

CRM-M-10892-2024



**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

CRM-M-10892-2024

Reserved on: 06.03.2024

Pronounced on: 14.03.2024

Gurinder Pal Singh @ Tinku

...Petitioner

Versus

Directorate of Enforcement

...Respondent

**CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA**

Present: Mr. Harshit Sethi, Advocate and  
Mr. Rahil Mahajan, Advocate for the petitioner.

Ms. Promila Nain, Senior Panel Counsel-UOI and  
Ms. Harveen Mehta, Advocate for respondent-E.D.

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**ANOOP CHITKARA, J.**

| ECIR No.          | Dated      | Sections   |
|-------------------|------------|--|
| ECIR/JLZO/10/2021 | 31.03.2021 | 3 & 4 of Prevention of Money Laundering Act, 2002 [PMLA] |

| Complaint No. | Dated      | Court                            |
|---------------|------------|----------------------------------|
| COMA 04/2023  | 24.07.2023 | Special Court, SAS Nagar, Mohali |

1. Aggrieved by the dismissal of the anticipatory bail, filed on issuance of summons, and later warrants by the trial court, in the complaint filed in the ECIR captioned above, the petitioner apprehending arrest has come up before this Court under Section 438 CrPC seeking anticipatory bail.

2. In paragraph 6 of the bail application, the accused declares the following criminal antecedents, which is only of the predicate offence:

| Sr. No. | FIR No. | Date       | Offences   | Police Station                                     |
|---------|---------|------------|--|--|
| 1.      | 06      | 08.06.2017 | 420, 506, 120-B IPC read with Sections 13(1) (D) and 13(2) of the PC Act | Vigilance Bureau, Phase-I, District Mohali, Punjab |

3. An offence under PMLA is comparable to the tip of an iceberg. Just like the visible portion of an iceberg has an underneath mass, the proceeds of crime under PMLA must trace their roots to some predicate crime.

4. The predicate offence is taken from the reply filed by the Assistant Director for Directorate of Enforcement and the relevant facts are being extracted as follows:



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(1). An FIR No. 06 dated 08.06.2017 was registered under section 420, 506, 120-B of IPC and 13 (1)(d) r/w 13 (2) of Prevention of Corruption (PC) Act 1988 and a Challan (under Sections 420, 465, 467, 468, 471, 506, 120-B of IPC and Section 13 (1) (d) read with section 13 (2) of PC Act, 1988) dated 21.08.2017 was filed by P.S. Vigilance Bureau, Flying Squad-1, Punjab at Mohali against Surinder Pal Singh, Mohit Kumar, Gurmeh Singh Gill, Gurinder Pal Singh @ Tinku and Amit Garg and others.

II. As per the information contained in the above said FIR and Challan, Surinder Pal Singh had worked as Executive Engineer, Superintendent Engineer and Chief Engineer and was posted at various offices of Punjab Mandi Board and Greater Mohali Area Development Authority (GMADA) from 2012 to 2017. During such postings, he misused his official position and allotted multi-crore projects to his favoured firms/companies and thereby ensured illegal monetary gains for himself as well as various other persons belonging to his family and to the companies/firms/entities to which the illegal favours were extended by him.

III. During his posting at GMADA (Greater Mohali Area Development Authority), Surinder Pal Singh with mala-fide intentions, deliberately designed the conditions in various DNIT'S (Detailed Notice Inviting Tender) to favour, inter-alia, M/s Ek Onkar Builders and Contractor Pvt. Ltd. (Controlling Person: Gurmeh Singh Gill), M/s Rajinder & Co. (Controlling person: Gurinder Pal Singh) and M/s Oasis Technocons Pvt. Ltd. (Controlling person: Amit Garg).

IV. Challans under section 173 (2) and (8) of Cr.P.C. were filed by the Vigilance Bureau in relation to FIR No. 06 of 2017 registered against the main accused person Surinder Pal Singh and others including the above-named accused/petitioner. Trial in the case of FIR No. 06 of 2017 is currently ongoing and it is currently at the stage of Defence Evidence.

V. In addition to extending illegal help to his favoured companies through the mechanism of making tailor made DNITs for them, Surinder Pal Singh also allowed the bids from such entities even when they had insufficient capacity to participate in Bid. Further, he issued illegal Work Experience Certificates so as to make his favoured entities eligible for big scale government projects.

VI. For example, Surinder Pal Singh issued work experience certificate of value of Rs. 37 Crore to Ek Onkar Builders and Contractor Pvt. Ltd, for a work which was not even allotted to this entity by the Govt. and in fact

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*the said work was done by it on sub-contract basis for an entity which was the actual allottee of the said work. This Experience Certificate was used by M/s Ek Onkar Builders and Contractor Pvt. Ltd. to get a project of the value of 40.78 Crore. In absence of the said experience certificate M/s Ek Onkar Builders and Contractor Pvt. would have been ineligible to apply.*

*VII. That, Surinder Pal Singh, while being posted at GMADA (Greater Mohali Area Development Authority) as Divisional Engineer (C-1), allotted more than 200 various works worth Rs. 1030 Crore. Out of that works, approx. Rs. 230 Crore of works were allotted only to M/s Ek Onkar Builders and Contractors Pvt. Ltd.*

*VIII. Similarly, by misusing his official position Surinder Pal Singh also illegally favoured another firm named M/s Rajindra and Company for which he not only ensured forced sub-contracting worth many crores to M/s Rajindra and Company from the entities to whom the Govt. contracts were actually allotted but also independently allotted high value projects of about Rs. 210 crores to it. He also issued work experience (value Rs. 75 crore) to this entity for the project which was not even allotted to it (originally allotted to company M / s Centrodostroy India Pvt. Ltd.) and the same experience certificate was used by this entity to get allotted high value project (Rs. 73.44 crore). The favoured company would not have been eligible to apply for if it had not received the illegal experience certificate.*

*IX. Further, it was also gathered that Vigilance Bureau Punjab had filed 02 additional FIRs against the suspect Surinder Pal Singh for amassing Disproportionate Assets (FIR No. 13 dated 07.11.2017 regd. at P.S. Vigilance Bureau, Flying Squad-1, Punjab at Mohali under Section 120-B of IPC and Section 13 of PC Act, 1988 registered against Surinder Pal Singh, his wife Mandeep Kaur and mother Swaranjit Kaur).*

5. Petitioner's counsel prays for bail by imposing any stringent conditions and are also voluntarily agreeable to the condition that till the conclusion of the trial, the petitioner shall keep only one mobile number, which is mentioned in AADHAR card, if any, and within fifteen days undertakes to disconnect all other mobile numbers. The petitioner contends that custodial interrogation and pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

6. The Enforcement Directorate's counsel opposes the bail and states that the petitioner is not entitled to bail unless he satisfies the rigors of Section 45 of PMLA,

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which they have failed to do.

7. The allegations against the petitioner which forms part of the ECIR and the complaint have been mentioned in reply filed by the Assistant Director for Directorate of Enforcement and the relevant facts are being extracted as follows:

*XI. Investigation conducted under the provisions of PMLA, 2002 revealed that various immovable properties and movable properties were maintained in name of companies' M/s Access Agro Seeds Pvt. Ltd., M/s Auster Agro Traders Pvt. Ltd. M/s Award Agro Traders Pvt. Ltd., M/s Akme Crushiss & Builders Pvt. Ltd., M/s Ek Onkar Builders & Contractors Pvt. Ltd., Gurmesh Singh Gill, Mohit Kumar, Surinder Pal Singh @ Pehalwan, Mandeep Kaur, Swaranjit Kaur, Mohinder Singh HUF. The total value of properties (movable & immovable) amounting to Rs 37,26,88,982/- were provisionally attached after following due process of law by the Authorized Officer vide Order dated 27.04.2023. Original Complaint (OC) in the said matter has been filed before the PMLA Adjudicating Authority and the same was confirmed by the Adjudicating Authority vide order dated 12.10.2023.*

8. The role of the petitioner has also been taken from the aforesaid reply, which reads as follows:

*Gurinder Pal Singh @ Tinku was the controlling person/proprietor of entity M/s Rajinder & Co.*

*M/s Rajinder & Co. was favoured by Surinder Pal Singh in allotment of various project works of GMADA alongside M/s Ek Onkar Builders & Contractors Pvt. Ltd. and M/s Oasis Technocons Limited. In the process, Surinder Pal Singh had acquired undue benefits for himself and for the said entities.*

*On Gurinder Pal Singh @ Tinku's insistence, 02 more companies (associated with his known persons/friends) participated in the bidding process and were able to get 01 project each from GMADA. The said project works allotted to them were of an amount more than Rs 50 crores individually. Out of the said works, 01 work allotted to company M/s Centrodorstroy India Pvt. Ltd., which was pre-decided to be executed by Gurinder Pal Singh @ Tinku. Whereas, the permissions regarding sub-letting were taken from GMADA in parts.*

*Similarly, the other project work was allotted to company M/s SECL Industries Pvt. Ltd. which again is related to his known/friend Harvinder*

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*Pal Singla. The said company had participated in the bidding and was able to fetch a single project work from GMADA. Said work was sub-let by M/s SECL Industries Pvt. Ltd. to M/s Ek Onkar Builders & Contractors Pvt. Ltd. after discussion with Gurinder Pal Singh @ Tinku and under pressure of Surinder Pal Singh.*

*The entities associated with the Gurinder Pal Singh @ Tinku have found to be entered into financial transactions with company M/s Ek Onkar Builders & Contractors Pvt. Ltd., which in turn was found to be directly indulged in the process connected with the proceeds of crime. Further, the companies M/s Centrodorstroy India Pvt. Ltd. and M/s SECL Industries Pvt. Ltd. had also entered into financial transactions with said Ek Onkar Builders and this must not have been possible without the indulgence of Gurinder Pal Singh @ Tinku as he was known to the concerned controlling person of all 03 companies. Also, transactions were found between the entity/ies of the accused with M/s Oasis Technocons Limited which again strengthens the theory that all these 03 entities associated with Gurmish Singh Gill. Amit Garg and Gurinder Pal Singh @ Tinku were working in tandem and harmony with one another at GMADA and in connivance with Surinder Pal Singh to acquire project works and to get undue advantage out of the same. Evidence was also gathered which clearly proves that all the 03 entities used to be working with one another in various projects either directly through sub-letting or indirectly (working for one another without any specific permission from GMADA of sub-letting).*

*Gurinder Pal Singh @ Tinku was found to be indirectly attempting to indulge in the process of acquisition of proceeds of crime and thus in the process had committed the offence of money laundering.*

9. Based on the predicate offence, the Enforcement Directorate filed a complaint bearing No. COMA 04/2023 on 24.07.2023 against 11 persons, including the present Petitioner, before the Additional Session Judge-I/Special Court, PMLA, Mohali and Ld. Court took cognizance on the same, vide order dated 08.12.2023 and ordered to summon all the accused persons for 19.01.2024. Further, on 19.01.2024, trial Court issued warrant of arrest against the accused persons for 01.03.2024, which has been further issued for 06.04.2024.

10. The petitioner, apprehended arrest on appearance before the trial Court and being sent to judicial custody, filed a petition for anticipatory bail under Section 438 CrPC



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before the trial Court. Vide order dated 16.02.2024 passed in B.A. CIS No. 155 of 2024, the Special Judge, Mohali, dismissed the anticipatory bail.

11. Feeling aggrieved, the petitioner has come up before this Court seeking anticipatory bail.

12. I have heard counsel for the parties and gone through the pleadings and its analysis would lead to the following outcome.

13. It would be relevant to refer the appropriate provisions of 'The Prevention of Money-Laundering Act, 2002' [PMLA]

14. [(3) PMLA]. Offence of money-laundering.—Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the [proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming]<sup>1</sup> it as untainted property shall be guilty of offence of money-laundering.

[*Explanation.*—For the removal of doubts, it is hereby clarified that,—

(i) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following processes or activities connected with proceeds of crime, namely:—

(a) concealment; or

(b) possession; or

(c) acquisition; or

(d) use; or

(e) projecting as untainted property; or

(f) claiming as untainted property, in any manner whatsoever;

(ii) the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever.]<sup>2</sup>

15. [{2(p)} PMLA]. "money-laundering" has the meaning assigned to it in section 3.

16. [{2(u)} PMLA]. "proceeds of crime" means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property [or where such property is taken or held outside the country, then the property equivalent in value held within the country]<sup>3</sup> [or abroad]<sup>4</sup>;

[*Explanation.*—For the removal of doubts, it is hereby clarified that "proceeds of crime" include property not only derived or obtained from the scheduled offence but also any property which may directly or

<sup>1</sup> Subs. by Act 2 of 2013, s. 3, for "proceeds of crime and projecting" (w.e.f. 15-2-2013).

<sup>2</sup> Ins. by Act 23 of 2019, s. 193 (w.e.f. 1-8-2019).

<sup>3</sup> Ins. by Act 20 of 2015, s. 145 (w.e.f. 14-5-2015).

<sup>4</sup> Ins. by Act 13 of 2018, s. 208 (w.e.f. 19-4-2018).



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indirectly be derived or obtained as a result of any criminal activity relating to the scheduled offence;]<sup>5</sup>

17. [(4) PMLA]. Punishment for money-laundering.—Whoever commits the offence of money-laundering shall be punishable with rigorous imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine \*\*\*<sup>6</sup>:  
Provided that where the proceeds of crime involved in money-laundering relates to any offence specified under paragraph 2 of Part A of the Schedule, the provisions of this section shall have effect as if for the words “which may extend to seven years”, the words “which may extend to ten years” had been substituted.
18. [{2(y)} PMLA]. “scheduled offence” means—  
(i) the offences specified under Part A of the Schedule; or  
(ii) the offences specified under Part B of the Schedule if the total value involved in such offences is one crore rupees or more; or  
(iii) the offences specified under Part C of the Schedule.
19. In the predicate FIR No. 06 dated 08.06.2017, the offences registered are under section 420, 506, 120-B of IPC and 13 (1)(d) read with 13 (2) of Prevention of Corruption (PC) Act 1988 and a Challan was filed under Sections 420, 465, 467, 468, 471, 506, 120-B of IPC and Section 13 (1) (d) read with section 13 (2) of PC Act, 1988.
20. The offences under sections 120-B, 420, 467, 471 of IPC, have been notified in the Part A, Paragraph 1, of the Schedule and the offences under sections 13 (1)(d) read with 13 (2) of Prevention of Corruption (PC) Act 1988, have also been notified in the Part A, Paragraph 8, of the Schedule.
21. A perusal of the complaint and order of summons, as well as the dismissal of anticipatory bail, explicitly points out that during the pendency of the investigation in the above-captioned ECIR, the Enforcement Directorate investigator did not arrest the petitioner. The reply does not mention any reasons for not arresting the petitioner. The provision provided in the statute of The Prevention of Money-Laundering Act, 2002 [PMLA] for arrest and bail read as follows:
22. [(19) PMLA]. Power to arrest.—  
(1) If the Director, Deputy Director, Assistant Director or any other officer authorised in this behalf by the Central Government by general or special order, has on the basis of material in his possession, reason to believe (the reason for such belief to be recorded in writing) that any person has been guilty of an offence punishable under this Act, he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest.  
(2) The Director, Deputy Director, Assistant Director or any other officer shall, immediately after arrest of such person under sub-section (1), forward a copy of the order along with the material in his possession,

<sup>5</sup> Ins. by Act 23 of 2019, s. 192 (w.e.f. 1-8-2019).

<sup>6</sup> The words “which may extend to five lakh rupees” omitted by Act 2 of 2013, s. 4 (w.e.f. 15-2-2013).



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referred to in that sub-section, to the Adjudicating Authority in a sealed envelope, in the manner, as may be prescribed and such Adjudicating Authority shall keep such order and material for such period, as may be prescribed.

(3) Every person arrested under sub-section (1) shall, within twenty-four hours, be taken to a [Special Court or]<sup>7</sup> Judicial Magistrate or a Metropolitan Magistrate, as the case may be, having jurisdiction: Provided that the period of twenty-four hours shall exclude the time necessary for the journey from the place of arrest to the [Special Court or]<sup>8</sup> Magistrate's Court.

23. [(45) PMLA]. Offences to be cognizable and non-bailable.—
- (1) [Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no person accused of an offence [under this Act]<sup>9</sup> shall be released on bail or on his own bond unless—]<sup>10</sup>
- (i) the Public Prosecutor has been given a 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, [or is accused either on his own or along with other co-accused of money-laundering a sum of less than one crore rupees]<sup>11</sup> 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 a State Government authorised in writing in this behalf by the Central Government by a general or special order made in this behalf by that Government.
- [(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.]<sup>12</sup>
- (2) The limitation on granting of bail specified in \*\*\*<sup>13</sup> 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.
- [*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

<sup>7</sup> Ins. by Act 13 of 2018, s. 208 (w.e.f. 19-4-2018).

<sup>8</sup> Ins. by Act 13 of 2018, s. 208 (w.e.f. 19-4-2018).

<sup>9</sup> Subs. by Act 13 of 2018, s. 208, for "punishable for a term of imprisonment of more than three years under Part A of the Schedule" (w.e.f. 19-4-2018).

<sup>10</sup> Subs. by Act 20 of 2005, s. 7, for certain words, figures, brackets and letters (w.e.f. 1-7-2005).

<sup>11</sup> Ins. by s. 208, *ibid.*, (w.e.f. 19-4-2018).

<sup>12</sup> Ins. by Act 20 of 2005, s. 7 (w.e.f. 1-7-2005).

<sup>13</sup> The words, brackets and letter "clause (b) of" omitted by s. 7, *ibid.* (w.e.f. 1-7-2005).

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fulfillment of conditions under section 19 and subject to the conditions enshrined under this section.]<sup>14</sup>

24. In Directorate of Enforcement v. M. Gopal Reddy, 2022 SCC OnLine SC 1862, decided on February 24, 2022, Hon'ble Supreme Court holds,

[33]. Considering the overall facts and circumstances of the case and the reasoning given by the High Court and as observed hereinabove, the rigour of Section 45 of the Act, 2002 shall be applicable even with respect to the application under Section 438 Cr. P.C. and therefore, the impugned judgment and order passed by the High Court granting anticipatory bail to respondent No. 1 herein in connection with F. No. ECIR/HYZO/36/2020 dated 15.12.2020 is unsustainable.

25. The order dated 20.11.2023 passed by the Hon'ble Supreme Court in SLP (Crl.) No. 12803 of 2023 titled as **Rajesh Kumar Versus The Directorate of Enforcement**, reads as follows:

*"We have carefully perused the complaint filed under Section 45 of the Prevention of Money Laundering Act, 2002 which runs into 190 pages. It shows that detailed investigation has been carried out. In fact in July, 2018, on two occasions, statements of the appellant have been recorded. What is pertinent to note is that even during the course of investigation, the Enforcement Directorate did not arrest him.*

*Considering these peculiar facts, the interim order passed on 13th October, 2023 deserves to be made absolute on the same terms and conditions."*

26. Similarly, the order dated 04.12.2023 passed by the Hon'ble Supreme Court in SLP (Crl.) No. 13070 of 2023 titled as **Rahela Khan Versus Directorate of Enforcement, Bhopal Zonal Office**, reads as follows:

*"Leave granted.  
Heard the learned senior counsel appearing for the appellant and the learned Additional Solicitor General appearing for the respondent.*

*After hearing the learned Additional Solicitor General appearing for the respondent, we find that even during the course of investigation, the appellant was not arrested.*

*In the facts and circumstances of the case, the interim order dated 16th October, 2023 deserves to be made absolute.*

*Accordingly, the interim order dated 16<sup>th</sup> October, 2023 is made absolute on the same terms and conditions."*

27. In Dalip Singh Mann and another v. Niranjana Singh, Assistant Director, Director of Enforcement, CRM No.M-28490 of 2015, decided on 01.10.2015, a division bench of Punjab & Haryana High Court holds,

[5]. Having given our thoughtful consideration to the submissions, we are satisfied that no purpose shall be served by putting the petitioners in

<sup>14</sup> The Explanation ins. by Act 23 of 2019, s. 200 (w.e.f. 1-8-2019).

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judicial custody pending trial in the Statutory Complaint. We say for the reasons that:

- (i) It is an admitted fact that during investigation of the money laundering case, the petitioners were never arrested by the Enforcement Directorate in exercise of its powers under Section 19 of the Act;
- (ii) The assets created by the petitioners with the alleged aid of proceeds of crime have already been seized/attached;
- (iii) It is not the case of Enforcement Directorate that any private vulnerable witness is to depose against them. It would, thus, be too much presumptuous at this stage that the petitioners would tamper with the evidence;
- (iv) The maximum sentence for an offence under the Act is 7 years though it may extend to 10 years if the case falls under proviso to Section 4 of the Act;
- (v) It further appears that rigors of Section 45(1)(ii) of the Act would be attracted only while considering the bail plea of an accused who has been arrested by the E.D. Under Section 19 of the Act;
- (vi) The complaint is at the initial stage and its adjudication will take time.

[6]. Taking into consideration the totality of the circumstances, the interim order dated 26.8.2015 is made absolute.

28. In *Mahdoo Bava v. Central Bureau of Investigation*, **2023:INSC:262 [Para 10-11]**, Law Finder Doc Id # 2165475, Cr. No.853 of 2023, decided on 20.03.2023, Supreme Court holds,

[10]. More importantly, the appellants apprehend arrest, not at the behest of the CBI but at the behest of the Trial Court. This is for the reason that in some parts of the country, there seems to be a practice followed by Courts to remand the accused to custody, the moment they appear in response to the summoning order. The correctness of such a practice has to be tested in an appropriate case. Suffice for the present to note that it is not the CBI which is seeking their custody, but the appellants apprehend that they may be remanded to custody by the Trial Court and this is why they seek protection. We must keep this in mind while deciding the fate of these appeals.

[11]. In the case of the prime accused, namely Shri Mahdoo Bava, an additional argument advanced by the learned Additional Solicitor General is that he was involved in eleven other cases. But the tabulation of those eleven cases would show that seven out of those eleven cases are complaints under section 138 of the Negotiable Instruments Act, 1881 and three out of those seven cases are actually inter-parties and not at the instance of the Bank. The eighth case is a complaint filed by the Income Tax Officer and it relates to the nonpayment of TDS amount. The remaining three cases are the cases filed by CBI, one of which is the subject matter out of which the above appeals arise.

[12]. In view of the aforesaid, we are of the considered view that the appellants are entitled to be released on bail, in the event of the Court choosing to remand them to custody, when they appear in response to the summoning order. Therefore, the appeals are allowed and the appellants are directed to be released on bail, in the event of their arrest, subject to such terms and conditions as may be imposed by the Special Court, including the condition for the surrender of the passport, if any.

29. Reference be also made to paras 10 & 11 of *Aman Preet Singh v. CBI*, 2021 (4) RCR

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(Criminal) 108: (2021) SCC Online SC 941.

30. In the light of the judicial precedents cited above, it is not a case to deny anticipatory bail.

31. When the Investigating agency did not arrest, but the trial court wants judicial custody on filing the complaint [ECIR], there must be reasons to deny bail, which are non-existent.

32. The possibility of the accused influencing the investigation, tampering with evidence, intimidating witnesses, and the likelihood of fleeing justice, can be taken care of by imposing elaborative and stringent conditions. In *Sushila Aggarwal v. State (NCT of Delhi)*, **2020:INSC:106 [Para 92]**, (2020) 5 SCC 1, Para 92, the Constitutional Bench held that unusually, subject to the evidence produced, the Courts can impose restrictive conditions. In *Sumit Mehta v. State of N.C.T. of Delhi*, (2013)15 SCC 570, Para 11, Supreme Court holds that while exercising power Under Section 438 of the Code, the Court is duty-bound to strike a balance between the individual's right to personal freedom and the right of investigation of the police. While exercising utmost restraint, the Court can impose conditions countenancing its object as permissible under the law to ensure an uninterrupted and unhampered investigation.

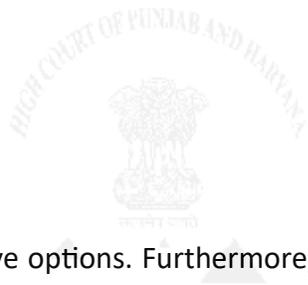
33. Given above, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail, subject to the following terms and conditions, which shall be over and above and irrespective of the contents of the form of bail bonds in chapter XXXIII of CrPC, 1973.

34. In *Madhu Tanwar v. State of Punjab*, **2023:PHHC:077618 [Para 10, 21]**, CRM-M-27097-2023, decided on 29-05-2023, this court observed,

[10] The exponential growth in technology and artificial intelligence has transformed identification techniques remarkably. Voice, gait, and facial recognition are incredibly sophisticated and pervasive. Impersonation, as we know it traditionally, has virtually become impossible. Thus, the remedy lies that whenever a judge or an officer believes that the accused might be a flight risk or has a history of fleeing from justice, then in such cases, appropriate conditions can be inserted that all the expenditure that shall be incurred to trace them, shall be recovered from such person, and the State shall have a lien over their assets to make good the loss.

[21] In this era when the knowledge revolution has just begun, to keep pace with exponential and unimaginable changes the technology has brought to human lives, it is only fitting that the dependence of the accused on surety is minimized by giving

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alternative options. Furthermore, there should be no insistence to provide permanent addresses when people either do not have permanent abodes or intend to re-locate.

35. Provided the petitioner is not required in any other case, the petitioner shall be released on bail in the ECIR and Complaint captioned above, in the following terms:

(a). Petitioner to furnish personal bond of Rs. One Lac (INR 100,000/);

AND

(b) To give one surety of Rs. Five lacs (INR 500,000/-), to the satisfaction of the concerned concerned Court, before whom the bonds are required to be furnished. Before accepting the surety, the concerned officer/court must satisfy that if the accused fails to appear in court, then such surety can produce the accused before the court.

OR

(b). Petitioner to hand over to the concerned investigator/court a fixed deposit for Rs. Rs. One Lac (INR 100,000/), with the clause of automatic renewal of the principal and the interest reverting to the linked account, made in favor of the concerned Court. Said fixed deposit or blocking funds can be from any of the banks where the stake of the State is more than 50% or from any of the well-established and stable private sector banks. In case the bankers are not willing to make a Fixed Deposit in such eventuality it shall be permissible for the petitioner to prepare an account payee demand draft favouring concerned Chief Judicial Magistrate for a similar amount.

(c). Such Court shall have a lien over the funds until the case's closure or discharged by substitution, or up to the expiry of the period mentioned under S. 437-A CrPC, 1973, and at that stage, subject to the proceedings under S. 446 CrPC, the entire amount of fixed deposit, less taxes if any, shall be endorsed/returned to the depositor.

(d). The petitioner is to also execute a bond for attendance in the concerned Court as and when asked to do so. The presentation of the personal bond shall be deemed acceptance of the declarations made in the bail petition and all other stipulations, terms, and conditions of section 438(2) of the Code of Criminal Procedure, 1973, and of this bail order.

(e). While furnishing personal bond, the petitioner shall mention the following personal identification details:

|    |               |  |
|----|---------------|--|
| 1. | AADHAR number |  |
|----|---------------|--|

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|    |   |  |
|----|---|--|
| 2. | Passport number, (If available), when the court attesting the bonds thinks appropriate or considers the accused as a flight risk. |  |
| 3. | Mobile number (If available)  |  |
| 4. | E-Mail id (If available)  |  |

36. The petitioner is directed to attend the trial on each date, except for an unavoidable justiciable cause, on which date the petitioner shall appear through their counsel and shall not claim any prejudice in this regard.

37. The petitioner shall not influence, browbeat, pressurize, make any inducement, threat, or promise, directly or indirectly, to the witnesses, the ED and Police officials, or any other person acquainted with the facts and the circumstances of the case, to dissuade them from disclosing such facts to the Police, or the Court, or to tamper with the evidence.

38. Petitioner to comply with their undertaking made in the bail petition, made before this court through counsel. If the petitioner fails to comply with any of such undertakings, then on this ground alone, the bail might be canceled, and the victim/complainant may file any such application for the cancellation of bail, and the State shall file the said application. Otherwise, the bail bonds shall remain in force throughout the trial and after that in Section 437-A of the Cr.P.C., if not canceled due to non-appearance or breach of conditions.

39. Any observation made herein above is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

40. *There would be no need for a certified copy of this order for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. In case the concerned Court wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

**Petition allowed in aforesaid terms.** All pending applications, if any, stand disposed.

**(ANOOP CHITKARA)**  
**JUDGE**

**March 14, 2024**

Jyoti-II

Whether speaking/reasoned: Yes  
Whether reportable: YES.