

**IN THE COURT OF RAKESH SYAL,
SPECIAL JUDGE (PC ACT) (CBI)-23,
(MPs/ MLAs CASES),
ROUSE AVENUE COURT COMPLEX; NEW DELHI.**

ECIR NO. 35/DLZO/-1/2022

CNR No. DLCT11-000156-2024

Bail Matter No. 21/2024

Amanatullah Khan vs. Directorate of Enforcement

ORDER

1.1 This order shall decide Application dated 17.02.2024, u/s 438 Cr.P.C. 1973, for grant of anticipatory bail, moved by the applicant/accused Amanatullah Khan.

2.1 The prosecution case is that the present ECIR No. DLZO-I/35/2022 dated 16.09.2022 was registered against the applicant/accused Amanatullah Khan, MLA, Chairman of Delhi Waqf Board (hereinafter referred to as 'DWB'), Mr. Mahboob Alam, the then CEO, DWB and other unknown persons, on the basis of FIR No. 9(A) dated 23.11.2016, u/s 120 B of IPC & Section 13(1)(d) r/w Section 13(2) of the Prevention of Corruption Act, 1988 (hereinafter referred to as 'PC Act'), registered by CBI, AC-III, New Delhi. The following three FIRs, which, *prima-facie*, disclosed the predicate offences of generation and laundering of the proceeds of crime, were also clubbed with the ECIR :-

(i) FIR no. 05, dated 28.01.2020, PS Anti Corruption Branch (hereinafter referred to as, 'ACB') of Delhi Police, u/s 7 of the PC Act, r/w Section 120 B of IPC;

- (ii) FIR no. 378, dated 16.09.2022, PS Jamia Nagar, u/s 25, 54 & 59 of The Arms Act, 1959, and
- (iii) FIR no. 380 dated 16.09.2022, PS Jamia Nagar, u/s 25, 54 & 59 of The Arms Act, 1959.

2.2 It is alleged that in FIR No. 9 (A), the CBI has filed chargesheet no. 07/2022 dated 31.08.2022, inter-alia, alleging as under: -

(i) Mr. Mahboob Alam, IPS (Retd.), was illegally appointed by the applicant/accused Amanatullah Khan, by issuing tailor made advertisement, passing resolution for his appointment before the closing date for receipt of applications and not calling other candidates for interview. His salary was also wrongly fixed, by DWB instead of Service Department. He had received Rs. 4,44,375/-, as salary for the period May, 2016 to September, 2016.

(ii) After reconstitution of DWB in March, 2016, 41 persons were appointed in DWB on contract/daily wage basis. It included Mr. Mehboob Alam, Retd. IPS, as the CEO, Mr. R. K. Yadav, Retd. ACP, as Member Vigilance Committee, and Mr. Bhanwar Singh, Retd. Patwari as Patwari, in the category of retired persons. The latter two were appointed without there being any such posts. Advertisements for only 22 posts were published. For the remaining 19 posts, no advertisement was published. Out of these 41 staff members, 23 persons, who were later on engaged on contact basis/daily-wage basis, were working unofficially in DWB on the instructions of the applicant/accused Amanatullah Khan. After the issuance of engagement letters, they

got remunerations from May/June, 2016 to September, 2016. A total of Rs. 27,20,494/- was paid to them, and Rs. 4,17,107/- was paid to 04 staff members, who were engaged in National Waqf Development Corporation Limited (hereinafter referred to as NAWADCO) Scheme.

(iii) The applicant/accused Amanatullah Khan, Chairman, misused his official position and engaged his relatives and persons known to him, namely, Hamid Akhtar, Asadullah, Azhar Masood Khan, Abdul Mannan, Aquib Jawed, Imran Ali, Ahrar, Zair Khan, Aamir, Kifayatullah, Rafiushan, Bhanwar Singh, Ms. Uzma, Yunus, Abdul Aleem Abbasi, Iltafat Khan, Talha Khan, Kaleem Ahmad Khan, Arsad Khan, Tanwir Alam, Munira Akhtar, Firoja and Ms. Nazia Khatoon, to work in DWB. However, there was no official order which allowed them to work in DWB. To make their appointments legal, an advertisement was published on 24.04.2016 in Urdu newspapers.

2.3 In FIR No.05/2020 dated 28.01.2020 u/s 7 of PC Act, r/w Section 120 B of IPC, registered on complaint dated 25.06.2019 of Mr. Hafiz Irshad Qureshi, inter-alia, the following allegations were levelled:-

(i) The Chairman of DWB has given advertisement in the daily, '*Inquilab*' dated 26.02.2019 for various posts, and walk-in interviews were held in the office of DWB, Daryaganj, Delhi on 01.03.2019 and 02.03.2019, without the prior approval of the Revenue Secretary, Delhi Administration, Secretary (Services), Delhi Administration and the concerned Minister for DWB.

(ii) The applicant/accused Amanatullah Khan had

purchased a fogging machine for Rs. 7,00,000/-, for use in Okhla area, whereas payment for the same was made by DWB. Further, tents worth Rs. 25,00,000/-, purchased by the earlier committee, were lying abandoned in Fatehpuri Masjid, Delhi. The original value of the said tents is not more than Rs. 4 lac. DWB had to suffer loss due to wastage of the tents.

(iii) Properties worth more than Rs. 100 crore have been handed over to unauthorized persons without due process. In eight cases of tenancies, there is no clarity about advertisements for calling bids. In some other cases, files have not been shown to the CEO and possession of the properties had been handed over without execution of rent agreements and 10 cases were being processed irregularly. There has been misappropriation of DWB properties worth Rs. 100 crore by the Chairman in collusion with Mr. Mehfooz and Mr. Khalid Usmani, UDC.

(iv) After the dissolution of DWB by Hon'ble Lt. Governor on 08.10.2016/09.10.2016, Mr. Mehfooz Mohd. has tampered with the files. Thereafter, CBI had sealed the office of DWB at Daryaganj, Delhi.

(v) In spite of the complaint, recruitments have been completed by the Chairman, DWB and the engagement/appointment letters have been issued to the candidates.

(vi) The funds for the widows and for other social works have been converted for the salary of the persons recruited by the Chairman, DWB.

(vii) The Chairman and Mr. Himal Akhtar have opened an account, from which they have been withdrawing huge funds

and converting the same for their personal purpose.

(viii) Rs. 5,00,000/- have been spent, on renovation of the office of Chairman, without floating any tender.

It is stated that investigation in the above FIR is pending.

2.4 In FIR Nos. 378 and 380, both dated 16.09.2022, u/s 25, 54 & 59 of the Arms Act, 1959, PS Jamia Nagar, there are allegation of recovery of illegal weapon from the possession of Hamid Ali Khan and A-4 Kausar Imam Siddiqui, both close associates of the applicant/accused Amanatullah Khan. It is stated that investigations in these two FIRs are also pending.

3.1 After investigation, the Directorate of Enforcement (hereinafter referred to as, 'ED') had filed Charge Sheet against A-1 Zeeshan Haider, A-2 Daud Nasir, A-3 Jawed Imam Siddiqui, A-4 Kausar Imam Siddiqui and A-5 M/s Sky Powers, a partnership firm being actually controlled and managed by A1 Zeeshan Haider, u/s 44 r/w Section 45 of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as the 'Act'). It is alleged that the applicant/accused Amanatullah Khan, MLA and Chairman, DWB had accumulated proceeds of crime out of illegal gratification in lieu of giving favours to the bidders by leasing out the Waqf properties to them, illegally giving jobs to various persons in DWB and misappropriating DWB funds etc. It is further alleged that the applicant/accused Amanatullah Khan, in conspiracy with A-1 Zeeshan Haider, A-2 Daud Nasir, A-3 Jawed Imam Siddiqui, A-4 Kausar Imam Siddiqui and A-5 M/s Sky Powers had laundered the said proceeds of crime by utilizing the same for purchasing properties i.e. Plot nos. 275 and 276,

Tikona Park, Jamia Nagar, Delhi from A-3 Jawed Imam Siddiqui, in the name of A-5 M/s Sky Powers and Sarah Construction Company, a proprietorship of A-2 Daud Nasir, vide Sale Agreement dated 17.09.2021. For the said transaction, an amount of Rs. 36.00 crore (approx) was paid to A-3 Jawed Ahmed Siddiqui and his wife Smt. Ayesha Quamar. Out of Rs. 36.00 crore, an amount of Rs. 27.00 crore was paid in cash and Rs. 9.00 crore was paid through bank. A-1 Zeeshan Haider has paid a total amount of Rs. 12.80 crore (approx.), out of which an amount of Rs. 8.90 crore (approx.) was paid in cash and Rs. 3.90 crore was paid through bank. As per the ITRs and Balance Sheets of A-1 Zeeshan Haider, since 2014-15, he has declared Gross Total Income of around Rs. 3.5 to 4.5 lac only, except for Assessment Year 2019-20, wherein he has declared Gross Total Income of Rs. 10.31 lac. For his firm A-5 M/s Sky Powers, he has declared Gross Total Income as zero for the Assessment Years 2018-19, 2019-20 and 2020-21. With the above income, it is not possible to purchase land worth crores of rupees. Thus, he was not in a financial position to purchase land worth Rs. 36.00 crore. A-1 Zeeshan Haider and the applicant/accused Amanatullah Khan were joint owners of certain other property also. They are closely associated. A-1 Zeeshan Haider had undertaken the transactions relating to the above properties with A-3 Jawed Imam Siddiqui, at the behest of the applicant/accused Amanatuallah Khan. The applicant/accused Amanatullah Khan has made payments for this property, though, his name was not mentioned in the sale agreement.

3.2 It is further alleged that A-2 Daud Nasir has paid Rs. 6.54

crore (approx.) out of which an amount of Rs. 4.32 crore (approx.) was paid in cash and Rs. 2.22 crore was paid through bank. As per ITRs and Balance Sheets of A-2 Daud Nasir, since Assessment Year 2017-18, he has declared Gross Total Income of around Rs. 5.00 to 7.00 lac only. With the said income, it was not possible to purchase land worth Rs 36.00 crore. A-2 Daud Nasir was associated with the applicant/accused Amanatullah Khan in such property transactions earlier also and one of the properties had been transferred to him by the applicant/accused Amanatullah Khan.

3.3 It is also alleged that A-3 Jawed Imam Siddiqui was the actual owner of Plot nos. 275 & 276, Tikona Park, Jamia Nagar, Delhi, having total area of 1200 sq. yds. (approx.), though he had purchased the same in the name of his wife Smt. Ayesha Quamar. He, in connivance with the applicant/accused Amanatullah Khan, A-1 Zeeshan Haider, A-4 Kausar Imam Siddiqui and A-2 Daud Nasir, created false and fabricated Agreement to Sell dated 17.09.2021, showing total sale consideration of Rs. 13.40 crore and submitted the same to mislead the investigation.

3.4 It is further alleged that an amount of more than Rs. 11.00 crore in cash was deposited in NRE/NRO account numbers 004601079519 and 004601077890, both at ICICI Bank Ltd., of A-3 Jawed Imam Siddiqui and his wife. When explanation was sought from him, he changed his stand many times to conceal the material facts and did not provide any satisfactory explanation. The said cash amounts are the proceeds received from the applicant/accused Amanatullah Khan and his associates A-1

Zeeshan Haider and A-2 Daud Nasir, in respect of sale of the above properties. A-3 Jawed Imam Siddiqui transferred the same, vide a sale agreement and not Deed of Conveyance, with an intention to conceal the actual sale consideration value as well as the name of the applicant/accused Amanatullah Khan, as purchaser.

3.5 It is also alleged that vide the said agreement, A-1 Zeeshan Haider and A-2 Daud Nasir became the *benamidars* of the applicant/accused Amanatullah Khan. In order to conceal the actual amount paid to the seller, A-1 Zeeshan Haider, A-2 Daud Nasir, A-3 Jawed Imam Siddiqui and A-4 Kausar Imam Siddiqui, with a common intention to launder the proceeds of crime of the applicant/accused Amanatullah Khan, created a false and fabricated sale agreement dated 17.09.2021, with regard to the said property, showing a total consideration amount of only Rs. 13.40 crore and presented it during the course of investigation. Out of Rs. 36.00 crore (approx.), paid to A-3 Jawed Imam Siddiqui, the amount of Rs. 27.00 crore are the proceeds of crime acquired by the applicant/accused Amanatullah Khan.

4.1 Anticipatory bail has been sought, on behalf of the applicant/accused Amanatullah Khan, on the ground that he has been working for the betterment and the upliftment of the society, as a member of Aam Addmi Party. He enjoys wide social reach, repute, extraordinary credibility and standing in the civil society, as he has been diligently and sincerely working for the betterment of the society. He has been consistently winning from the last two terms, as the Member of Legislative Assembly from Okhla

constituency. He has deep roots in society, his entire family resides in Delhi and there is no likelihood of his leaving Delhi.

4.2 It is further submitted that the applicant is innocent and is being falsely implicated in the case. He had unconditionally cooperated in the investigation and had provided the complete information. There is not a single instance of non-cooperation on his part during the investigation. He is not guilty of any crime under the Act and, therefore, his life and liberty must be protected from unwarranted and unjustified encroachment at the hands of the ED on the basis of a false, malicious and motivated case.

4.3 It is argued that 'proceeds of crime' is a sine qua non for commission of offence of money laundering. Since, ED has failed to produce any evidence to determine the applicant's involvement in any activity of placement, layering and/or integration of any proceeds of crime, there is no question of any violation of the provisions of the Act. It is further submitted that offence u/s 3 of the Act is dependent upon the illegal gain of property derived as a result of criminal activity relating to a scheduled offence. The ED cannot invoke the Act against any person on an assumption that illegal gain has been derived.

4.4 It is also contended that FIR no. 5 A, ACB, Delhi Police, u/s 7 PC Act and 120 B IPC, contains the same allegations as in FIR 9A, registered by CBI, u/s 13(1) (2) PC Act & Section 120 B IPC. There can not be two FIRs on the same set of facts or allegations, as held by the Hon'ble Supreme Court in *T.T. Antony vs State of Kerala (2001) 6 SCC 181*.

4.5 It is further submitted that the following points establishes that no proceed of crime have been generated:-

(i) In FIR no. 9 (A), CBI has filed the chargesheet, w.r.t. illegal appointment of Mr. Mehboob Alam as CEO of DWB, illegal appointment of 33 persons as staff in DWB, arbitrary appointment of members of Waqf Vigilance Committee and appointment of Consultant without the sanctioned post. Other allegations were found to be administrative irregularities. Further investigation is continuing against other persons.

(ii) On an application filed by the applicant, for fair and proper investigation by CBI, it was submitted by the IO that the investigation is going on only on four aspects, i.e. purchase of computer and its accessories without approval of the DWB, distribution of 1500 ladies suits for widows/destitutes, renovation of the office of DWB at Vikas Bhawan-II, at a cost of Rs. 25 lac and purchase of 88 number of tents @ Rs. 30,937/50, through the limited tendering process, with approval of chairman of DWB.

(iii) There is no material or allegation against the applicant that any bribe amount was paid to him with regard to alleged corruption in the tenancy of DWB properties. As per the chargesheet, there is no allegation of illegal gain to the applicant.

(iv) While granting bail to the applicant in FIR no. 9 (A) CBI, AC-III, New Delhi, vide order dated 01.03.2023, the court has held that no recovery of any money is stated to have been effected from any of the applicants.

(v) The applicant was also granted bail in FIR no. 05/2020, vide order dated 28.09.2022, wherein the court, while dealing with similar allegations, has held that there is no material

on record to show that any of the recruited employees had paid any bribe to the accused in securing the employment or that these employees had withdrawn their salaries from the Waqf Fund without doing any work or that they were not qualified for the job and that it has also come on record that previously also, DWB had recruited employees without there being any rules and regulations. It was also held that tenancies have been created at a higher rent than the rent being taken from the earlier tenants. Therefore, *prima-facie*, no loss to the exchequer has been caused with regard to the said tenancies.

4.6 It has, thus, been argued that in view of the above, the following conclusions are inevitable:-

(i) The exact quantum of alleged proceeds of crime is not available and there is no allegation with regard to the generation of proceed of crimes.

(ii) The money trail had not been identified. There is no specific accusation with regard to any money transaction in the predicate offence.

(iii) There is no evidence regarding the applicant's involvement in any activity of placement, layering or integration of any proceeds of crime.

4.7 It is also submitted that on 12.01.2024, the applicant received summons u/s 50 of the Act from the ED directing him to appear before them on 23.01.2024 at 11:00 AM. On 22.01.2024, he informed the Assistant Director, ED, by an Email, that he was not in a position to appear due to arrangements for the Republic Day function at his Okhla Constituency as well as certain meetings and

social work. He requested for some time to appear before them. On 23.01.2024, ED replied to the Email and directed him to appear on 30.01.2024. On 06.02.2024, he received summons u/s 50 of the Act from the ED directing him to appear before them on 09.02.2024 at 11:00 AM for extraction and examination of the data of the phone seized during the search conducted on 10.10.2023. On 09.02.2024, he, by an Email informed the Assistant Director, ED, that he has authorized a person to appear on his behalf. On 09.02.2024, the authorized person went before the ED and complied with the summon by assisting ED in extracting and examining the phone data. On 16.02.2024, he again received summons u/s 50 of the Act from ED, directing him to appear before ED on 19.02.2024 at 11:00 AM. He has apprehension that on his appearance in response to the said summons, he will be arrested, like the co-accused persons.

4.8 It is further contented that in this case, there are no proceeds of crime and the scheduled offence u/s 13 (2) r/w Section 13 (1) (d) of the PC Act is not made out. While relying upon *C.K. Jaffer Sharief vs State, (2013) 1 SCC 205*, Ld. Senior Advocate has argued that dishonest intention is the gist of corrupt and illegal means which constitutes offence u/s 13 (1)(d) of the PC Act. Mere flouting of rules and regulations by a public servant cannot attract criminality. On 11.10.2023, the applicant's residence was raided by the ED. However, nothing incriminating was found. There is no evidence that the alleged property has been derived or obtained as a result of criminal activity relating to a scheduled offence. The provisions of the Act can only be attracted

when the proceeds of crime are derived out of the criminal activity related to a scheduled offence. Hence, the core ingredient i.e. 'proceed of crime' required for the offence of money laundering is missing. ED cannot invoke the Act, against any person on the assumption that a scheduled offence has been committed. Therefore, the twin conditions are satisfied and there being no *prima facie* case made out against the applicant, he is entitled for pre-arrest bail.

4.9 It is also argued that there is nothing on record to show that appointments of contractual employees were done with some ulterior motive. The contractual employees were qualified and had received the salary against the work executed. They were engaged to ensure that the DWB works effectively. The rules and regulations regarding appointment of the staff, as mentioned in Sections 24 and 110 of the Waqf Act, 1995, have not been promulgated. Recruitments by DWB have been done in such manner in the past also. The recruitment done by the accused can at the best be said to be irregular but it cannot be said to be illegal as no undue advantage has been taken by the accused from any of the contractual employees. As per Section 100 of the Waqf Act, 1995, the recruitment carried out by the Chairman, DWB in good faith, cannot be questioned. There is no material on record to show that any contractual employee after withdrawing salary amount, has paid the same to the applicant. The process of getting the posts sanctioned from the Government of NCT of Delhi takes a lot of time and to ensure that the work of DWB does not suffer, it has the power to employ staff on contractual basis.

4.10 It is further contended that there is no material on record regarding the alleged loss caused by the grant of the tenancies of the Waqf properties. On the contrary, the rent has substantially increased during the tenure of the applicant. DWB was working in a transparent manner. The tenancies were created with regard to the Waqf properties, as per the Waqf Properties Lease Rules, 2014. As per the said Rules, advertisement was issued in a newspaper, bids were invited, reserve prices were fixed and, thereafter, tenancies were created. The CBI has found that there is no criminality in the grant of tenancies of Delhi Waqf properties. As per Section 77 of the Waqf Act, 1995, Waqf fund has to be created and all the money received by DWB in the form of donations, grant in aid etc., was required to be deposited in the Waqf fund. The entire Waqf fund was in the control of DWB, as per Section 77 (3) of the Waqf Act, 1995. The said fund was required to be utilized as per Section 77 (4) of the Waqf Act, 1995, for repayment of any loan, cost of audit, salary and allowances of the officers and staff of DWB, travelling allowances and payment of all expenses incurred by DWB etc. Since the Waqf fund was in the control of DWB, there was no question of any amount being entrusted to the applicant or his having exclusive dominion over the said fund.

4.11 It is further submitted that the applicant is always ready and willing to join the investigation and had earlier also joined the investigation as and when directed. He is two times MLA and has got deep roots in the society. Therefore, he is not a flight risk. He is ready to appear before the court or the IO, as and when

directed to do so. Investigation has already been concluded in the predicate offence on the same point and nothing incriminating has been found. No recovery has to be effected from him. Therefore, his custodial interrogation is not required. During arguments in rebuttal, it was also submitted that the applicant has challenged the declaration by Delhi Police of his being a history sheeter, before the Hon'ble High Court of Delhi, which was dismissed vide ***Amanatullah Khan vs Commissioner of Police Delhi & Ors., 2023 SCC OnLine Del 245***. The same was challenged vide SLP (Crl.) No. 5719/2023, wherein the Ld. Senior Counsel for Delhi Police has submitted that he has advised the competent authority to suitably amend the provisions of Punjab Police Rules, 1934. Accordingly, the Hon'ble Supreme Court of India has directed the competent authority to consider the recommendation made by the Ld. Senior Counsel and take necessary action.

4.12 While relying on ***Vijay Madanlal Choudhary & Ors. vs Union of India & Ors., 2022 SCC OnLine SC 929***, Ld. Senior Advocate has contended that the court, at the stage of bail, is not to weigh the evidence meticulously but to arrive at a finding on the basis of broad probabilities. The court while dealing with the application for grant of bail need not delve deep into the merits of the case and only a view based on material available on record is required. In support of her submissions, Ld. Senior Advocate for the applicant has also relied upon ***Sanjay Pandey vs ED, 2022 SCC OnLine Del 4279***, ***Pankaj Bansal vs Union of India & Ors., 2023 SCC OnLine SC 1244***, ***Gurbaksh Singh Sibbia vs***

State of Punjab, (1980) 2 SCC 565 and Sushila Aggarwal vs State (NCT of Delhi), (2018) 7 Supreme Court Cases 731.

The applicant has, thus, prayed that he be released on bail in the event of his arrest and that as an interim relief, the court may stay all further proceedings arising out of ECIR/DLZOI/35/2022 dated 16.09.2022.

5.1 The ED has filed reply dated 24.02.2024. While opposing the bail application, it is submitted that the anticipatory bail application deserves to be dismissed as the rigours of the mandatory twin conditions u/s 45 of the Act are equally applicable in the case of anticipatory bail. This court, vide its order dated 22.02.2024, has already appreciated the facts and circumstances of the case while dismissing the bail applications of A-3 Jawed Imam Siddiqui, A-1 Zeeshan Haider and A-2 Daud Nasir.

5.2 It is contended that the applicant has not approached this court with clean hands. He has already filed a Writ Petition no. W.P. (Crl) 322/2024, seeking, inter-alia, the following reliefs:-

“ii. Quash FIR No. 5 PS ACB Delhi dated 28.01.2020 u/s 7 of the Prevention of Corruption Act, 1988 and Section 120 B of IPC.....”

“v. Set aside and quash any action/inquiry/investigation qua the petitioner in ECIR/DLZOI/35/2022 dated 16.09.2022.....”

vi. Quash and set aside the summons dated 12.1.2024 (Annexure P-12) issued to the petitioner for his purported appearance in person on 23.01.2024, as well as the email dated 23.1.2024 (Annexure P-14) calling the petitioner for such appearance on 30.1.2024).....”

On 07.02.2024, Ld. Counsel for the applicant submitted

that instead of pressing the petition, the petitioner will be approaching the appropriate forum. The Hon'ble High Court dismissed the said petition as not pressed, along with all pending applications, without granting any liberty to file any fresh petition.

5.3 It is further argued that the applicant has deliberately and maliciously claimed himself to be a law abiding and peace-loving citizen of India. However, on the contrary, he was declared a history-sheeter and a bad character by Delhi Police. In ***Amanatullah Khan vs Commissioner of Police Delhi & Ors., (Supra)***, his challenge to the said declaration was dismissed by the Hon'ble High Court of Delhi on 19.01.2023. In the above petition, the applicant has also relied upon the Prosecution Complaint dated 09.01.2024.

5.4 It is also submitted that the Hon'ble Supreme Court in ***Vijay Madanlal Choudhary & Ors. vs Union of India & Ors. (Supra)***, has upheld the constitutional validity of the twin conditions of bail, as prescribed in Section 45 of the Act and observed that the relief of bail, be it in the nature of regular bail or anticipatory bail, is circumscribed by the conditions in Section 45 of the Act. In ***The Directorate of Enforcement vs. M. Gopal Reddy & Anr., 2022 SCC OnLine SC 1862, The Assistant Director, Directorate of Enforcement vs. Dr. V.C. Mohan, 2022 SCC OnLine 452, and Tarun Kumar vs Assistant Director, Directorate of Enforcement, 2023 SCC OnLine SC 1486*** also, the Hon'ble Supreme Court has reiterated the above position of law.

5.5 It is further argued that as per Explanation 1 to Section 44 of the Act, investigation into the offence of money laundering is independent of the investigation conducted by the predicate agency. In *Gautam Kundu vs. Directorate of Enforcement (Prevention of Money-laundering Act), Government of India through Manoj Kumar, Assistant Director, Eastern Region, (2015) 16 SCC 1*, the Supreme Court has emphasized that at the stage of deciding a bail application, a court should refrain from deciding whether an offence is made out against the accused by going into merits of the case. The only consideration is to see the charges against the accused and his role in the commission of the offence. In this case, sufficient material has been placed on record to *prima facie* establish that the applicant has committed the offence of money laundering by indulging in the process or activity relating to a schedule offence and by active concealment of material facts. Further, he has remained non-cooperative and evasive and has not divulged true facts which gives rise to strong apprehension that he is, in all probabilities, likely to commit an offence of money laundering by continuing to possess and enjoy the proceeds of crime.

5.6 It is also submitted that in this case, investigation qua the applicant is still going on. From the facts revealed in the investigation conducted so far, it is established that contents of the diaries are true. The diaries seized in the present case has evidentiary value in terms of Section 22 of the Act. The total transaction for the tainted property is Rs. 36.00 crore (approx.), including the proceeds of crime of Rs. 27 crore generated by the

applicant/accused Amanatullah Khan as a result of criminal activity related to the scheduled offence. The same was used to purchase the properties in the names of *benamidars* Zeeshan Haider and Daud Nasir, in order to launder the same, by projecting them as untainted properties.

5.7 It is further argued that despite the issuance of multiple summons to the applicant, he has been deliberately evading the summons and has not personally joined the investigation till date. As per the investigation carried out so far, it is abundantly clear that the applicant is involved in money laundering. His conduct is dishonest and he has no intention to join the investigation. He has already maliciously and dishonestly avoided the summons u/s 50 of the Act. The investigations in the predicate offences other than the FIR, registered by the CBI, are continuing. In support of his submissions, Ld. SPP for ED has relied upon *P. Chidambaram vs. Directorate of Enforcement, AIR 2019 Supreme Court 4198*, *Rohit Tandon vs Directorate of Enforcement, (2018) 11 SCC 46*, *Ranjitsingh Brahmajeetsingh Sharma vs State of Maharashtra, (2005) 5 SCC 294*, *State of Maharashtra vs Vishwanath Maranna Shetty, (2012) 10 SCC 561*, *Kiran Kulkarni vs Directorate of Enforcement, 2018 SCC OnLine Bom 20629*, *Vijay Madanlal Choudhary & Ors. Vs Union of India and Ors. (Supra)*, *Directorate of Enforcement vs M. Gopal Reddy and Anr. (Supra)*, *Assistant Director, Directorate of Enforcement vs Dr. V.C. Mohan (Supra)*, *Tarun Kumar vs Assistant Director, Directorate of*

Enforcement, (Supra), and ***Gautam Kundu vs. Directorate of Enforcement (Supra)***. The ED has, thus, prayed that the anticipatory bail application moved by the applicant/accused Amanatullah Khan may be dismissed.

6.1 I have heard Dr. Maneka Guruswamy, Ld. Senior Advocate/Counsel for the applicant/accused Amanatullah Khan as well as Sh. Manish Jain and Sh. Simon Benjamin, Ld. SPPs for ED, and also perused the record.

7.1 It has been contended on behalf of the applicant that FIR No. 9 A dated 23.11.2016 u/s 13 1 (d) PC Act and Section 120 B IPC, registered by CBI, AC-III, and FIR No. 5A dated 28.01.2020 u/s 7 of the PC Act and Section 120 B IPC, registered by ACB, Delhi Police pertain to the same facts. While relying upon ***T.T. Antony vs State of Kerala (Supra)***, it has been argued that there cannot be second FIR on receipt of any subsequent information in respect of the same cognizable offence. Ld. SPP has submitted that the above two FIRs were registered at different times and allegations therein pertain to different set of facts, though there might be certain similar facts. However, on this ground alone, the applicant cannot be granted anticipatory bail, as the offence of money laundering is an independent offence. There appears to be force in the contention of the Ld. SPP. The present case is stated to be based on the predicate/scheduled offences alleged in FIR No. 9 A dated 23.11.2016, AC-III, CBI u/s 13 1 (d) PC Act and Section 120 B IPC, FIR no. 05 dated 28.01.2020, PS ACB, Delhi Police, u/s 7 of the PC Act, r/w Section 120 B of IPC, FIR no. 378, dated 16.09.2022, PS Jamia Nagar, u/s

25, 54 & 59 of The Arms Act, 1959, and FIR no. 380 dated 16.09.2022, PS Jamia Nagar, u/s 25, 54 & 59 of The Arms Act, 1959. Admittedly, the applicant has filed Writ Petition (Cr.) 322/2024, *Amanatullah Khan vs Union of India and Ors.*, in which he has, inter-alia, prayed for quashing of FIR No. 5 dated 28.01.2020 PS ACB, Delhi Police, u/s 7 of the PC Act and Section 120 B of IPC, on the ground that it was in violation of law laid down in *T.T. Antony vs State of Kerala (Supra)*. However, as per order dated 07.02.2024 of the Hon'ble High Court of Delhi, Ld. counsel for the petitioner submitted that instead of pressing the present petition, the petitioner will be approaching the appropriate forum and that he has instructions not to press the said petition. The petition was accordingly dismissed as not pressed. It is well settled that the offence of money laundering is independent of the scheduled offence. Thus, even if the contention of the Ld. Senior Advocate for the applicant is to be believed, the same, *per se*, can not be a ground for grant of anticipatory bail to the applicant.

7.2 It is pertinent to refer to Section 45 of the Act, which provides that notwithstanding anything contained in Cr.P.C., no person accused of an offence, under the Act, shall be released on bail or on his own bond unless:-

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release; and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to

commit any offence while on bail.

7.3 In *Vijay Madanlal Choudhary & Ors. Vs Union Of India and Ors. (Supra)*, the Hon'ble Supreme Court has held,

“400. It is important to note that the twin conditions provided under Section 45 of the 2002 Act, though restrict the right of the accused to grant of bail, but it cannot be said that the conditions provided under Section 45 impose absolute restraint on the grant of bail. The discretion vests in the Court which is not arbitrary or irrational but judicial, guided by the principles of law as provided under Section 45 of the 2002 Act.....

401. We are in agreement with the observation made by the Court in Ranjitsing Brahmajeetsing Sharma. The Court while dealing with the application for grant of bail need not delve deep into the merits of the case and only a view of the Court based on available material on record is required. As explained by this Court in Nimmagadda Prasad, the words used in Section 45 of the 2002 Act are “reasonable grounds for believing” which means the Court has to see only if there is a genuine case against the accused and the prosecution is not required to prove the charge beyond reasonable doubt.” (emphasis supplied).

7.4 It is well settled that the rigours of Section 45 of the Act also apply to an application for anticipatory bail. In this regard, reference can be made to *The Assistant Director, Enforcement Directorate vs. Dr. V.C. Mohan, (Supra)* and *Directorate of Enforcement vs M. Gopal Reddy and Anr., (Supra)*. There is also no dispute that limitation imposed vide Section 45 of the Act, on grant of bail is in addition to the limitations under the Cr.P.C. or any other law for the time being in force for grant of bail. The court, while considering an application for seeking bail, is not required to weigh and scrutinize the evidence collected by the investigating agency meticulously. Though, the findings recorded by the Court while granting or refusing bail would be tentative in

nature, the court is expected to express *prima-facie* opinion for granting or refusing to grant bail, particularly in cases of economic offences. The ultimate consideration is that every bail application has to be considered on case to case basis on the facts involved therein. It is also well settled that application for bail is to be decided on the principle of broad probabilities. In this regard, reference can be made to ***Vijay Madanlal Choudhary & Ors. Vs Union of India and Ors., (Supra), Ranjitsingh Brahmjeet Singh Sharma vs State of Maharashtra & Anr. (Supra), Sanjay Pandey vs Directorate of Enforcement (Supra), Chandra Prakash Khandelwal vs Directorate of Enforcement, 2023 SCC OnLine Del 1094, and Ramesh Manglani vs Directorate of Enforcement, 2023 SCC OnLine Del 3234.***

7.5 It is also pertinent to refer to Section 2 (u) of the Act, 2002, which defines the proceeds of crime as under:-

“(u) “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 or abroad;

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 indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence.”

7.6 In ***Vijay Madanlal Choudhary & Ors. vs Union of India & Ors. (Supra)***, the Hon’ble Supreme Court has held,

“253. Tersely put, it is only such property which is derived

or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence can be regarded as proceeds of crime. The authorities under the 2002 Act cannot resort to action against any person for money-laundering on an assumption that the property recovered by them must be proceeds of crime and that a scheduled offence has been committed, unless the same is registered with the jurisdictional police or pending inquiry by way of complaint before the competent forum. For, the expression “derived or obtained” is indicative of criminal activity relating to a scheduled offence already accomplished. Similarly, in the event the person named in the criminal activity relating to a scheduled offence is finally absolved by a Court of competent jurisdiction owing to an order of discharge, acquittal or because of quashing of the criminal case (scheduled offence) against him/her, there can be no action for money-laundering against such a person or person claiming through him in relation to the property linked to the stated scheduled offence.”

7.7 It is also pertinent to refer to Section 3 of the Act, which defines the ‘Offence of money laundering’ as under:-

“3. 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 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.”

7.8 It is well settled that Section 3 of the Act has a wider reach. The offence, as defined, captures every process and activity in dealing with the proceeds of crime, directly or indirectly, and is not limited to the happening of the final act of integration of tainted property in the formal economy to constitute an act of money-laundering. {Vide ***Vijay Madanlal Choudhary and Ors. Vs Union of India & Ors. (Supra)***}.

7.9 In ***Y. Balaji Vs. Karthik Desari and Anr., 2023 SCC OnLine SC 645***, the Hon’ble Supreme Court of India had, while dealing with the question,

“ Question 1: Whether without identifying the proceeds of crime or a property representing the proceeds of crime and without identifying any process or activity connected to proceeds of crime as required by Section 3, which constitute the foundational/jurisdictional fact, ED can initiate an investigation and issue summons?” held as under :-

“103. It is true that there are some offences, which, though scheduled offences, may or may not generate proceeds of crime. For instance, the offence of murder punishable under Section 302 is a scheduled offence. Unless it is a murder for gain or murder by a hired assassin, the same may or may not generate proceeds of crime. It is in respect of such types of offences that one may possibly argue that mere commission of the crime is not sufficient but the generation of proceeds of crime is necessary. In the case of an offence of corruption, the criminal activity and the generation of the proceeds of crime are like Siamese twins.”

“105. Therefore, even if an intangible property is derived as

a result of criminal activity relating to a scheduled offence, it becomes proceeds of crime under Section 2(1)(u)..... . This is in view of the fact that wherever there are allegations of corruption, there is acquisition of proceeds of crime which itself tantamount to money-laundering.”

“113. Once an information relating to the acquisition of huge amount of illegal gratification in the matter of public employment has come into the public domain, it is the duty of the ED to register an Information Report. This is because “acquisition” is an activity amounting to money-laundering and the illegal gratification acquired by a public servant represents “proceeds of crime,” generated through a criminal activity in respect of a scheduled offence. Therefore, it does not require any expedition, much less a fishing expedition for someone to say that the receipt of bribe money is an act of money-laundering.

114. The contention of Shri Sidharth Luthra that there was no explanation for the delay on the part of the ED in registering the Information Report, is a self-serving argument. If the ED registers an Information Report immediately upon the registration of a FIR for a predicate offence, ED will be accused of acting in haste. If they wait until the drama unfolds up to a particular stage, ED will be attacked as guilty of delay. The accused should be thankful to ED for giving a long rope from 2016 till 2021.” (emphasis supplied).

7.10 It is well settled that the offence of money laundering is an independent offence regarding the process or activity connected with the proceed of crime which had been derived or obtained as a result of criminal activity relating to or in relation to a scheduled offence. It is not dependent or linked to the date on which the scheduled offence or predicate offence has been committed. {*Vide Vijay Madanlal Choudhary & Ors. vs Union of India & Ors. (Supra)* and *Tarun Kumar vs Assistant Director, Directorate of Enforcement, (Supra)*}.

7.11 It is also well settled that the statements recorded u/s 50 of

the Act can be looked into at the stage of bail to appreciate the prosecution case. However, the evidentiary value of statement U/s 50 of the Act is to be seen at the end of the trial. In this regard, reference can be made to *Vijay Madanlal Choudhary and Ors. Vs Union of India & Ors. (Supra)*, *Rohit Tandon vs. Directorate of Enforcement (Supra)*, *Tarun Kumar vs. Assistant Director, Directorate of Enforcement, (Supra)*, and *Satyender Kumar Jain vs Directorate of Enforcement, 2023 SCC OnLine Del 1953*.

7.12 It has also been argued that while granting bail to the applicant, vide order dated 28.09.2022, in FIR no. 5/2020, PS ACB, the Ld. Predecessor of this court has observed that there is no material on record to show that any of the recruited employee had paid bribe to the said accused. It has been further observed that tenancies have been created at a rent higher than the reserve price and the previous rent being taken from the earlier tenants and, therefore, it is, *prima-facie*, shown that no loss to the exchequer has been caused. Ld. SPPs for the ED have contented that this court, which is dealing with the offence under the Act, is not bound by the orders passed in respect of the scheduled offence. In this regard, reference can be made to Explanation (i) to Sub-section (1) of Section 44 of the Act, which provides that the jurisdiction of the Special Court, while dealing with the offence under the Act, during investigation, enquiry or trial under the Act, shall not be dependent upon any orders passed in respect of the scheduled offence, and the trial of both sets of the offences by the same court shall not be construed as joint trial. Further, as

contended by Ld. SPP for the ED, investigation in case FIR no. 5/2020, PS ACB, is still pending.

7.13 It is also well settled that offences like the offence of money laundering are committed in a deep conspiracy and under the dark cover. {Vide *Vijay Nair vs Directorate of Enforcement, 2023 SCC Online Del 3769*}. Such criminal conspiracies are often hatched in secrecy and for proving the offence substantial direct evidence may not be available. Such offences can also be proved by circumstantial evidence. However, it cannot be deemed to have been established on mere suspicion and surmises or inferences which are not supported by cogent evidence. In this regard, reference can be made to *Saju vs. State of Kerala, (2001) 1 SCC 378*, *Sherimon vs. State of Kerala, (2011) 10 SCC 768*, *P.K. Narayanan vs. State of Kerala, (1995) 1 SCC 142*, *State of Madhya Pradesh vs Sheetla Sahai, (2009) 8 SCC 617*, *Shivaji Sahabrao Bobade & Anr. vs. State of Maharashtra, AIR 1973 SC 2622*, *Harendra Narain Singh & Ors. vs. State of Bihar, AIR 1991 SC 1842* and *Baboo Ram vs. State, 1996 Cri LJ 483*.

8.1 Adverting again to the facts of the case, it is alleged by the ED that during the investigation in FIR No. 05/2020, on 16.09.2022, the ACB had conducted searches at various locations, owned and controlled by the applicant and his close associates Hamid Ali Khan and A-4 Kausar Imam Siddiqui. It led to seizure of various incriminating documents/records/articles, including illegal weapons and three diaries containing details of huge cash transactions valuing more than Rs. 100 crore during the period

2018 to 2022, which disclosed sale/purchase of various properties in Delhi, Dehradun, Telangana etc.

8.2 It is further alleged that during investigation in this case, statements of various persons, including the accused persons, were recorded under section 50 of the Act, the documents and evidences were collected from various Government and private institutions/authorities, and searches were conducted at various locations owned by and linked to the applicant and his associates. One white diary seized from the possession of A-4 Kausar Imam Siddiqui @ Laddan, revealed that there have been huge cash transactions running into crores of rupees between A-3 Jawed Imam Siddiqui, and the applicant, and his close associates, namely, A-1 Zeeshan Haider, A-2 Daud Nasir and others. The transactions, both in cash and through bank, are mentioned at page nos. 92 to 103 under the heading, “2021 Sale Plot- 12 GJ 17.09.2021 Sale for Zeeshan”. The total amount involved in the above transactions was approximately Rs. 36.00 crore, out of which, transactions of about Rs. 9.00 crore have taken place through bank and about Rs. 27.00 crore has been transacted through cash. Out of Rs. 36.00 crore (approx.), Rs. 8.00 crore (approx.) has been transacted directly by the applicant, in cash, whereas rest of the amount has been transacted by A-2 Daud Nasir, A-1 Zeeshan Haider, Yamin Ali Chaudhary, Saquib Ul Islam Khan, Nawab Ahmed and others, as under: -

S.No.	Name	Amount transacted in cash (in crores)	Amount transacted through bank (in crores)	Total amount (in crores)
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1	Amanatullah Khan	8.13	0.20	8.33
2	Zeeshan Haider	8.907	3.90	12.807
3	Daud Nasir	4.32	2.22	6.54
4	Yamin Ali Chaudhary	1.50	-	1.5
5	Nawab @ Nawab Ahmed	1.53	-	1.53
6	Sakib Bhai Jasola @ Squib Islam Khan	2.28	-	2.28
7	Third Parties Payment	-	2.2293	2.5
8	Name not mentioned	.10		
	Total	26.767	8.613	35.38

8.3 It is further alleged that A-3 Jawed Imam Siddiqui owned properties bearing Plot nos. 275 and 276, TTI, Tikona Park, Jamia Nagar, New Delhi, total measuring about 1200 sq. yds. (approx.), in the name of his wife Ayesha Quamar, which were purchased by him, vide Conveyance Deeds bearing no. 2005 dated 12.04.2019 and no. 2004 dated 12.04.2019, respectively. The said properties are stated to have been transferred to A-1 Zeeshan Haider and A-2 Daud Nasir, close associates of the applicant, in the year 2021, through Agreement to Sell dated 17.09.2021. A-4 Kausar Imam Siddiqui, cousin of A-3 Jawed Imam Siddiqui and close associate of the applicant/accused Amanatullah Khan, acted as his middleman and fund manager.

8.4 It is further alleged that in their statements u/s 50 of the Act, A-3 Jawed Imam Siddiqui, A-2 Daud Nasir and A-1 Zeeshan Haider had admitted about the transactions of the said properties

and submitted the details of the sale deed/agreement. The Sale Agreement, bearing Certificate No. IN-DL25122693340756T, dated 17.09.2021, was purportedly executed between A-5 M/s Sky Powers, a firm of A-1 Zeeshan Haider, and Sarah Constructions, a proprietorship of A-2 Daud Nasir, both being second party as purchaser, and Mrs. Ayesha Quamar, being first party as seller. In this agreement, the sale consideration has been mentioned as Rs. 13.40 crore, out of which Rs. 5.00 crore is shown to have been paid through bank and rest of the amount was to be paid in future but there is no mention of the mode of payment.

8.5 It is further alleged that during searches carried out at several locations, various incriminating records and digital evidences were seized. During the analysis of the extracted data of the mobile phone no. 9891846343, Model no. QMPW2W92FV, IMEI Nos. 350505202602219 & 3505052023359208 of A-1 Zeeshan Haider, seized from his premises, a Sale Agreement bearing Certificate No. DL25122693340756T, dated 17.09.2021, executed between A-5 M/s Sky Powers and Sarah constructions, both being second party as purchaser, and Mrs. Ayesha Quamar, being first party as seller, regarding Plot nos. 275 and 276, TTI, Tikona Park, Okhala, New Delhi was recovered. As per the said sale agreement, the properties were sold for Rs. 36.00 crore. Out of Rs. 36.00 crore, Rs. 5 crore is shown to have been paid through bank and the remaining amount was to be paid in future. There was no mention of mode of payment. Witnesses to this sale agreement of Rs. 36.00 crore were A-4 Kausar Imam Siddiqui and Waqar Ahmad Khan. In his statement under Section 50 of the

Act, A-4 Kausar Imam Siddiqui denied any knowledge about sale agreement having consideration amount of Rs. 13.40 crore. He confirmed that the sale agreement having consideration amount of Rs. 36.00 crore was genuine and was executed at the time of sale of the said properties, as this sale agreement was witnessed by him. He also admitted that the contents of the white diary, seized from his possession by ACB of Delhi Police, during search conducted on 16.09.2022, have been written by him in his own hand writing and the transactions mentioned at Page Nos. 92 to 103 in this diary are related to sale of the aforementioned properties. He further revealed that all third party cheques were given to him by A-1 Zeeshan Haider in favour of A-3 Jawed Imam Siddiqui and Ayesha Quamar.

8.6 It is also alleged that the bank accounts statements of A-3 Jawed Imam Siddiqui, his wife Mrs. Ayesha Quamar, A-1 Zeeshan Haider and A-2 Daud Nasir revealed that the amounts, mentioned in the seized diary, to have been transacted through bank, have been credited into the bank accounts of A-3 Jawed Imam Siddiqui and his wife Ayesha Quamar. The bank account statements of A-3 Jawed Imam Siddiqui and Mrs. Ayesha Quamar reveal that an amount of more than Rs. 11.00 crore, in cash, was deposited in their bank accounts numbers 004601079519 and 004601077890, at ICICI Bank Ltd., during the period 2017-2022. Further, cash deposits amounting to Rs. 3,81,48,000/- were declared as sale proceeds of Plot nos. 275 & 276, Tikona Park, Jamia Nagar, Delhi.

8.7 It is further alleged that the transactions through bank, as

mentioned in the diary, are matching with the corresponding bank statements. Certain cash transactions mentioned in the diary are also matching with the cash deposits made in the bank accounts of A-3 Jawed Imam Siddiqui and Ayesha Quamar. It corroborates the contents of the seized diaries and show that the total transactions for the tainted property were for Rs. 36.00 crore. Thus, it appears that the agreement showing the consideration amount of Rs 13.40 crore is false and fabricated and has been created, at a later stage, to mislead the investigation and to conceal the actual sale transaction value so that the cash amounting to Rs. 27.00 crore, infused in the sale of the properties, which is proceeds of crime in the hands of the applicant/accused Amanatullah Khan may be concealed.

8.8 It is also alleged that A-2 Daud Nasir has paid an amount of Rs. 6.54 crore, out of which Rs. 2.22 crore was paid through bank and Rs. 4.32 crore was paid in cash, to A-3 Jawed Imam Siddiqui for the purchase of the above property. The bank accounts of his firm M/s Sarah Constructions, reveal that the account was opened in 2006 and has very nominal transactions for the period 2006-2019, but major credits were received, just before the purchase of properties from various persons. As per the ITRs and Balance Sheets of A-2 Daud Nasir, since Assessment Year 2017-18, he has declared Gross Total Income of around Rs. 5 to 7 lac only. With this income, it was not possible to purchase land worth crores of rupees. The cash amounts shown to be paid by A-2 Daud Nasir in the said properties are the proceeds of crime which came from the applicant/accused Amanatullah Khan.

8.9 It is further alleged that A-1 Zeeshan Haider has paid an amount of Rs. 12.3 crore, out of which Rs. 3.40 crore was paid through bank and Rs. 8.90 crore was paid in cash, to A-3 Jawed Imam Siddiqui. As per the ITRs and Balance Sheets of A-1 Zeeshan Haider, since 2014-15, he has declared Gross Total Income of around Rs. 3.5 to 4.5 lac only, except for the Assessment Year 2019-20, wherein he has declared Gross Total Income as Rs. 10.31 lac. With respect to A-5 M/s Sky Powers, he declared Gross Total Income as zero for the Assessment Years 2018-19, 2019-20 and 2020-21. With this income, it was not possible to purchase land worth crores of rupees. A-1 Zeeshan Haider has undertaken the transactions with A-3 Jawed Imam Siddiqui at the behest of the applicant/accused Amanatullah Khan. It is alleged that in the diary, at pages 158 to 160, A-1 Zeeshan Haider had put his signature on the entries of the entire transactions of about Rs. 36.00 crore, pertaining to the said properties, acknowledging the said transactions. Hence, it can be inferred that the cash amounts shown to have been paid by A-1 Zeeshan Haider for the said properties are the proceeds of crime of the applicant/accused Amanatullah Khan.

8.10 It is also alleged that, one Saquib Islam Khan has paid an amount of Rs. 2.28 crore to A-3 Jawed Imam Siddiqui. During investigation, A-4 Kausar Imam Siddiqui stated that Saquib Islam Khan is either close relative or close associate of the applicant/accused Amanatullah Khan. He admitted that he has collected Rs. 2.28 crore, in cash, from Saquib Islam Khan on the instruction of the applicant/accused Amanatullah Khan and

settled the same as per direction of A- 3 Jawed Imam Siddiqui.

8.11 It is further alleged that Mr. Yamin Ali Chaudhary paid cash amount of Rs. 1.50 crore and Nawab Ahmed paid cash amount of Rs. 1.53 crore to A-3 Jawed Imam Siddiqui. The following WhatsApp chat was exchanged on 08.06.2022 between Nawab Ahmed, through his mobile No. 9811231940, and YC Max (Yameen Ali Choudhary), through his mobile number 9899479267:-

*“Nawab Ahmed – Neta G payment le gaye hai
YC Max – Ji Kal.
Laddan ko dilwa diye hai
Sign v de gya hai
Nawab Ahmed – Ok.”*

It shows that the applicant/accused Amanatullah Khan is the main person behind purchase of the properties of A-3 Jawed Imam Siddiqui/his wife.

8.12 It is, thus, alleged that the contents of the diaries are true and the total transaction for the tainted property is worth Rs. 36.00 crore (approx.), including the proceeds of crime of Rs. 27 crore, allegedly generated by the applicant/accused Amanatullah Khan, as a result of criminal activity related to the scheduled offence, which were used to purchase the properties in the name of *benamidars* A-1 Zeeshan Haider and A-2 Daud Nasir, in order to launder the same, by projecting them as untainted properties.

8.13 It is further alleged that in his statement u/s 50 of the Act, A-3 Jawed Imam Siddiqui, inter-alia, stated about purchasing properties nos. 275 & 276, Tikona Park, Jamia Nagar, Delhi, in the name of his wife Ayesha Quamar, in the year 2019, for Rs.

10.4 crore (approx.) from Zaidi family and selling the same at the instance of A-1 Zeeshan Haider, through A-4 Kausar Imam Siddiqui for Rs. 13.4 crore. However, on being confronted with the sale agreement of the said property for Rs. 36.00 crore and the diary, as per which, the transaction amount of the said property was Rs. 35.18 crore, he gave evasive replies. He also disclosed the names of third parties who had made payment and stated that cheques/RTGS of third party payments were handed over by A-1 Zeeshan Haider and A-2 Daud Nasir to his cousin A-4 Kausar Imam Siddiqui.

8.14 It is also alleged that in his statement u/s 50 of the Act, A-4 Kausar Imam Siddiqui stated about knowing the applicant/accused Amanatullah Khan and managing expenses, organising rallies, making the transport arrangements and other work on the instructions of the applicant and his associates. He also stated about his cousin A-3 Jawed Imam Siddiqui selling the property in question to A-1 Zeeshan Haider, through him, at the behest of the applicant/accused Amanatullah Khan, wherein it was decided that he would receive a total of Rs. 50-55 lac as commission. He also stated about writing financial transactions in the white diary, maintained by him, on the direction of the applicant/accused Amanatullah Khan and A-1 Zeeshan Haider and various transactions by the applicant/accused Amanatullah Khan and his associates regarding sale of the property at Tikona Park, Jamia Nagar, New Delhi. He also confirmed that the sale consideration of the property was Rs. 36.00 crore.

8.15 It is also alleged that A-1 Zeeshan Haider, in his statement

u/s 50 of the Act, 2002, stated about purchasing properties nos. 275 & 276, Tikona Park, Jamia Nagar, Delhi, from Ayesha Quamar for Rs. 13.4 crore. When confronted with the sale agreement for a consideration amount of Rs. 36.00 crore, he evasively replied that sale agreement having consideration amount of Rs. 13.4 crore was genuine. Further, he stated about selling the plot, in three parts, to Md. Saquib Ullah Khan, Md. Shakir, Nawab Ahmed and their partners. When confronted with the transactions, for a total amount of Rs. 36.00 crore (approx.) for purchase of the above properties, mentioned in the white diary, he remained silent.

8.16 It is also alleged that A-2 Daud Nasir, in his statement u/s 50 of the Act, stated about purchase of properties bearing nos. 275 & 276, Tikona Park, Jamia Nagar, Delhi, for Rs. 13.40 crore. When confronted with the transactions contained in the white diary, he gave evasive replies. When confronted with the sale agreement, with regard to the above property for Rs. 36.00 crore, extracted from the mobile phone of A-1 Zeeshan Haider, he admitted the signatures on Certificate, being signatures of him, A-1 Zeeshan Haider and Ayesha Quamar.

9.1 From the material brought on record, it appears that the entries in the diary recovered from the premises of A-4 Kausar Imam Siddiqui, pertaining to the sale of Plot nos. 275 and 276, Tikona Park, Jamia Nagar, Delhi, have also been corroborated, inter-alia, by bank account statements of A-3 Jawed Imam Siddiqui, Ayesha Quamar, etc., agreement for the sale of the above property for consideration of Rs. 36.00 crore, recovered

from the mobile phone no. 9891846343 of A-1 Zeeshan Haider and statements u/s 50 of the Act of various accused persons.

9.2 There is also force in the contention of the SPP for the ED that there has been no explanation about the difference in the amount of sale consideration of Rs. 13.40 crore, as mentioned in the Agreement for Sale dated 17.09.2021, and the amount of sale consideration of Rs. 36.00 crore, as mentioned in the Advance Receipt cum Agreement to Sell and Purchase dated 17.09.2021, w.r.t. the same properties i.e Plot nos. 275 and 276, total land measuring approx. 1200 sq. yds., situated at Zaidi Villa, T.T.I. Road, Jamia Nagar, Okhla, New Delhi-110025, or the source of funds, out of which payments for the said properties were made by A-1 Zeeshan Haider and A-2 Daud Nasir or the huge cash transactions which had taken place in respect of the said properties. It is also submitted that investigation in the predicate offences in FIR no. 05/2020, PS ACB, is pending.

9.3 Considering the material available on record and the facts and circumstances of the case, when seen from the standard of broad probabilities, at this stage, there appears to be no reasonable grounds for believing that the applicant is not guilty of the offence under the Act or that he is not likely to commit any offence while on bail. Accordingly, his application u/s 438 Cr.P.C. for grant of anticipatory bail is dismissed.

10.1 Any observation made hereinbefore shall not have any bearing on the merits of the case.

11.1 This order be kept in the main case file bearing Ct. Case

No. 02/2024. A copy of this order be kept in the file of the bail application. The same be tagged with the main case file.

**Announced in the open court
on 01.03.2024.**

**(Rakesh Syal)
Special Judge (PC Act) (CBI)-23
(MPs/MLAs Cases),
Rouse Avenue Court Complex,
New Delhi; 01.03.2024**