



CRL.MC NO. 10380 OF 2025

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2026:KER:69314

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

THURSDAY, THE 10TH DAY OF SEPTEMBER 2026 / 19TH BHADRA, 1948CRL.MC NO. 10380 OF 2025

CRIME NO.7/2024 OF ENFORCEMENT DIRECTORATE KOCHI, Ernakulam

AGAINST THE ORDER DATED 03.11.2025 IN CrI.M.Appl 159/2025 IN SC
CASES (PMLA) NO.4 OF 2024 OF SPECIAL C SPE/CBI- II & 4 ADDITIONAL
DISTRICT COURT/RENT CONTROL APPELLATE AUTHORITY, ERNAKULAM

PETITIONER/COMPLAINANT :

DIRECTORATE OF ENFORCEMENT,
THROUGH THE ASSISTANT DIRECTOR, COCHIN ZONAL OFFICE, A & P
ARCADE, S.A. ROAD, NEAR THE HPCL DEPOT, KADAVANTHRA,
ERNAKULAM, PIN - 682036

BY ADV SHRI.M.J.SANTHOSH, ADDITIONAL STANDING COUNSEL,
ENFORCEMENT DIRECTORATE

RESPONDENT/1ST ACCUSED :

KOLATT DASAN PRATHAPAN,
AGED 44 YEARS
S/O DASAN, KOLATT HOUSE, KARUVAN VALAVU, ERAVU
P.O., THRISSUR,, PIN - 680620

BY ADVS.
SHRI.T.K.RAJESHKUMAR
SHRI.MANOJ V GEORGE
SHRI.JIJO JOSE
SMT.T.N.BINDU
SHRI.NANDAN SURESH

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
10.09.2026, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:



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C.S.DIAS, J.**CRL.MC NO. 10380 OF 2025****Dated this the 10th day of September , 2026****ORDER**

The respondent is the accused in S.C cases (PMLA)No.4/2024 on the file of the Special Court for PMLA cases, Ernakulam, ('Special Court', in short), which has arisen from Crime No.ECIR/KC20/07/2024 registered by the Enforcement Directorate, Kochi, alleging the commission of the offences under Section 3 punishable under Section 4 of the Prevention of Money Laundering Act, 2002, ('the Act', in short).

2. It is the petitioner's case that, the Special Court has enlarged the respondent on bail, as per the impugned Annexure A1 order, without considering the rigour contemplated under Section



45 of the Act. Instead, the Special Court has enlarged the respondent on the sole ground that the respondent has been in judicial custody for the last 15 months. The petitioner is an accused in 15 crimes registered by the various Police Stations for allegedly committing the offences under the Indian Penal Code and the Prize Chits and Money Circulation (Banning) Act. The petitioner has been convicted in three cases. The Hon'ble Supreme Court has in a string of decisions held that an accused who has committed the offence under the Act shall be enlarged on bail only on diluting the rigour under Section 45 of the Act. It is without considering the above question that the Special Court has enlarged the respondent on bail. The impugned order is ex-facie erroneous, irrational and improper. Hence, the impugned order may be set aside.

3. The respondent has filed a counter affidavit, inter alia, refuting the allegations in this petition.



The respondent has contended that the Special Court has enlarged him on bail by exercising its discretion, that too, due to the change of circumstances. The respondent has been scrupulously complying with all the conditions that have been imposed in the bail order. There is no error or illegality in the impugned order warranting interference by this Court. Hence, this petition may be dismissed.

4. I have heard the learned counsel for the petitioner and the learned counsel for the respondent.

5. The learned counsel for the petitioner relied on the decisions of the Hon'ble Supreme Court in ***Union of Indian Through the Assistant Director v. Kanhaiya Prasad*** [2025 KHC OnLine 6145], ***Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari v. State of Uttar Pradesh*** [2024 (2)



KLD 271], ***Senthil Balaji V v. Deputy Director, Directorate of Enforcement*** [2024 (2) KLD 661], in support of this contentions.

6. The crux of the prosecution allegation is that, the accused persons had offered high return on investments and received Rs. 25,00,000/- from the defacto complainants. But, the accused refused to pay any return or repay the investment, and thus, cheated the defacto complainants.

7. In the above context, it is apposite to refer to Section 45 of the Act, which reads thus;

“ Section 45

Offences to be cognizable and non-bailable

(1)¹[Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)*, no person accused of an offence 4[under this Act] shall be released on bail or on his own bond unless--]

(i) the Public Prosecutor has been given an 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:

Provided that a person who is under the age of



sixteen years or is a woman or is sick or infirm, 5[or is accused either on his own or along with other co-accused of money- laundering a sum of less than one crore rupees] may be released on bail, if the special court so directs:

Provided further that the Special Court shall not take cognizance of any offence

punishable under section 4 except upon a complaint in writing made by--

(i) the Director; or

(ii) any officer of the Central Government or State Government authorised in writing in this behalf by the Central Government by a general or a special order made in this behalf by that Government.

²[(1A) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)*, or any other provision of this Act, no police officer shall investigate into an offence under this Act unless specifically authorised, by the Central Government by a general or special order, and, subject to such conditions as may be prescribed.]

(2) The limitation on granting of bail specified in 3[x x x x] sub-section (1) is in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974)* or any other law for the time being in force on granting of bail.

⁶[Explanation.-- For the removal of doubts, it is clarified that the expression "Offences to be cognizable and non-bailable" shall mean and shall be deemed to have always meant that all offences under this Act shall be cognizable offences and non-bailable offences notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973 (2 of 1974)*, and accordingly the officers authorised under this Act are empowered to arrest an accused without warrant, subject to the fulfilment of conditions under Section 19 and subject to the conditions enshrined under this section.]”

8. A reading of the above provision clearly reveals that an accused, who is alleged to have committed the offences under the Act, can be



enlarged on bail, subject to the condition that the prosecutor must be given an opportunity to oppose the application and the Court must be satisfied that there are reasonable grounds to believe that the accused person is not guilty of committing the offence and he is not likely to commit any offence while he is on bail. Likewise, Section 65 of the Act make its abundantly clear that the provisions of the CrPC shall apply in so far as they are not inconsistent with the provisions of the Act. Similarly, Section 71 of the Act provides that the provisions of the said Act shall have over-riding effect, notwithstanding anything inconsistent with any law for the time being in force. As the Act being a special enactment, it is mandatory that the twin conditions enumerated under Section 45 of the Act are be complied with while considering the application for the bail (read the decisions in



Kanhaiya Prasad's case (supra), ***Sheikh Javed Iqbal'@ Ashfaq Ansari's*** case (supra) and ***Senthil Balaji's*** case (supra)).

9. On a careful reading of the impugned order, the Special Court in paragraph No.62 of the said order exercised its discretion to enlarge the respondent on bail on the sole ground that he has been in judicial custody for the last more than 15 months and that his continued detention is unnecessary especially because there is no likelihood of the trial in the case commencing in the near future.

10. There is not a whisper in the order regarding any finding rendered on the satisfaction of the twin conditions envisaged under Section 45 of the Act. Furthermore, it is not disputed that the respondent is a person with antecedents, which is a ground to assume that there is a likelihood of



him committing an offence, if he enlarged on bail. Nonetheless, as I am remitting the matter back to the Special Court for reconsideration, I do not want to delve on the said question any further.

11. On a consideration of the facts and the materials on record, the law referred to the afore-cited decisions and the fact that the Special Court has not considered the rigour under Section 45 of the Act, I am satisfied that the impugned order is erroneous, improper and irregular, warranting interference by this Court under Section 528 of the Bharatiya Nagarik Surksha Sanhita.

In the aforesaid circumstances, I allow this petition, by setting aside the impugned order passed by the Special Court and directing the Special Court to reconsider the application filed by the respondent, in accordance with law and as expeditiously as possible, at any rate, within 60



days from the date of production of a copy of this order, after affording both sides an opportunity of being heard and untrammelled by any observations made in this order. Until such time orders are passed on the application, the respondent shall continue to be on bail as per the same conditions imposed in the impugned order.

Sd/-

C.S.DIAS, JUDGE

SCB/10.09.26.



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APPENDIX OF CRL.MC NO. 10380 OF 2025**PETITIONER ANNEXURES**

- Annexure A1** THE CERTIFIED COPY OF ORDER DATED 03.11.2025 IN CRL.M.P. NO.159/2025 IN SC (PMLA) NO. 04/2024 ON THE FILE OF HON'BLE SPECIAL COURT FOR PMLA CASES/CBI-II, ERNAKULAM
- Annexure A2** THE CERTIFIED COPY OF ORDER DATED 24.01.2025 IN CRL.M.P. NO.02/2025 IN SC (PMLA) NO. 04/2024 ON THE FILE OF HON'BLE SPECIAL COURT FOR PMLA CASES/CBI-II, ERNAKULAM
- Annexure A3** THE CERTIFIED COPY OF COUNTER AFFIDAVIT FILED BY THE PETITIONER IN CRL.M.P. NO.159/2025 IN SC (PMLA) NO. 04/2024 ON THE FILE OF HON'BLE SPECIAL COURT FOR PMLA CASES/CBI-II, ERNAKULAM
- Annexure A4** TRUE COPY OF ORDER DATED 04.06.2025 IN BAIL APPLICATION NO. 5891/2025 OF HON'BLE COURT