

IN THE COURT OF SESSIONS AT CHENNAI  
Present: **Tmt.S.Alli, M.L.,**  
**Principal Sessions Judge.**  
**Wednesday, the 20<sup>th</sup> day of September, 2023.**

**Crl.M.P.No.22608 / 2023**

in

**C.C.No.9 / 2023**

in

**ECIR No.MDSZO/21/2021**

V.Senthil Balaji, S/o.Velusamy

.. Petitioner / Accused

- vs -

The Deputy Director,  
Directorate of Enforcement,  
Ministry of Finance,  
Chennai Zonal Office-II,  
B-Wing, Shastri Bhavan,  
Haddows Road,  
Chennai-600006.

.. Respondent / Complainant

This petition coming on 15.9.203 before this court for hearing in the presence of Mr.Kapil Sibal and Mr.N.R.Ilango, Senior Counsels for M/s.N.Bharanikaumr and Mohan Ranganathan, Counsel for the petitioner and of Mr.ARL Sundaresan, Additional Solicitor General and Mr.N.Ramesh, Special Public Prosecutor for respondent and upon hearing them and upon perusing the records, this court delivered the following:

**ORDER**

1. The petitioner, who was arrested on 14.6.2023 for the offence punishable u/s 3 punishable u/s 4 of the PMLA in C.C.No.9/2023 in ECIR No.MDSZO/21/2021 on the file of the respondent, seeks bail.

2. The brief averments in the petition filed by the petitioner are as follows :

The petitioner is the Minister without Portfolio on Government of Tamil Nadu. He has been the Member of Legislative Assembly from the year 2006 and serving the people of Tamil

Nadu for more than 30 years. He had also held various positions in the local body organization. False case was registered against him and the same is pending in C.C.No.19/2020, 24 and 25/2021 on the file of Additional Special Court for trial cases of MP/MLA. On the Final Reports, offences alleged are Sections 406, 409, 420, 506(i) r/w 34 of IPC, Sections 13(2), 13(1)(d) of the Prevention of Corruption Act and the same was alleged to have been committed as early as in the year 2014, when he was the Minister for Transport, Government of Tamil Nadu. It is alleged that some of the employees of the petitioner had received money for appointments in Transport Corporation. There was no direct allegation against the petitioner and none of the witnesses had implicated the petitioner herein in those cases. In this backdrop, the respondent herein has registered the present ECIR taking the allegation in C.C.No.19/2021, C.C.No.24/2021, C.C.No.25/2021 on the file of Additional Special Court for Trial Cases of MP/MLA as predicate offence and prosecution complaint was lodged u/s 44(1)(b) and 45(1) r/w Sec.3 and 4 of PMLA on 12.8.2023. On 13.6.2023, the respondent police detained the petitioner and his official residence was searched and his office at Secretariat was also searched and he was arrested at 1.39 a.m. on 14.6.2023 and remanded to judicial custody on 14.6.2023. The petitioner was suffering from serious illness. As per the order passed in H.C.P.No.1021/2023, the Hon'ble High Court, Madras has permitted the petitioner to undergo surgery at Cauvery Hospital. This court has dismissed the earlier bail petition taking into account of the nascent stage of investigation and allowed the custody petition. The respondent has challenged the order passed by the Hon'ble High Court permitting the petitioner to get treated in the Cauvery Hospital in SLP (Crl.) No.7437 of 2023 before the Hon'ble Apex Court and the Hon'ble Apex Court on 21.6.2023, declined to interfere with the HCP, letting the Hon'ble High Court to deliver its final verdict. On 4.7.2023, the Division Bench of the Hon'ble High Court of Madras delivered a split verdict and the matter was place before the Hon'ble Third Judge concur with the view taken by the Hon'ble Mr.Justice D.Bharatha Chakravarthy dismissing the HCP and remanded the matter back to the Division Bench for passing of the final verdict. The said verdict of the Hon'ble Single Judge was challenged by

both the parties before the Hon'ble Supreme Court of India. On 7.8.2023, the Hon'ble Apex Court dismissed the appeals / SLPs filed by the petitioner, granting custody of the petitioner to the respondent till 12.8.2023. Based on the order, this court granted custody of the petitioner to the respondent till 12.8.2023.

3. The petitioner is in custody for the past 72 days that includes 6 days of police custody. During custody, he underwent a major by-pass surgery on 21.6.2023 at Cauvery Hospital, Chennai and still under medication. Despite the medications that are being taken under the care of Puzhal Prison Hospital, his recovery is very slow and still suffering from chest discomfort, pain and discomfort on the left leg (surgical side). He was advised by the doctors not to sit or stand for a long time. A numbness is occurring in the legs of the petitioner often, which requires further treatment. The heart illness is well withing the knowledge of the respondent as he was admitted at Government Hospital by the respondent only and the opinion regarding health of the petitioner given by the said hospital was verified by the respondent through the doctors of ESI on 14.6.2023. The petitioner was visited by the respondent at Cauvery Hospital and medical opinion was obtained by them. The allegations or facts relating to predicate offence will not be relevant while deciding the bail application of the petitioner. Mere existence of proceeds of crime is also not sufficient. While the existence of proceeds of crime is a sine qua none for the commission of an offence under the PMLA, it is only where the proceeds of crime are laundered that the PMLA operates. In terms of Section 45 there are no reasonable grounds for believing that the accused is guilty of any offence under PMLA. The petitioner was a sitting Minister in Tamil Nadu and a man public repute and goodwill, at present, he is a Minister without portfolio. Thus, he is not likely to commit any offence under PMLA while being enlarged on bail.

4. The allegation is that there were irregularities in the recruitment process done by MTC officials in collusion with petitioner and his alleged Personal Assistants Shri.Shanmugam and Shri.Karthikeyan in the alleged 'Cash for Jobs-Scam', namely, (a) Interview marks in pencil, (b), Following principle of merits and reservation, (c) Issue of appointment letters by

unauthorised officers, (d) Increase of vacancy position without approval, (e) Involvement of PAs of minister in recruitment, (f) Payment of money for jobs through associates to PAs of minister. It is alleged that there have been huge cash deposits amounting to Rs.1.34 crores in the bank account of the petitioner and Rs.29.55 lakhs in the bank account of the petitioner's spouse Mrs.Megala and statements recorded under Sec.50 from few suspects such as candidates, mediators etc. reveals the alleged involvement of MTC officials in the job racket scheme and the statements reveals that many rules / regulations have been violated during the recruitment process and money has been given to B.Shanmugam alleged PA of the petitioner. The above allegations against the petitioner are per se bogus, incorrect and belied by material on record. The petitioner has no role in the recruitment process and the respondent does not produce any incriminating material or evidence to prove the direct involvement or participation of the petitioner in the said recruitment. The main document relied by the respondent for creating the nexus between Karthik, Shanmugam and the petitioner is through the letterhead of the Minister where request were addressed to General Manager, Southern Railways seeking emergency quota, these letterheads does not have any evidentiary value since none of the letterhead contains signature of either the petitioner or the officially appointed PAs of the petitioner. The cash deposits were made out of the legitimate income and the source for such deposits had been clearly intimated / disclosed to the statutory authorities, namely, Income-tax Department, Election Commission at relevant point of time. The allegation made pertaining to the transfer of Rs.25,00,000/- from the bank account of the petitioner to Shri.N.Rajasenthooor Pandian had been done in a legitimate manner, the petitioner and his spouse had an opening cash balance of Rs.8984814+736856 in that particular year and the petitioner and his spouse had also withdrawn a sum of Rs.600000+925000 from bank, that apart the petitioner is also having agricultural income amounting more than Rs.400000/- therefore the deposits were made out of the above said money and the allegation of the respondent is inadmissible in the eyes of law. The allegation of cash deposit pertaining to car loan is fully denied. The petitioner and his spouse had cash balance for the relevant years.

5. The statements recorded under Sec.50 of PMLA from various persons does not reveal any involvement directly. The predicate offence authorities had conducted a search on 6.2.2022 and certain electronic devices were seized in the residents of the petitioner. Further, the petitioner had not maintained any such files in the said electronic device, further the imaging process had not been done as stipulated under law, which is in utter violation of Information Technology Act and Evidence Act. Further, the imaging process had been done at the back of the petitioner and there is no iota of evidence to prove that the data and the evidence seized pertains to the petitioner, therefore, the said electronic evidence is inadmissible under the eyes of law. It is not known when the seized pen drives were deposited in the court and when they were forwarded for scientific analysis. When the so called documents were retrieved from the pen drives and in whose presence are not spelt out in the complaint. These printouts cannot be termed as documents and they are not admissible under the provisions of the Indian Evidence Act. The petitioner had never denied to answer the questions in the statement recorded u/s 50 of PMLA. The petitioner has extended fullest co-operation and has replied to the questions to the best of his knowledge and information. The predicate offence had not attained the finality and it is still under the trial stage. The petitioner has every chance to prove his innocence in the predicate offence. No where in the prosecution complaint it was established how the proceeds of crime had been passed on in the hands of the petitioner and the alleged proceeds of crime identified that it has been deposited in the accounts of the petitioner which is factually incorrect as it is evident from the Income-Tax returns filed, Bank Statements and the declaration made before the Election Commission. The petitioner requires all medical facilities, which cannot be fulfilled by the Prison Hospital. Since he has undergone a major heart surgery, he is sick. The petitioner is no way connected either directly or indirectly in any of the transactions as mentioned by the respondent. Karthikeyan and Shanmugam are not the Personal Assistants of the petitioner. The petitioner had disclosed the details of his Personal Assistant with documentary evidence and any act done by the said persons will not have any binding effect on the petitioner and the respondent had failed to prove any nexus between the

said persons and the petitioner. The petitioner is not the sole appointing authority for transport corporation, when there is duly constituted selection committee. The predicate offence is an invented theory of the political opponents of the petitioner to retaliate the success of the petitioner in the political arena. The complaint filed by the respondent prima facie do not support its case for any offence under PMLA. Further, the antecedents of the petitioner when considered with his standing in the society give sufficient assurance that accused is not likely to commit any offence under the PMLA while on bail.

6. In this case, already final report has been filed and the respondent also interrogated the petitioner during their Departmental Custody. The petitioner being the sitting Minister, there is no question of absconding. During the post surgery period, he co-operated for the enquiry without taking any medical rest. Already, final report was filed, there is no question of tampering the evidence. Neither the petitioner made any attempt to suborn witnesses, tamper with documentary evidences or in any other manner, pollute or abstract the judicial process. In this case, the maximum punishment is seven years imprisonment and as per the judgment of the Hon'ble Supreme Court of India in Arnesh Kumar, in criminal cases that are punishable with imprisonment of nor more than seven years, person should not be arrested and should not remain them to custody unless the conditions specified therein are met. For the proper and effective defence of the accused person and as a step to ensure their fair trail that they be on bail. The petitioner was elected as MLA from Karur Constituency. Denial of bail will not only cause irreparable loss to the petitioner and his family and also to the voters of the Karur. The respondent has not placed any record to establish that either the petitioner or his family members or associates ever tried to contact any of the witness not to disclose any information or either threatened or coerced the witnesses. The present action of the respondent is politically motivated and used to defame and demoralize the petitioner. Admittedly, the alleged offence is said to have taken place before 9 years and from the available materials it is clear that he is not guilty of any offence and that he is also not likely to commit such offence. The petitioner is entitled for regular bail under section 439 of Cr.P.c. on the ground of his health condition, stage

of investigation and period of custody undergone. He is ready and willing to furnish substantial sureties for his appearance before any court of law in the event of grant of bail. Hence, the petitioner may be granted bail.

7. The brief averments in the counter filed by the respondent are as follows :

Between 2011 and 2016, the accused herein held the position of Transport Minister in the Government of Tamil Nadu. Throughout his tenure, he was aided by two Personal Assistants, namely, Mr. Shanmugam and Mr. Karthikeyan. While serving as minister, in connivance with his Personal Assistants, Shri. Shanmugam and Shri. Karthikeyan along with his brother Shri. Ashok Kumar, the accused orchestrated the collection of funds. These funds were gathered through the aforementioned trio, promising job opportunities across various roles within the Transport Department. This illicit operation, namely the "Cash for Jobs" scandal, has given rise to complaints from candidates who had paid money, but failed to secure the promised employment. All the three final reports filed by the Central Crime Branch, Chennai in CC.No.24 of 2021, CC 19 of 2020 and CC 25 of 2021 are pending for trial before the Trial of Cases related to MP/MLA, where the accused is arraigned as A1. Hence, the contention of the petitioner that there was no direct allegation against the petitioner is per se false and bereft of merits. This court has taken cognizance of PMLA case by an order dated 14.6.2023 as there is prima facie sufficient incriminating evidence about the involvement of the accused. Even without otherwise, without prejudice to the above contention, the offence of money laundering is clearly made out. The respondent have the custody from 7.8.2023 till 12.8.2023 and attempted to record the statements u/s 50 of PMLA from the accused herein. However, the accused was completely non-cooperative and evasive during the course of investigation. The mere perusal of the statements of the accused reveal that he was non-cooperative. Where there is no change in circumstances except that the prosecution complaint has been filed by the respondent and taken cognizance of by this court, the petitioner is not entitled to bail. As a matter of fact, the subsequent events only go against the petitioner as all the contentions taken by him and his spouse in the earlier bail petition and HCP have been considered in detail and

rejected. The prosecution has established the involvement of the petitioner in the recruitment process for various posts and investigation unveiled series of irregularities done by MTC officials, working in collusion with the petitioner and his personal assistants, namely, (a) Interview marks in pencil, (b), Principle of merits and reservation was not followed, (c) Issuance of appointment letters by unauthorised officers, (d) Increase of vacancy position without approval, (e) Involvement of PAs of minister in recruitment, (f) Payment of money for jobs through associates to PAs of minister. In the statements of various officials of the MTC, they have clearly stated that B. Shanmugam and M. Karthikeyan were working as Personal Assistants to then Transport Minister V. Senthil Balaji. They also stated that these PAs used to give directions to the Department on behalf of and on the instructions of V. Senthil Balaji. Statements of few candidates, who paid money, but did not get job, have also been recorded and they clearly stated that the money has been given to B. Shanmugam, P.A. to Senthil Balaji, either directly or through some mediators. In the statements of few suspects, mediators between candidates and Sh. Senthil Balaji, they have stated that money has been collected from many job aspirants and deposited with B. Shanmugam, PA of Senthil Balaji, for the illegal benefit of getting the job at Transport Department.

8. The TNFsL Forensic report labelled CF27 of 2021 dated 31.3.2023, obtained by the complainant from the MP/MLA court, has established the incriminating relationship between V. Senthil Balaji and his PAs beyond any doubt. The digital devices seized from the residential premises of V. Senthil Balaji, contain the files created in the name of PA M. Karthikeyan and files created by PA Karthikeyan. The HP laptop hard-disk labelled as Item 2 seized from the residential premises of V. Senthil Balaji, contain a document in the name of 'tk1.docx' and the file parameters of this document show that it was created by a person named 'karthik'. The contents of the document show it is a flight ticket booked in the name of M. Kartikeyan, who is PA to V. Senthil Balaji, from Chennai to Tiruchirapalli. The Hard-disk labelled as Item 2 seized from the residential premises of V. Senthil Balaji, contain documents in the name of '07092015 pass book request letter.docx', 'karthikeyan231288.docx' and 'karti.doc' The



contents of the document named of '07092015 pass book request letter.docx' shows that it contains two letters (in a single word file) in the name of V.Senthil Balaji and M.Kartikeyan to Branch Manager, Indian Bank and Branch Manager, SBI respectively. They are request letters to respective banks for issuance of fresh pass book for respective bank accounts. The document in the name of 'karthikeyan231288.docx' contains the email ID of M.Kartikeyan (karthikeyan231288@gmail.com). The document in the name of 'karthi.doc' contains a letter addressed to Secretary, Legislative Council Secretariat by V.Senthil Balaji in regard to quarters and some pending dues. The digital devices seized from the residential premises of V.Senthil Balaji, contain the files created in the name of PA B.Shanmugam and files created by PA B.Shanmugam. There are a total of 8 files bearing file name which include the text 'Shanmugam' and there are a total of 225 number of files created by the person named 'Shanmugam'. All these documents are found in the HP Pen-drive labelled as Item 5 seized from residential premises of V.Senthil Balaji. Documents in the name of Shanmugam and created by Shanmugam contain incriminating documents related to recruitment of drivers, conductors, junior tradesman, junior engineers, assistant engineers. The documents obtained from the MP/MLA court reveal that there were various EQ letters (Emergency Quota for booking of railway tickets) from Senior PA of then Transport Minister V.Senthil Balaji to the Railways department for the travel of V.Senthil Balaji and his PAs – B.Shanmugam and M.Karthikeyan. The above incriminating evidences prove the relationship between V.Senthil Balaji and his PAs – B.Shanmugam and M.Karthikeyan. Further, the statements of various MTC/TNSTC employees clearly state that the persons B.Shanmugam and M.Marthikeyan work in the office of V.Senthil Balaji and they have seen these two PAs in such offices working for V.Senthil Balaji. Further, they also stated that these two PAs are actively involved in the recruitment process of drivers, conductors, junior tradesman, junior engineers, assistant engineers in MTC/TNSTC.

9. So far, the petitioner / accused never adduced any piece of evidence either before the CCB, Chennai or before this Directorate that the documents and digital evidences seized from

his residential premises are not owned and possessed by him. Unless the contrary is proved, it is presumed that the seized evidences / documents are owned by the accused herein. The accused herein had at any point of time neither confronted nor disowned the seized materials / documents either before the predicate offence agency nor before this Directorate.

10. In the bank account of Sh.V.Senthil Balaji, cash deposits totaling Rs.1.34 crores have been identified during the period of F.Y.2013-14 to F.Y.2021-22. Additionally, his wife, Smt.S.Meghala, has received cash deposits amounting to Rs.29.55 lakhs during the period of F.Y.2014-15 to F.Y.2019-20. Further investigation reveals substantial cash deposits of Rs.13.13 crores in the bank account of Sh.Ashok Kumar, the brother of V.Senthil Balaji and Rs.53.89 lakhs in the account of his wife, Smt.A.Nirmala. Moreover, the bank accounts of Sh.B.Shanmugam, Personal Assistant have seen cash deposits totaling Rs.2.19 crores. These cash deposits are of considerable magnitude when compared to the incomes disclosed in their Income Tax Returns. Further, the substantial part of above cash deposits has taken place during / after the Job Racket Scam in MTC/TNSTCs. Perusal of election affidavit 2021 show that the quantum of agricultural income is meagre and all salary income is deposited into bank account through non-cash mode. In the election affidavit, the petitioner accepted that he did not have any cash source of income other than agricultural income. The petitioner acknowledged that he and his wife had huge cash deposits in bank accounts and signed in relevant exhibits. However, he did not provide any satisfactory reasons for having huge cash deposits in his bank accounts. He has stated that he has only source of income from salary for being an MLA/Minsiter and some agricultural income. The petitioner has not been able to explain or substantiate a single cash deposit during interrogation proceedings. In the present petition, he has not disclosed single person name / details who made cash deposits in his bank accounts as per the counter foil slips of cash deposit challans. The petitioner has tried to adopt an easy escape route of claiming complete cash withdrawals as source of cash deposits across a period of around 9 years as if he has never made any expenses out of it. The accused claim of receiving gifts (cash) from family members is totally false claim on grounds such as, there is no

claim of any gift received in the computation of income documents submitted by the accused. There is no claim of exempt income in the form of gift received in the income tax returns. There is no substantiation of the source of the claimed gift received from family members when the accused is known to involve his family members in the process of money laundering generated from 'cash for jobs' scam. The accused claim that the claim affidavit contains cash in hand details do not in anyway prove the authenticity and source of the cash in hand. The cash withdrawals from the election accounts need to be used only for the election expenses and not for nay other purpose. In that regard, the accused has not given an iota of evidence to prove the genuineness of his disclosures in the election affidavit and election account utilisation/expenses. As per the Panchanama dated 6.2.2020, many incriminating documents and digital devices/data have been seized and submitted to the court on 12.2.2020. These seized devices have been sent by the court to the Tamil Nadu Forensic Sciences Laboratory for the purpose of forensic analysis and finding incriminating evidences. The complainant department has obtained the certified copy of three such TNFSL reports corresponding to the digital date seized by the predicate agency from the premises of the accused, his personal assistant Sh.Shanmugam and MTC offices, from MP/MLA Court, Chennai pursuant to its orders dated 19.5.2023 and 30.5.2023.

11. On 14.6.2023, after conducting search action, the accused completely not cooperated and behaved in evasive and threatening manner. With no other option, in the presence of two witnesses, an attempt was made to record the statement of the accused, but he has not respondent to any of the questions posed and questions related to huge cash deposits in his bank accounts and relationship with his PAs Karthikey and Shanmugam. As per the judgment of the Hon'ble Supreme Court of India in Vijay Madanlal case, the contention of the accused as to that the predicate offence has not been reached its finality is ought to be rejected. The Division Bench of the Hon'ble Supreme Court of India directed a fresh enquiry into the cash-for-job scam, in which, Sh.Senthil Balaji herein has been accused of accepting bribes from job aspirants in exchange of appointments to the State Transport Corporation between 2011 and

2015. The complainant during the course of investigation under PMLA had unearthed many unexplained financial transactions. Therefore, the financial profile, bank statement analysis and money trail reveal that the accused has generated proceeds of crime for acquiring assets or use of projection of proceeds of crime as untainted money, thereby he knowingly and actually involved in process or activity connected with the proceeds of crime.

12. The accused continues to be a sitting minister in the Government of Tamil Nadu and was holding several key portfolios, such as, Transport Corporation, Electricity Board and Excise Policy earlier. He is a very influential and powerful person and if he is granted bail, there is a high probability that accused will misuse his liberty to influence, derail or hamper the investigation or threaten the witnesses. The accused herein has involved in a grave economic offence involving corruption, the court should not exercise its discretion to grant bail citing public and state interest. The accused has pleaded for bail on the ground of serious ailments suffered by him in this first bail petition in CrI.M.P.No.13522/2023 before this court and the same was declined. The medical ailments of the accused are not serious now and the requisite medical attention is being provided to the accused in the jail premises. Many courts including the Hon'ble Supreme Court has taken consistent view that where an individual seeking interim bail on medical grounds, bail shall be granted only in cases where the requisite medical facilities cannot be provided by the jail authorities. Hence, the petition may be dismissed.

13. Now, the point for consideration is :

“Whether the petitioner is entitled for bail?”

**POINT :**

14. Heard both sides. Records perused.

15. The learned Senior Counsels Mr.Kapil Sibal and Mr.N.R.Ilango, who have appeared for the petitioner would submit that the petitioner / accused has been charged for the offence u/s 3 of the PMLA, 2002, punishable u/s 4 of the PMLA, 2022 and he was arrested on 14.6.2023 and in judicial custody till date. In between, he has been handed over to the custody of the Enforcement Directorate for five days. The petitioner / accused was a Minister in the

year 2014 and he seized to be a Minister in July 2015. So, the alleged amount of Rs.1.34 crores must be related to that period. However, the alleged money trail is over a period of 9 years. There is no record in the complaint to show that there is chain of money trail. From 2013-14, for 9 years, the petitioner has filed his Income-tax Returns and the explanation given in the said Returns have been accepted by the Statutory Authorities, including the Income-tax Department. The learned Senior Counsels for the petitioner / accused would further submits that the petitioner has no role in the recruitment process and the respondent has not produced any material or evidence to prove the direct participation of the petitioner in the recruitment. Further, there is no material to show that the petitioner has collected the alleged money or either having any communication with the job aspirants or mediators. But, only Karthikeyan and Shanmugam, the alleged Personal Assistants of the petitioner / accused were said to have involved in the collection of money. Karthikeyan is not a witness. Shanmugam is a witness and he says that he met the Minister for the first time in 2018 in his wedding, but the alleged occurrence was happened in 2015. The petitioner has explained all his bank transactions and deposits in his name and also in the name of his wife Smt.S.Megala and it has been established that those deposits were made out of legitimate income and the source of deposits has been disclosed to the Statutory Authorities, i.e., Income Tax Department, Election Commission etc. Prima facie, there is no material against the petitioner and the allegations were speculative in nature. The learned Senior Counsels has further submitted that the respondent has not reserved its right in the complaint for further investigation. The Investigation has been completed by the respondent and they have filed the complaint before this court against this petitioner. Since, the investigation has been completed, the petitioner can ask for bail. The earlier bail application was dismissed on the ground that the investigation was not over. But, as of now, before the completion of 60 days, the complainant has filed the complaint and the guilt of the accused has to be established only after full-fledged trial and therefore, after filing of the complaint, the consideration of bail is different. The learned Senior Counsels would also submit that the proof of guilt is relevant while the matter is under investigation and after

completion of investigation, the court has to see the other considerations, i.e., whether the accused will not run away or jumped the bail, whether he should not influence the witnesses, he will not tamper the records etc. As far as the influence of the witnesses is concerned, no such allegation has been raised during the remand period, that the accused has attempted to influence the witness and the documents have been submitted before this court and therefore, there is no question of tampering the records. The learned Senior Counsels would also submit that the petitioner accused went through bypass surgery and he cannot sit or stand for more than half an hour in one position and to prove the same, medical records have been produced. It has been further submitted that there is a proviso in Sec.45 of PMLA that a person can be granted bail on the ground of sickness. The learned Senior Counsels would further contended that the respondent has seized some documents, however, no hash value was disclosed and it could be tampered, as those documents were sent to the Forensic Lab thrice. Further, it is said that the two persons, Gopi and Prabhu have made their statements against the petitioner / accused and no statement has been recorded from Gopi and he was not examined as a witness and the other person Prabhu is a co-accused. Statement of co-accused cannot be relied upon unless there is independent and corroborative evidence. There is no purpose in keeping the accused in prison and the petitioner was targeted on political motive. The learned Senior Counsels would also submit that during the search made by the respondent, the electronic gadgets, including laptops, pen-drives, memory cards, HP desktop etc. and the authenticity of those electronic evidence has to be gone into, because, the ECIR has been registered on 29.7.2021, electronic evidence were seized on 6.2.2020 and forwarded to the court on 12.2.2020 and in between, those gadgets were in the custody of the respondent. The Investigating Officer has not mentioned the Serial Number for the pen drives in Item Nos.64 to 67 and therefore, the chain of custody of documents are doubtful. The learned Senior Counsels would also submit that the Investigating Officer has taken into consideration of the period, even after demitting of office by the petitioner after 7 years. The learned Senior Counsels would also contended that there is a serious discrepancy between the seizure of documents and

production of the same before the court. The learned senior counsels had further argued that those electronic evidence cannot be put against the petitioner, since it is not reliable. The respondent has raised only a flimsy allegation against the petitioner, not supported by sufficient oral and documentary evidence and finding the petitioner as guilt is remote. The court could consider whether in all probabilities, it would end in conviction to grant or deny the bail. The petitioner / accused will not abscond and the documents cannot be tampered with and there is no flight risk, since the petitioner is ready to surrender his passport. The learned Senior Counsels would further contend that considering the sickness of the petitioner / accused along with merits, bail may be granted.

12. The learned Additional Solicitor General appearing for the respondent / complainant has submitted before this court that the predicate offences for the ECIR has been from 2014 and it is a 'cash-for-jobs' scam. After registration of three FIRs and filing of Final Reports, ECIR has been registered and investigation is proceeded with under PMLA. The cash collected for jobs need not be put into the bank of the petitioner and the money collected by the petitioner has been specifically mentioned in the complaint in detail. The transactions have to be read along with the statements of the witnesses, recorded u/s 50(2) of PMLA. As of now, a sum of Rs.1.34 crore is available as proceeds of crime in the account of the petitioner. These cash deposits are of considerable magnitude when compared to the incomes disclosed in their Income Tax Returns. Further, the substantial part of above cash deposits has taken place during / after the Job Racket Scam in MTC/TNSTCs. The contention of the petitioner that the Income Tax Returns filed by the petitioner for the said period has been approved by the Income-tax Authorities does not legitimize the money, because, plethora of materials are there to show that the petitioner has actively involved in the commission of money laundering. The explanation given by the petitioner for the transaction is not acceptable and therefore, it cannot be held that the presumption u/s 24 of PMLA has been rebutted by the petitioner. The petitioner has been charged for the offence u/s 3 punishable u/s 4 of the PMLA, 2002, unless the contrary is proved, it has to be presumed that such proceeds of crime are involved in money-laundering. The learned Additional Solicitor General would also submit that in a

petition for bail, the court will have to see Sec.45 of PMLA and the petitioner has to satisfy the court 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. The complainant has established the initial burden for the offence u/s 3 and 4 of the PMLA, 2002 and it has been established that there was a money trail since the cash is being held, deposited from time to time and it need not be deposited in the bank account of the petitioner on the same day and therefore, the argument of the petitioner that it is not a money trail, is not correct. The learned Additional Solicitor General would further contend that it is not necessary to pray for further investigation and as per Sec.173(8) Cr.P.C., the complainant could claim whenever it is necessary. The yardstick for the grant of bail in offences under Indian Penal Code and Prevention of Money Laundering Act is different. The petitioner may tamper the witnesses as he is a sitting Minister of Government of Tamilnadu. The medical condition is not in a grave situation and he has been hospitalised, operated in a hospital of his choice and the petitioner has not averred and proved that the facility required is not available in the prison and he has been given continuous treatment and the said contention has been raised to get out from the rigours of section 45 of PMLA. He would further submit in reply to the arguments of the Senior Counsels for the petitioner in respect of gadgets, those documents have been seized by the Investigating Officer in the other cases to corroborate and to prove that the money has been generated and there was nexus between the persons concerned and therefore, the said argument has to be rejected. The learned Additional Solicitor General would also submit that in any way, the petitioner, having failed to satisfy the twin conditions, is not entitled for bail. Considering the grave nature of the offence committed by the petitioner / accused, non-compliance of Sec.45 of PMLA, apprehension of tampering the evidence and also witnesses, this bail application may be dismissed.

13. The petitioner / accused was arrested and remanded to judicial custody on 14.6.2023 in connection ECIR MDSZO/21/2021 u/s 3, punishable u/s 4 of the PMLA, 2002. He is in judicial custody from 14.6.2023 till 6.8.2023 and from 12.8.2023 to till date. In between, the petitioner / accused was handed over to the custody of the Enforcement Directorate for five days as per the order of the Hon'ble Supreme Court of India. The said ECIR was registered as



a sequel to the FIR in Cr.No.441/2015 u/s 406, 420 r/w 34 of IPC (C.C.No.24 of 2021 for the offence u/s 406, 410, 420 r/w sec.34, 120-B, 465, 467, 471 and 201 of IPC and u/s 7, 12, 13(2) r/w 13(1)(d) of Prevention of Corruption Act and Sec 109 of IPC r/w 13(1)(d) of Prevention of Corruption Act) and the FIR in Cr.No.298/2017 u/s 406, 402 and 506(i) of IPC (C.C.No.19/2020 for the offences u/s 406, 420 and 506(i) r/w 34 of IPC) and FIR in Cr.No.344/2018 u/s 406, 402 and 506(i) of IPC (C.C.No.25 of 2021 for the offences u/s 406, 402 and 506(i) r/w 34 of IPC). Those FIRs have been registered by the Central Crime Branch, Chennai. The ECIR has been registered at the instance of the Deputy Director, Department of Enforcement Directorate, empowered to investigate the offences punishable under the Prevention of Money Laundering Act, 2002. In all the three criminal cases, the petitioner / accused has been arrayed as A1 and this ECIR has been registered against the petitioner Shri.V.Senthil Balaji, Shri.B.Shanmugam @ Computer Shanmugam, Shri.M.Karthikeyan, Ashok Kumar and others. Subsequently, on 12.8.2023, a complaint has been filed by the respondent before this court and it has been taken cognizance and made over to Special Court for Trial of Criminal Cases related to Elected Members of Parliament and Members of Legislative Assembly of Tamil Nadu and afterwards as per the order of the Hon'ble High Court of Madras in Criminal Original Petition No.22602/2023, dated 4.9.2023, the case in C.C.No.9/2023 has been transferred to this court.

14. The case of the complainant is that between 2011 and 2016, the petitioner was holding the position of Transport Minister in the Government of Tamil Nadu. While serving as a Minister, in connivance with his Personal Assistants Shri.Shanmugam and Shri.Karthikeyan along with his brother Shri.Ashok Kumar, the petitioner / accused orchestrated the collection of funds through the above said persons, promising job opportunities across various roles within the Transport Department, including, Junior Engineer, Assistant Engineer, Junior Tradesman, Junior Assistant, Drivers and Conductors. As per the complaints from the candidates, who had paid money, but failed to secure the promised employment, the Central Crime Branch, Chennai registered cases against the petitioner and others and after investigation, three Final Reports

were filed in C.C.No.24/2021, C.C.No.19/2020 and C.C.No.25/2021, which are now pending trial before the Special Court for Trial of Criminal Cases related to Elected Members of Parliament and Members of Legislative Assembly of Tamil Nadu. There are series of irregularities done by MTC officials, working in collusion with the petitioner and his personal assistants, like, Interview marks in pencil, Principle of merits and reservation was not followed, Issuance of appointment letters by unauthorised officers, Increase of vacancy position without approval, Involvement of PAs of minister in recruitment and Payment of money for jobs through associates to PAs of minister. During search, the respondent / complainant seized digital devices from the residential premises of the petitioner / accused and sent to Tamil Nadu Forensic Science Laboratory and report has been obtained. In the bank account of the petitioner / accused, cash deposits totaling Rs.1.34 crores have been identified during the period of F.Y.2013-14 to 2021-22. Additionally, his wife, Smt.S.Meghala, has received cash deposits amounting to Rs.29.55 lakhs during the period of F.Y.2014-15 to F.Y.2019-20. Substantial cash deposits of Rs.13.13 crores in the bank account of Sh.Ashok Kumar (the brother of V.Senthil Balaji) and Rs.53.89 lakhs in the account of his wife, Smt.A.Nirmala. Moreover, the bank accounts of Sh.B.Shanmugam (Personal Assistant to Sh.V.Senthil Balaji) have seen cash deposits totaling Rs.2.19 crores. Substantial part of above cash deposits has taken place during/after the Job Racket Scam in MTC/TNSTCs.

15. The learned Senior Counsels, appearing for the petitioner would contend that the respondent has completed the investigation, filed a complaint before this court and taken cognizance, the petitioner has fully co-operated for the investigation, it has not been prayed for by the respondent for further investigation in the complaint and the accused is in custody for more than three months and no useful purpose could be achieved in keeping the petitioner / accused in the prison and he may be granted with bail. Admittedly, the Investigation as against the petitioner has been completed by the respondent and they have filed the complaint before this court and taken cognizance. However, co-operation of the petitioner during investigation, completion of investigation, filing of complaint and duration of incarceration are not the

criteria for grant of bail in an offence under Sec.3, punishable u/s 4 of the Prevention of Money Laundering Act, 2002. Because, in an application for grant of bail for an offence under Sec.3, punishable u/s 4 of the Prevention of Money Laundering Act, the conditions enumerated in Sec.45 of the PMLA, 2002 will have to be complied with. The conditions specified in Sec.45 of PMLA, 2002 are mandatory and needs to be complied with. For proper understanding, it is appropriate to reproduce Sec.45(1) of the PMLA, 2002, which reads as under :

*(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, <sup>3</sup>[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:*

16. Admittedly, the Special Public Prosecutor has been given an opportunity to oppose the bail application and he has resisted the bail by filing a detailed counter. The learned Senior Counsels appearing for the petitioner would submit that the fact that whether the petitioner is guilty or not would be established only through trial and therefore, the court considering the other factors, may order for release of the accused on bail. However, as per Sec.45 of PMLA, 2002, while considering the bail application itself, the court has to satisfy the twin conditions imposed as per the section and therefore, the contention of the Senior Counsels that the guilt of the petitioner would be established only through trial, cannot be considered at the present stage.

17. On perusal of the complaint filed by the complainant, the statement of witnesses and the accused recorded u/s 50 of PMLA and also the documents collected during investigation, it reveals that serious and grave allegations have been raised against the petitioner. The said allegations are categorical and specific and it discloses the fact that the petitioner has a definite role in the commission of offence, charged against him. As claimed by the Senior Counsels for

the petitioner, the allegations against the petitioner are not without substance, since the complainant has examined as many as 20 witnesses, apart from the Investigating Officer and have produced 77 documents, runs to 2853 pages, filed along with the complaint. Through the bank statements of the petitioner / accused, cash deposits totally for Rs.1.34 crores has been identified as proceeds of crime during the period of financial year 2013-2014 to 2021-2022 and his wife S.Megala has received cash deposits of Rs.29.55 lakhs during the period of F.Y. 2014-2015 to F.Y. 2019-2020.

18. It is the contention of the defence that the authenticity of the Electronic Evidence seized and produced by the complainant is highly doubtful for the reason that even as per the complaint there is a serious discrepancy in the number of the seized of documents and production of documents before the court. The serial number of the pen-drives has not been mentioned by the Investigating Officer, those gadgets were detained for the complainant for six days after its seizure and before its production before the court and also those electronic evidence were sent to the Tamil Nadu Forensic Science Laboratory thrice for examination, possibility of tampering those gadgets and there is a difference in the hash value of the electronic devices etc. However, the court is of the considered view that the reliability, genuinity, admissibility and also the authenticity of the Electronic Evidence have to be raised during trial and it can be decided by the court only after a full trial. It is trite law that to consider a petition for grant of bail, the court is not expected to weigh the evidence meticulously, but to arrive at a finding on the basis of broad probabilities.

19. The learned Senior Counsels appearing for the petitioner have pointed out the judgment in

**CrI.Miscellaneous Bail Application No.13642 of 2022**

**(Siddiq Kappan -vs- Directorate of Enforcment, Lucknow)**

in support of their argument to grant bail to the petitioner. In the said judgment, it was held that *“except for allegation that Rs.5000/- was transferred in the bank account of the co-accused, Atikur Rahman, there is no other transaction either in the bank account of the accused / applicant or in the bank account of the co-accused. Even if it is believed that part of proceeds*

*of crime was transferred in the bank account of co-accused, Atikur Rahman itself may not be sufficient to prove that accused / applicant has dealt with proceeds of crime amounting to Rs.1,36,14,291/- which had been allegedly received by K.A.Rauf Sherif. Considering the aforesaid facts, coupled with the contention on behalf of the accused / applicant that in the present case, the twin conditions as mentioned in Sec.45 of the PMLA, are not attracted in as much as the proceeds of crime is less than one crore and there is no likelihood of the accused / applicant to commit the same offence in future, and the fact the accused / applicant has already been in prison in predicate offences from 5.10.2020 till he was enlarged on bail by the Supreme Court and thereafter, he is in custody of the E.D., I am of the view that the accused / applicant is entitled to be released on bail.”* However, the court is of the opinion that the facts and circumstances of the said judgment is not applicable to the case on hand, since the proceeds of crime identified by the complainant in the present case is Rs.1.34 crores and there are transactions for the same in the account of the petitioner and to establish the same, statement of witnesses and the bank statements have been filed along with the complaint and therefore, the provisions of PMLA, 2002 is applicable to this case and thereby, the petitioner has to satisfy the twin conditions imposed u/s 45 of the PMLA, 2002.

20. One another judgment relied on by the Senior Counsels appearing for the petitioner is the judgment of the

**Hon’ble High Court of New Delhi in CrI.M.A.37260/;2019 and CrI.M.A.38212/2019**

**(D.K.Sivakumar - vs - Director of Enforcement),**

in which the Hon’ble High Court has observed that, “*Regarding tampering with the evidence, it is not in dispute that the documents relating to the present case is in the custody of the prosecuting agency, Government of India and the court. More over, presently, the petitioner is not in power, except he is a Member of Legislative Assembly. Therefore, in my considered view that there is no chance of the petitioner to tamper with the evidence.*” The observation of the Hon’ble High Court of New Delhi is not applicable to the facts and circumstances of this case since the petitioner is not only a Member of Legislative Assembly, but also a Minister of the Government of Tamil Nadu and there is every possibility to influence the witnesses and to tamper the evidence.

21. The learned Senior Counsels appearing for the petitioner, then relied upon the decision in the case of

**Bhupinder Singh @ Honey -vs- Enforcement Directorate  
of the Hon'ble High Court of Punjab and Haryana @ Chandigarh  
in CRM - M - 27871 -2022,**

in which, the Hon'ble High Court has held that “*After hearing the counsels to the parties, I find merit in the present petition for the following reasons :*

*(a) The primary objection raised by the counsel for the respondent - E.D. is that the petitioner does not qualify the triple test laid down u/s 45 of the PMLA. The said three conditions laid down u/s 45 are that, the public prosecutor should be given an opportunity of hearing, which has been given in the present case; secondly, if the public prosecutor opposed the application, a reasoned order be passed that the person is not guilty of offence and not likely to commit offence while on bail and thirdly, that in addition to the provisions of PMLA, the provisions of Cr.P.C. regarding grant of bail shall apply. Sec.45(1)(2) is akin to Sec.37 of NDPS Act, wherein the court, while granting bail has to form an opinion. In a case under the NDPS Act, it is easy for an accused, who has been released on bail to repeat such offence, however, in a case under the PMLA, like the present case, it is not easy for an accused to commit the offence again as he will always be in radar of E.D.”* However, an accused facing charges under the Provisions of Prevention of Money Laundering Act, 2002 cannot be released on bail unless the court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail. The reasonable belief is not merely a prima facie, but, the court has to see if there is a genuine case against the petitioner and the complainant is not expected to prove the charge beyond reasonable doubt. On perusal of the materials produced before this court by the respondent, it is made clear that there is a genuine case against the petitioner and also the fact that the petitioner has not raised a probable defence, the court is not satisfied that the petitioner is not guilty of such offence and he is not likely to commit any offence while on bail.

22. The learned Additional Solicitor General had relied upon a judgment of the Hon'ble Delhi High Court in

**Tharunkumar - vs - Directorate of Enforcement**  
**in Bail Application No.152/2023,**

in which, it was observed by the Hon'ble High Court that "*It is not only the statement u/s 50 of PMLA, which show the involvement of the applicant, but other materials, such as, Emails as well as documents containing the signature of the applicant, which are also indicative of signature.*" As observed by the Hon'ble High Court of Delhi, in the present case, the respondent has produced not only the statements of the witnesses and accused recorded u/s 50 of PMLA, but also other materials, such as, the electronic evidence, Emails, Emergency Quota Letters, Bank Statements, Counterfoil challans, the documents relating to the recruitment and the reports received from the Tamil Nadu Forensic Science Laboratory etc., which are incriminating evidence to show the involvement of the petitioner in the offence of money laundering. The materials placed indicates that the accused cannot be presumed to be not guilty or that he is not likely to commit any such offence while on bail and therefore, the court is not satisfied of the twin conditions u/s 45 of the PMLA, 2002.

23. The learned Senior Counsels who are appearing for the accused would vehemently contend that the petitioner was suffering from serious illness and as per the order passed in H.C.P.No.1021/2023, the Hon'ble High Court, Madras has permitted the petitioner to undergo surgery at Cauvery Hospital and he went through bypass surgery on 21.6.2023 and he is unable to sit or stand for more than half an hour in one position and to prove the illness of the petitioner, medical report has been produced. The petitioner requires all medical facilities, which cannot be fulfilled by the Prison Hospital and considering the medical condition of the petitioner, the court may grant bail on the ground of sickness. The said contention has been stoutly resisted by the learned Additional Solicitor General stating that it is not necessary at the present stage for immediate treatment to the petitioner and therefore, bail may not be granted on the ground of sickness. It is true that though Sec.45 of the PMLA, 2002 imposes twin conditions for grant of bail, the proviso to Section 45 of PMLA, which indicates that the legislature has carved out an exception for grant of bail by the Special Court when any person under the age of 16 years or is a woman or is a sick or infirm. As such, the petitioner has

prayed for granting of bail on the ground of sickness. Admittedly, the petitioner went through OFF PUMP CORONARY ARTERY BYPASS GRAFT SURGERY on 21.6.2023 for triple vessel disease and acute coronary syndrome-unstable angina. On perusal of the medical report filed on behalf of the petitioner, it is seen that the petitioner has been prescribed for some medicines and also advised to continue rehabilitation, breathing exercise, walking for two months, low salt diet and plenty of liquids. Further, the petitioner was advised to avoid continuous long duration sitting or standing (more than 30 minutes) and it has also been mentioned in the said report that at present, he is getting continuous medication in Prison Hospital, Puzhal, Chennai.

24. At this juncture, the court wants to refer the following judgments of the Hon'ble High Courts and the Hon'ble Supreme Court of India, relied upon by both sides.

25. In **Ramakrishna -vs- Union of India, Directorate of Enforcement, Bangalore**, the Hon'ble High Court of Karnatak in Crl.Petition No.5974/2023, in which, the Hon'ble High Court has rejected the bail application filed on the ground of medical condition of the accused by observing that "*I have perused the medical records, no doubt, he is having heart ailment from 2016 and no doubt the principles laid down in the judgments also clear that the court can take note of the health of the petitioner whether he is an under-trial prisoner or convict and the same also to be taken care of.*" The Hon'ble High Court has directed the Jail Authorities to give appropriate treatment and to take him to private hospital if the accused desires.

26. In the case of **Pawan -vs- Ram Prakash Pandey and others**, the Hon'ble High Court, by considering the fact that allegations of ailment of the applicant are not specifically denied and the respondent No.2 can always apply Jail Authorities to see that he gets the required treatment.

27. In **State - vs - Sardool Singh and others**, wherein the bail was cancelled taking note of the larger interest of the public and also the report of the medical board.

28. In **State through Deputy Commissioner of Police, Special Branch, Delhi -vs- Jaspal Singh Gill**, wherein an observation has been made by the Hon'ble Supreme Court of



India that the High Court should not have enlarged the respondent on bail in larger interest of the State and it was also observed that it is urged the respondent is a person, who has undergone a cardiac operation and needs constant medical attention and further observed that the prison authorities would arrange for proper treatment of the respondent whenever need for it arises.

29. In **National Investigation Agency – vs – Zahoor Ahamad Shah Watali, reported in (2019) 5 SCC 1**, the Hon'ble Supreme Court has observed that when the accused sought the bail on the medical ground, taken note of the fact that medical care as and when demanded, the same can be provided in the Government Hospital and also from AIIMS and Special Court had also directed Jail Superintendent to provide proper medical care as requested.

30. In **State of UP – vs – Gayatri Prasad Prajapati in Crl.A.No.686/2020**, the Hon'ble Apex Court also set aside the impugned order of the High Court and held that there was no satisfaction recorded by the High Court that the treatment offered to the respondent is not adequate and he requires further treatment to by any particular medical institute for which it is necessary to release the respondent and interim bail on medical grounds and High Court without considering the entire materials on record has passed the impugned order which is unsustainable.

31. From the above judgments, it is amply clear that the Hon'ble Supreme Court of India and the Hon'ble High Courts, while taking into consideration of sickness of the accused and also the larger inters of the public, held that the Jail Authorities will take care of the ailments of the accused whenever it is required. As such, taking into account of the larger interest of the public and also the medical report of the petitioner, the court is of the view that the petitioner is not entitled for bail on the ground of sickness. In the case of

**State through Deputy Commissioner of Police, Special Branch, Delhi**

**-vs-**

**Jaspal Singh Gill,**

the Hon'ble Supreme Court of India has not granted bail on the ground of sickness, though the said accused had undergone a cardiac operation and needs constant medical attention and the said judgment of the Hon'ble Supreme Court of India is squarely applicable to the case on hand.

32. Further, the learned Senior Counsels for the petitioner, in support of their contention that the accused may be granted bail on the ground of sickness, relied upon the judgment of

**Hon'ble High Court of New Delhi in CrI.M.A.10859/2023  
in Bail Application No.1343/2023**

**(Sameer Mahandru - vs - Directorate of Enforcement),**

in which, it has been held that *“A cumulative consideration of the legislative intent of the PMLA and the precedent indicates that the proviso to Sec.45(1) is a relaxation to the sick or infirm persons, provided that the sickness or infirmity is so grave that it is life-threatening and cannot be treated by Jail Hospital.”* But, this court is of the considered view that the said observation of the Hon'ble High Court is not applicable to the facts and circumstances of this case, since, it has not been established by the petitioner that the sickness suffered by him is so grave and it is life-threatening and also it cannot be treated by the Prison Hospital. At this juncture, the court has to consider the medical report submitted on behalf of the petitioner. It has been revealed through the said report that the petitioner is under continuous medication and it has not been opined by the Medical Officer that the sickness said to have been suffered by the petitioner is life-threatening and the medical facilities available in the Prison Hospital, Puzhal, Chennai is not sufficient to treat the complaints of the petitioner. Further, it has not been made out by the petitioner that the ailments cannot be adequately or efficiently treated in the hospital and that he needs a better treatment. Also, the Medical Officer has given his opinion that at present, he is getting continuous medication in the Prison Hospital. Considering the facts that the ailment of the petitioner does not warrant immediate medical attention and post-operative care and has not satisfied the Proviso to Sec.45(1) of the PMLA, 2002. Facilities are there in the Prison Hospital to treat the complaints of the petitioner and he is

under continuous medication in the said Hospital, through which, the court comes to a conclusion in view of the health condition of the petitioner and the medical report, being furnished on behalf of the petitioner that the petitioner may not be granted with bail under the proviso to Sec.45(1) of PMLA for the reason of his sickness.

33. The learned Senior Counsels for the petitioner would further submit that the petitioner has explained all his bank transactions and deposits in his name and also in the name of his wife Smt.S.Megala and it has been established that those deposits were made out of legitimate income and the source of deposits has been disclosed to the Statutory Authorities, i.e., Income Tax Department, Election Commission etc. Prima facie, there is no material against the petitioner and the allegations were speculative in nature and the statutory authorities had approved the same and therefore, it cannot be said that the petitioner has laundered the money as claimed by the respondent. As argued by the learned Additional Solicitor General, mere approval of the Income-tax authorities does not legitimize the money and there are plethora of materials to show that the petitioner has actively involved in the commission of money laundering. There is no provision in the Taxation Laws, grants immunity from prosecution for an offence under money laundering. In other words, the property was said to have derived or obtained by the petitioner was a result of criminal activities relating to scheduled offences.

34. At this point, it would be relevant to refer the judgment in

**Sangitaben Shaleshbahi Datanta**

- vs -

**State of Gujarat (2019-14-SCC-522),**

relied upon by the learned Additional Solicitor General, wherein, the Hon'ble Supreme Court of India has held that at the stage of bail, the court cannot meticulously examined the evidence and cannot convert it into a mini-trial. Therefore, the contention of the learned Senior Counsels for the petitioner that the Income Tax Returns submitted by the petitioner would prove the legitimate income, has no force.

35. The learned Senior Counsels for the petitioner would also submit that the petitioner will not tamper the witnesses and there was no such complaint by the respondent during investigation and the documents seized are in the custody of the court or with the respondent and therefore, there is no possibility to tamper the evidence. Apart from satisfying the twin conditions imposed in Sec.45 of the PMLA, 2002, while dealing with the bail application, the court has to look into the three factors, i.e., Flight Risk, Influencing the Witnesses and Tampering of Evidence. Though the learned Additional Solicitor General has not seriously raised the factor of flight risk, but, he has stoutly contended and objected bail on the ground of possibility of influencing the witnesses and tampering of evidence by the petitioner for the reason that the petitioner is a Minister of Government of Tamil Nadu and also an influential person. It is to be noted that the petitioner is not only a Member of Legislative Assembly, but also a Sitting Minister in the Government of Tamil Nadu, there are chances for influencing the witnesses. Those factors may become relevant only if the stipulations envisaged u/s 45 of PMLA are fulfilled. However, it has not been fulfilled by the petitioner and therefore, he is not entitled for bail for those reasons.

36. The petitioner has not succeeded in persuading about the inapplicability of the stipulation u/s 45 of PMLA. In the facts of the present case, keeping in mind the dictum in the aforesaid decisions of the Hon'ble Supreme Court of India and the Hon'ble High Courts, the court finds that the petitioner has not satisfied the twin conditions of Sec.45 of PMLA, 2002.

37. The learned Senior Counsels for the petitioner would submit that as per the law laid down by the Hon'ble Supreme Court of India in its judgment in

**Arensh Kumar - vs -State of Bihar,**

**reported in 2014 - 8 - SCC – 273**

**and**

**Satyendar Kumar Antil - vs - Central Bureau of Investigation,**

in criminal cases, which are punishable imprisonment for not more than seven years, person should not be arrested and court also should not remand them to custody unless the conditions

specified therein are met, however, in the present case, even if the allegations are accepted at face value, the offences alleged against the petitioner are punishable with maximum imprisonment upto 7 years and therefore, the said fact may be considered for granting of bail. But, the Hon'ble Supreme Court of India in

**Crl.Appeal Nos.2284/2285 of 2023 at SLP (Criminal) Nos.8939-8940 of 2023,**

**(V.Senthil Balaji - vs - The State, Rep. by Deputy Director and others),**

has reiterated that the application of the provision of Sec.19 of PMLA and also held that there is absolutely no need to follow and adopt Sec.41-A Cr.P.C. 1973, especially in the teeth of Sec.65 of the PMLA, 2002. Therefore, it is considered that the said contention of the learned Senior Counsels for the petitioner has no force.

38. An earlier bail application filed by the petitioner on 14.6.2023 in Crl.M.P.No.13522/2023 has been dismissed by this court on 16.6.2023. The court do not find any change of circumstance, except the facts of completion of investigation and filing of complaint, which are not the major grounds for granting bail in the absence the non-compliance of twin conditions u/s 45 of the PMLA, 2002 for an offence u/s 3 punishable u/s 4 of the PMLA, 2002.

39. The petitioner is a Member of the Legislative Assembly and a sitting Minister of Government of Tamil Nadu and previously he was holding the key portfolios, like Transport Corporation, Electricity Board and Excise Policy etc. Considering the gravity of offence, overwhelming materials against the petitioner, the status of the petitioner and the fact that the petitioner has not satisfied the twin conditions of Sec.45 of the PMLA, 2002, this court does not find reasonable grounds for believing that the petitioner is not guilty of the offence or that he is not likely to commit any offence while on bail and taking overall view of the matter, the court is not inclined to grant bail to the petitioner on merits and also on medical grounds.

40. In the result, the petition is dismissed.

Delivered by me in open court today.

**S ALLI**

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