Undertrial Prisoners) v. Union of India, (1994) 6 SCC 731, para 15 : 1995 SCC (Cri) 39] , it was held that undertrials cannot indefinitely be detained pending trial. Ideally, no person ought to suffer adverse consequences of his acts unless the same is established before a neutral arbiter. However, owing to the practicalities of real life where to secure an effective trial and to ameliorate the risk to society in case a potential criminal is left at large pending trial, the courts are tasked with deciding whether an individual ought to be released pending trial or not. Once it is obvious that a timely trial would not be possible and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail.

17. It is thus clear to us that the presence of statutory restrictions like Section 43-D(5) of the UAPA per se does not oust the ability of the constitutional courts to grant bail on grounds of violation of Part III of the Constitution. Indeed, both the restrictions under a statute as well as the powers exercisable under constitutional jurisdiction can be well harmonised. Whereas at commencement of proceedings, the courts are expected to appreciate the legislative policy against grant of bail but the rigours of such provisions will melt down where there is no likelihood of trial being completed within a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence. Such an approach would safeguard against the possibility of provisions like Section 43-D(5) of the UAPA being used as the sole metric for denial of bail or for wholesale breach of constitutional right to speedy trial.”

43. In **Javed Gulam Nabi Shaikh Vs. State of Maharashtra and another, (2024) 9 SCC 813**, Hon’ble supreme court has further emphasised liberty in terms of Article 21 of constitution in respect of Bail of an accused as under:-

“17. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.”

44. In **Manish Sisodia Vs. Directorate of Enforcement, (2024) 12 SCC 660**, Hon’ble Supreme Court has observed that bail is not to be withheld as a punishment:-

“52. The Court in Javed Gulam Nabi Shaikh case [Javed Gulam Nabi Shaikh v. State of Maharashtra, (2024) 9 SCC 813 : (2025) 1 SCC (Cri) 222] further observed that, over a period of time, the trial courts and the High Courts have forgotten a very well-settled principle of law that bail is not to be withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non-grant of bail even in straightforward open-and-shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial courts and the High Courts should recognise the principle that “bail is rule and jail is exception”.”

45. In **Kalvakuntla Kavitha Vs Directorate of Enforcement, AIR 2024 SC 4247**, the Hon'ble Supreme Court has observed as under:-

“13. We had also reiterated the well-established principle that “bail is the rule and refusal is an exception”. We had further observed that the fundamental right of liberty provided under Article 21 of the Constitution is superior to the statutory restrictions.”

46. In **Prem Prakash Vs Union of India Through The Directorate of Enforcement, (2024) 9 SCC 787**, the Hon'ble Supreme Court has held that Section 45 of PMLA Act does not restrict right of accused to grant bail.

“11. In *Vijay Madanlal Choudhary v. Union of India* [*Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1*], this Court categorically held that while Section 45 PMLA restricts the right of the accused to grant of bail, it could not be said that the conditions provided under Section 45 impose absolute restraint on the grant of bail. Para 302 is extracted hereinbelow: (SCC p. 259)

“302. 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.”

47. It is settled principle of law that the object of bail is to secure the attendance of accused at the trial. No material particulars or circumstances suggestive of applicant fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like have been shown by opposite party.

48. The opposite party has not shown any material or circumstances that accused/applicant is not entitled to bail in larger interests of public or State. Although the opposite party has emphasised that in economic offence under PMLA Act, 2002, bail should not be granted. It is settled law that a blanket ban on grant of bail in economic offence is not the mandate of law and the same would depend in facts and circumstances of each case. In nature of facts and circumstances of present case (as detailed hereinabove) coupled with the fact that co-accused Gian Chand has already been enlarged on bail, it would not be just, fair and equitable to keep the applicant in jail (when the applicant is already in jail for more that 18 months) as continuing custody would amount to punishment pending trial.

49. Considering the facts and circumstances of the case, nature of offence, evidence, complicity of accused, period of incarceration, submissions of learned counsel for the parties and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

50. Let the applicant-**Sanjay Kumar @ Sanjay Dhiman** involved in Special Case No.01/2025 ECIR/HQ/01/2024 registered by Directorate of Enforcement under Sections 3 and 4 of Prevention of Money Laundering Act, 2002 pending before the court of learned Special Judge (Anti-Corruption), CBI-2, Ghaziabad, be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the following conditions:

- i. The applicant will not tamper with the evidence during the trial.
- ii. The applicant will not pressurize/intimidate the prosecution witness.
- iii. The applicant will appear before the trial court on the date fixed, unless personal presence is exempted and/or the applicant shall make himself available for interrogation by a police officer as and when required.
- iv. The applicant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.
- v. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.
- vi. The applicant shall not leave India without the previous permission of the Court concerned.
- vii. In the event, applicant changes residential address, the applicant shall inform the court concerned about new residential address in writing.

51. In case of breach of any of the above condition, the prosecution shall be at liberty to move bail cancellation application before this Court.

52. It is made clear that any observation and finding in present order is only in respect of decision of present bail application and the same would have no bearing whatsoever on the merits of case before trial court. The trial is required to proceed independently without being influenced by observation and findings in present order.

(Vikram D. Chauhan,J.)

July 1, 2026

D. Tamang