



**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR**

S.B. Criminal Miscellaneous Bail Application No. 12723/2023

Ram Kripal Meena

----Petitioner

Versus

Director Of Enforcement, (Through Assistant Director Mr Vikas)  
Enforcement Directorate, Govt. Of India.

----Respondent

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For Petitioner(s) : Mr. S.S. Hora with  
Mr. Sahajveer Baweja  
For Respondent(s) : Mr. R.D. Rastogi, ASG with  
Mr. Akshay Bhardwaj  
Mr. Devesh Yadav  
Mr. Ayush Agarwal

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**HON'BLE MR. JUSTICE PRAVEER BHATNAGAR**

**Order**

**16/02/2024**

1. This criminal misc. bail application is preferred under Section 439 of Cr.P.C. against the impugned order dated 16.09.2023 passed by learned Sessions Judge (Prevention of Money Laundering Act, 2002) and Special Judge CBI Cases No.3, Jaipur Metropolitan-I in Criminal Regular Bail Application No.83/2023 (CIS No.241/2023) by which the bail application of the accused petitioner- Ram Kripal Meena was dismissed.

2. Learned counsel for the petitioner submits that prima facie no criminal case is made out under Section 3/4 of the Prevention of Money Laundering Act, 2002 against the petitioner. He further submits that two FIRs bearing Nos.402/2021 and 298/2021 were registered by Rajasthan Police. First FIR bearing No.402/2021 was



registered on 27.09.2021 under Sections 420 & 120-B of IPC and under Sections 4 & 6 of Rajasthan Public Examination (Prevention of Unfair Means) Act, 1992 and second FIR bearing No.298/2021 was registered on 28.09.2021 at Police Station Balghat, District Karauli, Rajasthan under Sections 302, 365 and 120-B of IPC and Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. He further submits that as per FIR No.402/2021, the main allegation is against Udaram Bishnoi, who purchased the papers of Rajasthan Eligibility Examination for Teachers, 2021 (hereinafter to be referred as 'REET, 2021') for Rs.1.20 Crores and distributed it further. The Rajasthan Police filed three charge sheets 222, 222A and 222B. He also submits that the Enforcement Department can initiate the proceeding only for the offences prescribed in Part-A and Part-B of the Schedule. He also submits that the offences pertaining to Rajasthan Public Examination (Prevention of Unfair Means) Act, 1992 does not fall in the 'scheduled offence' specified under Part-A and Part-B of the Schedule. He further submits that the offence under Section 3 of Prevention of Money Laundering Act 2002 is an independent offence and the investigation so far conducted does not indicate that accused petitioner procured the amount in predicate offence and used or concealed it. He also submits that the main allegation of purchasing the stolen paper was against the accused Udaram Bishnoi and prima facie no case under Section 420 of IPC is made out against the present petitioner. The ingredients of Section 420 of IPC are entirely missing in the charge-sheet filed against the petitioner under Sections 420 and 120-B of the IPC and under Sections 4 & 6 of Rajasthan Public Examination (Prevention of



Unfair Means) Act, 1992. There is no evidence that the accused petitioner fraudulently or dishonestly induced any person or persons with an intention to cause damage or harm and obtained money from them, therefore, in the absence of evidence regarding any inducement to any person, the offence under Section 420 of IPC is not made out. Hence, the proceedings under Section 3/4 of Prevention of Money Laundering Act 2002 (hereinafter to be referred as 'PMLA') are perse illegal. He further submits that in absence of main offence of Section 420 of IPC the offence under Section 120-B is also not made out. Therefore, prosecuting the accused under Section 3/4 of PMLA is illegal. He further submits that SOG of Rajasthan has recovered the money from Sh. Ram Kripal Meena from Kahnaiya Lal Sharma, Bhanwar Singh Shekhawat, Bhagwan Shay Bairwa and Shankar Lal in tune to Rs.36,00,000/-. He further submits that Sanjay Mama, Sansuia Nagar, Varun Tiwari and Ramavtar Meena do not corroborate the prosecution story. Varun Tiwar and Sanjay Mama filed a revision petition before the learned District & Sessions Judge, Gangapur against the order dated 20.04.2023 whereby the application of Sanjay Mama for handing over of Rs.40,00,000/- was dismissed. Similarly, Varun Tiwari has also preferred revision petition against the order dated 10.02.2023 passed by ACJM, Gangapur, whereby the application for returning the amount of Rs.10,00,000/- and Rs.15,00,000/- on *supurdaginama* was dismissed. The application filed by the Varun Tiwari and Sanjay Mama shows that recovery of amount of Rs.65,00,000/- was wrongfully shown, therefore, that amount cannot be taken into consideration as proceeds of crime. Similarly, statements of Sansuia & Ramavtar were also not



recorded, therefore, the alleged recovery from them also does not fall within the ambit of proceeds of crime.

3. He also argues that as per the proviso appended under Section 45(1) of the PMLA, the accused is entitled to be released on bail as the amount recovered alleged to be proceeds of crime, is less than one crore rupees.

4. Learned counsel for the petitioner places reliance on following judgments:

- (i) Pavana Dibbur Vs. Directorate of Enforcement reported in 2023SCC OnLine SC 1748.
- (ii) M. Sivasankar Vs. Vinion of India reported in 2021 SCC OnLine Ker 395
- (iii) Pasumarthi Venkata Satyanarayana Sarma Vs. Assistant Director, Enforcement Directorate reported in 2021 SCC OnLine Guj 2401
- (iv) Mohammed Ibrahim & Ors. Vs. State of Bihar & Ars. reported in 2009 (8) SCC 751
- (v) Mariam Fasihuddin and Another Vs. State by Adugodi Police Station and Another. Reported in 2024 SCC OnLine SC 58

5. On the other hand, learned ASG vehemently opposes the bail application and submits that two FIR bearing Nos.402/2021 and 298/2021 were registered by Rajasthan Police relating to REET, 2021 paper leak case. In both the FIRs and complaints, it is alleged that REET, 2021 examination paper were leaked by an organized group receiving kickbacks and, the fiasco also lead to the murder of one Sh. Kailash Meena (driver). From the perusal of FIR and complaint it reveals that Dr. Pradeep Parashar, District



Coordinator of the District Level Committee to conduct REET, 2021 engaged Shri Ram Kripal Meena as his personal assistant and gave unauthorized access to the strong room of Siksha Sankul, Jaipur, wherein the question papers of REET, 2021 were stored. The petitioner Ram Kripal Meena in the night of 24.09.2021 stole the reserve bundle of question papers from Siksha Sankul, Jaipur and handed over to Sh. Udaram Bishnoi and obtained Rs. 1.20 Crores from him. The accused petitioner circulated the question papers for substantial amount of money and provided it to Udaram Bishnoi and others for an amount of Rs.5 Crores. After perusing the contents of the FIR, ECIR of the case was recorded and investigation was duly initiated against Ram Kripal Meena, who was traced and subsequently arrested and SOG, Rajasthan Police had recovered the proceeds of crime amounting to Rs.1.06 Crores laundered by present petitioner Ram Kripal Meena from Kanhiya Lal Sharma, Varun Tiwari, Sanjay Mama, Sunsuia Nagar, Bhanwar Singh Shekhawat, Bhagwan Sahai Bairwa, Shankar Lal and Ramavtar Meena.

6. Learned counsel for the petitioner further submits that all the persons did not produce any documents evidencing the initial payment of loan by accused petitioner. The accused himself has admitted that he had access to the strong room of Siksha Sankul, Jaipur, where the question papers of REET, 2021 were stored. The accused took advantage of the same, while illegally engaged in the unloading of the question papers at Siksha Sankul, Jaipur on the night of 24.09.2023. The accused has used and utilized the proceeds of crime in his hand by parking the same with eight persons and tried to colour the same in the name of loan



repayment to these eight individuals. The criminal activity of the present petitioner falls within the ambit of Sections 420 & 120-B of IPC and it has been clearly mentioned in the charge-sheet filed by the SOG, Rajasthan Police. The accused petitioner has also tried to influence the persons to give statements in his favour. The accused petitioner received money from Rajuram Iram and Udaram Bishnoi amounting to Rs.1.06 Crores as proceeds of crime and later on the same amount was recovered from eight persons, therefore, the money which was recovered from the hands of eight people had reportedly been paid to them by the accused petitioner as proceeds of crime. The investigation is still pending under Section 173 of Cr.P.C. as against the other co-accused. Thus, looking to the gravity of the offence, the bail application of the present petitioner may be dismissed.

7. It is settled law that to establish offence under the PMLA the Enforcement Directorate must demonstrate that procurement of the property as the "proceeds of crime" are derived from criminal activity from the predicate offences prescribed under Part-A and Part-B of the scheduled offence. It is also an established preposition that though the offence of money laundering is separate standalone offence, the proceeds of crime ought to have preceded the commission of predicate offences and thereafter laundered over. Section 45 of the PMLA, which deals with the conditions for bail pending trial provides that the Court may grant bail to an accused if Court is satisfied that (i) There are reasonable grounds for believing that the accused is not guilty of such offence and (ii) That the accused is not likely to commit any offence while on bail.



8. From the above provision, it is apparent that to enlarge the accused on bail under the PMLA, the Court has to see the grounds for believing that accused is not guilty of such offence.

9. It is pertinent to mention that under Section 24 of PMLA, reverse burden is imposed upon the accused to disprove the allegations.

10. A perusal of Section 45 coupled with Section 24 of PMLA makes it manifest that these conditions reverse the burden on the accused to demonstrate that he is not guilty.

11. In the instant case, the accused-petitioner was charge sheeted under Sections 420 & 120-B of I.P.C. along with Sections 4 and 6 of Rajasthan Public Examination (Prevention of Unfair Means) Act, 1992.

12. Admittedly, Rajasthan Public Examination (Prevention of Unfair Means) Act, 1992 is not scheduled offence as prescribed under Section 2 (Y) of the PMLA but the offences under Sections 420 and 120-B of I.P.C. fall within the ambit of the scheduled offence as specified under Part-A of the schedule.

13. In the present case, accused-petitioner in connivance with the Pradeep Kumar without any authority got the access to the strong room, where the papers for REET, 2021 were stored and after getting the access stole the REET, 2021 papers and sold to Udaram Bishnoi and Rajuram Iram in Rs.1.20 Crores. The investigation conducted by the S.O.G., Rajasthan Police also demonstrates that on the information of accused-petitioner Ram Kripal Meena following amount was recovered from eight persons:-



S.No.	Name	Amount (In Lakhs)
1.	Kahnaiya Lal Sharma	8
2.	Varun Tiwari S/o Krishan Tiwari	25
3.	Sanjay Mama S/o Late. Mahesh Narayan	40
4.	Sansuiya Nagar D/o Giraj Nagar	3
5.	Bhawar Singh Shekhawat S/o Vikram Singh Shekhawat	15
6.	Bhagwan Shay Bairwa S/o Munna Lal Bairwa	10
7.	Shankar Lal S/o Sita Ram	3
8.	Ramavtar Meena S/o Ramji Lal Meena	2
Total		106

14. Thus, there is ample evidence available against the accused implying that he obtained an amount of Rs.1.06 Crores by selling the REET, 2021 papers. The recovery of aforesaid amount from above eight persons further shows that the accused siphoned the proceeds of the crime to various persons. The recovery of Rs.1.06 Crores from the above persons exemplifies the use/concealment of the proceeds of crime by the present petitioner.

15. Whether, the predicate offence under Sections 420 and 120-B of I.P.C. is made out or not and whether the amount recovered from various persons is their legitimate amount or not, are the questions to be ascertained by the trial court, this Court cannot proceed into the intricacies of the case with regard to above issues, at the stage of bail. This Court has only to see whether there is prima facie evidence available against the accused-petitioner that he has committed the offence under Section 3 of Money Laundering Act.





16. The aforesaid facts are enough to infer that accused-petitioner was involved in stealing the paper of REET, 2021 and thereafter, selling it to the Udaram Bishnoi and Rajuram Iram.

17. At this stage, this cannot be said that accused-petitioner is not guilty of such offence. Similarly, whether the amount recovered from aforesaid eight persons is their legitimate amount or not, are the questions to ascertain by the trial court. Merely filing of the application by Sanjay Mama and Varun Tiwari for claiming the amount cannot be a ground to disbelieve the recovery of Rs.1.06 Crores.

18. As far as applicability of proviso appended to Section 45 (1) of the PMLA is concerned, the above facts clearly show that the amount recovered from the above persons as proceeds of crime is more than Rs.1 Crore, therefore, the case of the present petitioner does not fall within the ambit of proviso appended to Section 45 (1) of PMLA.

19. The reliance placed by the learned counsel for the petitioner on the above cited judgments is also misplaced as the facts of these cases were entirely different from the instant case.

20. In the matter of Pavana Dibbur (supra), it was held that the authority under the Prevention of Money Laundering Act, 2002 cannot resolve to action against any person for money laundering on an assumption that the property recovered by them must be proceeds of crime and that a scheduled offence has been committed, unless the same is registered within the jurisdictional police or pending inquiry by way of complaint before the competent firm.



21. In the matter of M. Sivasankar (supra), accused-petitioner was enlarged on bail under proviso appended to Section 45 (1) of PMLA as the laundering amount was below Rs.1 Crore.

22. In the matter of Pasumarthi Venkata Satyanarayana Sarma (supra), the Hon'ble Gujarat High Court enlarged the petitioner on the grounds of proviso appended to Section 45 (1) of PMLA.

23. In the matter of Mohammed Ibrahim & Ors. (supra), the Hon'ble Apex Court held that offences under Sections 420, 467, 471 and 504 of the Code are not made out and set aside the order of the High Court.

24. In the matter of Mariam Fasihuddin and Another (supra), Hon'ble Supreme Court while deciding the appeal against framing of charge under Sections 420, 467, 471 read with Section 34 of I.P.C. held that the offence under Section 420, 468 & 471 read with Section 34 is not made out and therefore, allowed the appeal of the appellant.

25. In the instant case, all the above judgments cited by learned counsel for the petitioner are not attracted as the facts of the instant case are entirely different. Therefore, I am not inclined to enlarge the petitioner on bail.

26. Accordingly, the instant bail application under Section 439 Cr.P.C. is dismissed.

(PRAVEER BHATNAGAR),J

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