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CrI.O.P.No.25190 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 23.11.2022

Delivered on : 29.11.2022

CORAM

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

**CrI.O.P.No.25190 of 2022**

Narendra Kumar Gupta

... Petitioner

Vs.

State rep. by  
Assistant Director,  
Directorate of Enforcement,  
Government of India,  
Ministry of Finance,  
Department of Revenue,  
No.84, Greams Road, Thousand Lights,  
Chennai 600 006.

... Respondent

**PRAYER:** Criminal Original Petition filed under Section 439 of Cr.P.C. to enlarge the Petitioner on bail in ECIR No.CEZO-1/14/2017 on the file of the respondent.

For Petitioner : Mr.Sriram Panchu  
Senior Counsel for  
Mr.V.Chandraprabu



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For Respondent : Mr.P.Sidharthan  
Special Public Prosecutor for  
Enforcement Directorate

### **ORDER**

The petitioner, who was arrested by the respondent on 8.7.2022 and remanded to judicial custody for the offence punishable under Sections 3 and 4 of the Prevention of Money Laundering Act, 2002 in Enforcement Case Information Report ECIR No.CEZO-1/14/2017 on the file of the respondent police, seeks bail.

2. The case of the prosecution is as under:-

(i) On scrutiny and advice of the Concurrent Auditors, the Punjab National Bank, Mint Street, Chennai had some verification with regard to the genuineness of the account holders and thereupon, a scam has come to light.

(ii) It was found out that some account holders had fraudulently opened Current Accounts during the year 2015 and on entering into a criminal conspiracy with some unknown public servants of the bank, sent some tainted money to Hong Kong without any genuine transactions under the guise of remitting 100% advance for import of goods.

(iii) On verification, it was found out that 19 account holders had



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received remittances from various bank accounts to their accounts by way of RTGS and in turn, they made nearly 772 remittances of 100% import advance based on some quotations, during the period from January 2015 to June 2015 to the tune of Rs.450 Crores and when verified with the details of such account holders, it was found out that none of the units was functioning in the given addresses and it is a case of Money Laundering through Shell Companies causing loss of Foreign Exchange to the tune of Rs.450 Crores to the Government.

(iv) Thereupon, a case of money laundering was registered in ECIR No.CEZO-1/14/2017 for the offences under Section 3 of Prevention of Money Laundering Act, 2002 punishable under Section 4 of the said Act was filed.

(v) On investigation, it was found out that the petitioner is a part of the scam and he had incorporated a Company under the name M/s.Open Sky Exports HK Ltd in Hong Kong and as a Director of the Company, opened a bank account No.390603314883 with Heng Seng Bank Ltd., Central Hong Kong Branch and through that account, had received a sum of USD 35,23,340/- equivalent to a sum of Rs.22,60,17,109/- from India under the



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guise of export advance, but, had not exported anything to India and thereby, had enriched himself to the tune of Rs.22.60 Crores for parking of 'proceeds of crime' by legitimizing the illicit and tainted money and committed an offence of International Trade Based Money Laundering.

(vi) Further investigation had revealed that the India-based remitters viz., M/s.Bhagya Laxmi Traders and M/s.Star Overseas are all untraceable and non-existent dummy entities which sent remittances to the Hong Kong based Company of the petitioner in the name of M/s.Open Sky Exports HK Ltd.

(vii) Having found sufficient reasons on examination done under Section 50 of the Act to believe the involvement of the petitioner in the offence of money laundering by directly attempting to indulge and knowingly assisted and knowingly is the party and is actually involved in the process connected with the proceeds of crime including its possession, acquisition or use and projecting or claiming as untainted property in terms of Section 3 of Prevention of Money Laundering Act, 2002, the petitioner was arrested and hence, the present petition has been filed by the petitioner seeking bail.



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3. Learned Senior Counsel Mr.Sriram Panchu appearing for the

petitioner would submit his arguments as under:-

i) The petitioner had studied only upto 10th standard and is running an enterprise in the name M/s.ELAR Industries at Delhi, involved in manufacturing of wires and cables and during the year 2015, the petitioner intended to expand his business by availing bank loan. While so, the petitioner's friend on Tarun Krishna introduced one Sukhjeet Singh to him, who advised the petitioner to open a Company in Hong Kong and run the business for a short period to enable him avail loan from Hong Kong at lower rate of interest. Believing his words, the petitioner had signed the papers given by Sukhjeet Singh without knowing the consequences.

ii) Subsequently, the petitioner could avail loan from India Bulls to the tune of Rs.3 Crores during September 2016 and an additional loan of Rs.1 Crore during December 2016 in the name of the his firm ELAR Industries and hence, the petitioner had asked Sukhjeet Singh to close the Company in Hong Kong as he is not interested in running any business in Hong Kong for availing loan from at lower rate of interest and in that regard, he had signed some papers given by Sukhjeet Singh and thereafter, the



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petitioner had no contact with the said Sukhjeet Singh. Only on receipt of summons from the respondent during the year 2022, the petitioner came to understand that mischief has been played by the said Sukhjeet Singh using the name of the petitioner during the year 2015.

iii) The petitioner has no knowledge about the alleged payments received by the Company at Hong Kong from the Indian traders viz., Star Overseas and Bhagya Lakshmi Traders. Taking advantage of the financial crisis of the petitioner, the said Sukhjeet Singh, under the guise of getting financial assistance from Hong Kong, misused the name of the petitioner for handling such transactions.

iv) The petitioner is not aware of the source of such monies and is also unaware as to how the same has been utilized in Hong Kong. In fact, he was not present in Hong Kong during the relevant period viz., June 2015 and thereby the case of the prosecution that the petitioner had actively involved and knowingly assisted in the process connected with dealing of proceeds of crime and claimed the same to be untainted money is utter false.

v) The prosecution has miserably failed to establish the link between the petitioner and the persons involved in the offences and there is



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also no material to show that the money involved is only proceeds of crime and tainted money which was transferred from Indian accounts to the foreign accounts.

vi) There is no material to establish the commission of offence under Section 120B read with Section 420 IPC and Section 13(2) read with Section 13(1)(d) and with vague materials, the prosecution cannot invoke the provisions of Prevention of Money Laundering Act, especially, in the absence of material to show that the money handled is 'proceeds of crime'. Mere transferring of money from India to a foreign account without proper records can only be a violation of provisions of Foreign Exchange Management Act and punishable only with fine and would not amount to invoking the provisions of Prevention of Money Laundering Act.

vii) The income tax returns filed by the petitioner would reveal that the case of the prosecution that he had enriched himself with Rs.22 Crores is totally false and without any material

viii) The petitioner, being a law abiding person, will not run away and he had obeyed the summons issued by the respondent and appeared before the respondent on 22.2.2022 and 8.7.2022 and had been co-operating



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for the investigation, however, he was arrested on 8.7.2022 when he had appeared before the respondent.

ix) The petitioner, aged about 58 years, is suffering from multiple health issues. He is suffering from 80% block in one of his arteries and 75% block in another artery and he is yet to undergo surgery for removal of the blocks posing severe threat to his life. During his incarceration, he had suffered an injury on his left ribs due to a slip in the bathroom requiring medical care. The petitioner being a sick person is eligible to be released on bail as per proviso to Sec 45 of the PML Act.

x) The petitioner had already given his statements before the respondent and in the event of grant of bail to the petitioner, there is no possibility for him to tamper with the evidence or exert influence on the witnesses as alleged by the prosecution as the nature of evidence in the case are documentary and electronic records such as bank statements and invoices.

xi) The petitioner is ready to produce necessary sureties and to abide by any stringent condition imposed by this court.

xii) Similarly placed persons had been granted bail by this court in



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Crl.O.P.No.16848 of 2022 dated 23.8.2022 and Crl.O.P.No.18814 of 2022 dated 26.6.2022 and thus parity may be extended to the petitioner in the case on hand.

4. Mr.P.Sidharthan, learned Special Public Prosecutor for E.D. cases, referring to the detailed counter affidavit filed by the respondent, would submit his arguments as under:-

i) The investigation by the respondent revealed that the petitioner being the Director of M/s.Open Sky Exports HK Limited, a Company incorporated in Hong Kong, has received the proceeds of crime which has been remitted by furnishing fabricated documents under the guise of advance import remittances during the period from January 2015 to May 2015 to the tune of USD 35,23,340 equivalent to Rs.22,60,17,109/- into the account of M/s.Open Sky Exports HK Limited from the current account of M/s.ELAR Industries maintained with Punjab National Bank, Mint Street Branch, Chennai without there being any export from M/s.Open Sky Exports HK Limited.

ii) The petitioner, being a businessman running his own enterprise, cannot plead ignorance of the consequences of his signing the documents



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and handing them over to Sukhjit Singh merely believing his words. He must be well aware of the consequences and being the Director of the Company M/s.Open Sky Exports HK Limited, he is fully responsible for the activities of the Company as contemplated under Section 70 of Prevention of Money Laundering Act, 2002.

iii) The investigation revealed that the petitioner, being Director of the Company M/s.Open Sky Exports Ltd in Hong Kong, during the said period, received the monies under the guise of advance import remittances made by M/s.Bhagya Laxmi Traders and M/s.Star Overseas on the strength of forged quotations issued by the foreign supplier M/s.Open Sky Exports Ltd., Hong Kong and hence, is nothing but, the proceeds of crime as defined under Section 2(1)(u) of Prevention of Money Laundering Act, 2002.

iv) It is settled law that by citing health reason, bail cannot be claimed in offences of grave nature as prisoners are provided with sufficient medical facilities in the Hospital situated in the prison itself.

v) It is not a pre-requisition that a person can be prosecuted under the provisions of Prevention of Money Laundering Act, 2002 only in the event of such person having committed scheduled offence.



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vi) The role of the accused in the money laundering cases would vary from person to person and thus, the bail granted by this court to the similarly placed persons shall not be binding this court.

vii) The investigation for the offence of money laundering is at a nascent stage and there is every possibility that the petitioner may tamper the incriminating evidences available against him and may dissuade the persons who are acquainted with the facts of the case from disclosing the same to the respondent and there is every likelihood that the petitioner, with a malice intention to put the investigation at a grind halt, may fly away from justice and thus, the bail petition is liable to be dismissed.

5. Pointing out the details of the tabular columns providing individual break up of 36 transaction details, including the beneficiary details and transacted amounts furnished by Punjab National Bank that the India based remitters viz., M/s.Bhagya Laxmi Traders and M/s.Star Overseas (both untraceable and non-existent dummy entities) furnished in the additional counter affidavit, the learned Special Public Prosecutor would submit that the investigation made by the Directorate of Enforcement in order to identify the sources of funds/actual remitters in India has revealed that huge amounts



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were deposited into the account of M/s.Bhagya Laxmi Traders and M/s.Star Overseas by way of RTGS, Cash Deposits, etc. from various Co-operative Societies located in Mumbai and other places and thus huge amounts were integrated/pooled into the current accounts of the entities maintained with Punjab National Bank, Mint Street Branch, Chennai and the attempts made to trace the account operators of the Indian entities which remitted the proceeds of crime outside India, based on the documents, records and data available with the bank, but, they did not yield any result, but, turned futile.

6. The learned Special Public Prosecutor would further submit that the whole process of layering of transactions has been orchestrated in such a manner that the accounts from which the transfers have been made are either not traceable or the account holders are unaware of such transactions using their names. He would also submit that to ascertain the genuineness of the above said entities, details of import-export against their IEC were sought from Custom Authorities and it revealed that out of 19 entities, data pertaining to only two entities viz., M/s.Green International and M/s.Sonam Marketing, related to imports were available and rest of the 17 entities had never imported/exported since their inception which again signifies that the



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amount remitted were not made towards any genuine import and therefore, it is a clear case of International Trade based Money Laundering and the petitioner has committed the offence punishable under the provisions of Prevention of Money Laundering Act, 2002.

7. In reply, the learned Senior Counsel appearing for the petitioner would submit that this court had passed the following orders in favour of the similarly placed three persons:-

i) Sidhant Gupta - Granted bail by order dated 23.8.2022 in Crl.O.P.No.16848 of 2022 with a condition to deposit title deed in respect of immovable property worth of not less than Rs.2,50,00,000/- among other conditions.

ii) Farzanali Kadri - Granted bail by order dated 29.8.2022 in Crl.O.P.No.19543 of 2022 with a condition to deposit title deed in respect of immovable property worth of not less than Rs.2,00,00,000/- and later modified the condition to the effect that the immovable property shall be worth of not less than Rs.1,00,00,000/- by order dated 2.11.2022 in Crl.M.P.No.16352 of 2022.

iii) Vikas Karla - Granted bail by order dated 26.8.2022 in



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CrI.O.P.No.18814 of 2022 with a condition to deposit title deed in respect of immovable property worth of not less than Rs.18,00,00,000/- and later modified the condition to the effect that the immovable property shall be worth of not less than Rs.10,00,00,000/- by order dated 2.11.2022 in CrI.M.P.No.14112 of 2022 and once again, considering the inability of the petitioner therein, had shown further indulgence by modifying the condition to the effect that the immovable property shall be worth of not less than Rs.5,00,00,000/- by order dated 16.11.2022 in CrI.M.P.No.16512 of 2022.

8. Citing the above orders passed by this court in favour of the similarly placed persons, the learned Senior Counsel appearing for the petitioner prays that parity may be extended to the present petitioner. Further, drawing the attention of this court to the copy of the medical reports annexed at pages from 167 to 175 of the typed set of papers, the learned Senior Counsel would submit that apart from entitlement for parity, the petitioner stands on a better footing as he is diagnosed to have been suffering from Double Vessel Disease and he is in dire necessity of medical care and he needs to undergo surgery for his ailment as early as possible and thereby, he craves for grant of bail to the petitioner.



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9. Heard the learned counsel appearing for the parties and perused the materials available on record.

10. To be precise, the prosecution has come out with a case that the petitioner had abetted in the offence of International Trade Based Money Laundering by receiving the proceeds of crime in the Bank Account of the Hong Kong Company owned by him and thereby caused loss of Foreign Exchange to the tune of Rs.22.60 Crores to the Government and the investigation is in the midway and therefore, in the event of the petitioner coming out on bail, he would tamper the evidence available against him and he may exert influence upon the witnesses and he may fly away from justice and thus, he is not entitled to grant of bail at this stage.

11. Per contra, the petitioner claims himself as a scapegoat at the hands of one Sukhjeet of Punjab, who stays in Hong Kong and runs a Firm and only at his instance and believing his words to be true, the petitioner, a little educated, had signed in the documents shown by him under the impression that those were necessary to run a business in the name of the petitioner to avail loan from Hong Kong Banks at a lower rate of interest



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than compared to that of the Banks in India, however, by playing fraud upon the petitioner, the said Sukhjeet had used those documents and committed the offence alleged by the respondent. It is also the case of the petitioner that three similarly placed persons alleged to have involved in the same case have been granted bail by this court and the stringent condition imposed on them was also later modified by this court and the petitioner, who suffers from terminal disease, is entitled to be considered by this court for grant of bail.

12. It is relevant to note that the petitioner in the case on hand has not been implicated as an accused in the FIR, which came to be filed against 19 dummy entities and unknown public servants of Punjab National Bank. It is also relevant to note that the respondent has not proved the direct link of the petitioner in the predicate offence and without the existence of a predicate offence, there is no crime or tainted money or the same being laundered and thus, there can be no proceedings under the Prevention of Money Laundering Act.

13. In this regard, it will be useful to refer to Section 2(1)(u) of the Prevention of Money Laundering Act, 2002 which reads as under:-



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*“**“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.”*

Section 3 defines the offence of **“money-laundering”** as under:

*“Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process of 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.”*

14. A bare reading of the above provisions would make it clear that without there being any proceeds of crime, there cannot be any commission of an offence of money laundering. If at all, receipt of money or possession of foreign money would attract the provisions of Foreign Exchange Management Act, 1999 and not the provisions of Prevention of Money Laundering Act, 2002.



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15. In this regard, it is relevant to extract the provision viz., Section 4 of the Foreign Management Exchange Act, 1999, which deals with holding of foreign money, as under:

*“Section 4 - **Holding of foreign exchange, etc.** -- Save as otherwise provided in this Act, no person resident in India shall acquire, hold, own possess or transfer any foreign exchange, foreign security or any immovable property situated outside India.”*

16. It is also relevant to note that any contravention under Section 4 of the FEMA is liable to penalty upto thrice the sum involved in such contravention, where such amount is quantifiable or upto Rs.2 Lakhs, where the amount is not quantifiable. The case of the prosecution is that the quantum of scam in respect of the petitioner is 22.60 crores.

17. At this juncture, it would be apposite to refer to the decision of a Full Bench of the Apex Court in *Vijay Madanlal Choudhary and others vs. Union of India and others* (2022 SCC OnLine SC 929) wherein the issue has been elaborately dealt with. The relevant portion of the judgment is extracted hereunder:-



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*"269. From the bare language of Section 3 of the 2002 Act, it is amply clear that the offence of money-laundering is an independent offence regarding the process or activity connected with the proceeds of crime which had been derived or obtained as a result of criminal activity relating to or in relation to a scheduled offence. The process or activity can be in any form — be it one of concealment, possession, acquisition, use of proceeds of crime as much as projecting it as untainted property or claiming it to be so. Thus, involvement in any one of such process or activity connected with the proceeds of crime would constitute offence of money-laundering. This offence otherwise has nothing to do with the criminal activity relating to a scheduled offence — except the proceeds of crime derived or obtained as a result of that crime.*

*270. Needless to mention that such process or activity can be indulged in only after the property is derived or obtained as a result of criminal activity (a scheduled*



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*offence). It would be an offence of money-laundering to indulge in or to assist or being party to the process or activity connected with the proceeds of crime; and such process or activity in a given fact situation may be a continuing offence, irrespective of the date and time of commission of the scheduled offence. In other words, the criminal activity may have been committed before the same had been notified as scheduled offence for the purpose of the 2002 Act, but if a person has indulged in or continues to indulge directly or indirectly in dealing with proceeds of crime, derived or obtained from such criminal activity even after it has been notified as scheduled offence, may be liable to be prosecuted for offence of money-laundering under the 2002 Act — for continuing to possess or conceal the proceeds of crime (fully or in part) or retaining possession thereof or uses it in trenches until fully exhausted. The offence of money-laundering is not dependent on or linked to the date on which the scheduled offence or if we may say*



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*so the predicate offence has been committed. The relevant date is the date on which the person indulges in the process or activity connected with such proceeds of crime. These ingredients are intrinsic in the original provision (Section 3, as amended until 2013 and were in force till 31.7.2019); and the same has been merely explained and clarified by way of Explanation vide Finance (No. 2) Act, 2019. Thus understood, inclusion of Clause (ii) in Explanation inserted in 2019 is of no consequence as it does not alter or enlarge the scope of Section 3 at all.*

.....

**281.** *The next question is : whether the offence under Section 3 is a standalone offence? Indeed, it is dependent on the wrongful and illegal gain of property as a result of criminal activity relating to a scheduled offence. Nevertheless, it is concerning the process or activity connected with such property, which constitutes offence of money-laundering. The property must qualify the definition*



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*of “proceeds of crime” under Section 2(1)(u) of the 2002 Act. As observed earlier, all or whole of the crime property linked to scheduled offence need not be regarded as proceeds of crime, but all properties qualifying the definition of “proceeds of crime” under Section 2(1)(u) will necessarily be crime properties. Indeed, in the event of acquittal of the person concerned or being absolved from allegation of criminal activity relating to scheduled offence, and if it is established in the court of law that the crime property in the concerned case has been rightfully owned and possessed by him, such a property by no stretch of imagination can be termed as crime property and ex-consequenti proceeds of crime within the meaning of Section 2(1)(u) as it stands today. On the other hand, in the trial in connection with the scheduled offence, the Court would be obliged to direct return of such property as belonging to him. It would be then paradoxical to still regard such property as proceeds of crime despite such*



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*adjudication by a Court of competent jurisdiction. It is well within the jurisdiction of the concerned Court trying the scheduled offence to pronounce on that matter.*

*282. Be it noted that the authority of the Authorised Officer under the 2002 Act to prosecute any person for offence of money-laundering gets triggered only if there exists proceeds of crime within the meaning of Section 2(1)(u) of the 2002 Act and further it is involved in any process or activity. Not even in a case of existence of undisclosed income and irrespective of its volume, the definition of “proceeds of crime” under Section 2(1)(u) will get attracted, unless the property has been derived or obtained as a result of criminal activity relating to a scheduled offence. It is possible that in a given case after the discovery of huge volume of undisclosed property, the authorised officer may be advised to send information to the jurisdictional police (under Section 66(2) of the 2002 Act) for registration of a scheduled offence contemporaneously,*



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*including for further investigation in a pending case, if any.*

*On receipt of such information, the jurisdictional police would be obliged to register the case by way of FIR if it is a cognizable offence or as a non-cognizable offence (NC case), as the case may be. If the offence so reported is a scheduled offence, only in that eventuality, the property recovered by the authorised officer would partake the colour of proceeds of crime under Section 2(1)(u) of the 2002 Act, enabling him to take further action under the Act in that regard.*

**283.** *Even though, the 2002 Act is a complete Code in itself, it is only in respect of matters connected with offence of money-laundering, and for that, existence of proceeds of crime within the meaning of Section 2(1)(u) of the Act is quintessential. Absent existence of proceeds of crime, as aforesaid, the authorities under the 2002 Act cannot step in or initiate any prosecution."*

18. In case of offences under the Prevention of Money Laundering



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Act, 2002, the barrier by way of twin conditions imposed for grant of bail as provided under Section 45(1) of the Prevention of Money Laundering Act is as under:-

*"Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no person accused of an offence punishable for a term of imprisonment of more than three years under Part A of the Schedule shall be released on bail or on his own bond unless--*

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

*(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail: Provided that a person who is under the age of sixteen years or is a woman or is sick or infirm, may be released on bail, if the special court so directs:*

*Provided further that the Special Court shall not*



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*take cognizance of any offence punishable under section 4 except upon a complaint in writing made by—*

*(i) the Director; or*

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

19. In the case on hand, a perusal of the materials including the FIR and the statements given by the petitioner during his enquiry would reveal that though the scam was found out in the year 2017, the petitioner, who is not at all arrayed as an accused in the FIR, has been arrested in the year 2022 alone, however, even after this stretch of time, the respondent has not come out with a prima facie case with regard to active participation of the petitioner in the scam with regard to alleged accumulation of 'Proceeds of Crime'.

20. Further, in lieu of claiming parity with the similarly placed persons for seeking bail, the petitioner has come out with an Affidavit of Undertaking dated 21.11.2022 duly signed by him and counter-signed by the



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Additional Superintendent, Central Prison, Puzhal to the effect that the petitioner is willing to provide two immovable properties totally worth Rs.4,09,87,000/- as surety for releasing him on bail to enable him to undergo medical treatment for his various health disorders including Double Vessel Heart Disease.

21. The petitioner has been in prison from 8.7.2022. Even as of now, the respondent has not come out a prima facie case to link the petitioner with the predicate offence beyond reasonable doubt in respect of an offence which surfaced out in the year 2017 itself. A perusal of the additional counter affidavit filed by the respondent would reveal that the investigation made by the Directorate of Enforcement in order to identify the sources of funds/actual remitters in India had revealed that huge amounts were deposited into the account of M/s.Bhagya Laxmi Traders and M/s.Star Overseas by way of RTGS, Cash Deposits, etc. from various Co-operative Societies located in Mumbai and other places and thus huge amounts were integrated/pooled into the current accounts of the entities maintained with Punjab National Bank, Mint Street Branch, Chennai and the attempts made to trace the account operators of the Indian entities which remitted the



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proceeds of crime outside India, based on the documents, records and data available with the bank, but, they did not yield any result, but, turned futile and the whole process of layering of transactions has been orchestrated in such a manner that the accounts from which the transfers have been made are either not traceable or the account holders are unaware of such transactions using their names.

22. It is a settled law that the right of personal liberty and individual freedom, which is probably the most cherished, is not in any manner, arbitrarily to be taken away from anybody even temporarily without following the procedure prescribed by law. A perusal of the medical reports produced by the petitioner would go to show the severity of the ailment the petitioner has been suffering for years together, the treatment he had been undergoing and the medical intervention he requires at once and the requirement of his personal liberty on health grounds too, which cannot be curtailed on the basis of mere suspicion of his role in the predicate offence and half-baked investigation.

23. Therefore, this court is of the view that there is no concrete ground for denial of personal liberty of the petitioner and he has complied



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with the twin conditions referred to above for grant of bail and this court is inclined to grant bail to the petitioner on certain conditions. Accordingly, the following order is passed:-

i) The petitioner shall deposit the title deeds of immovable properties totally worth Rs.5 Crores /- as undertaken by him along with the valuation certificate obtained from the authority concerned and on such deposit, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two blood related sureties, each for a like sum to the satisfaction of the learned Principal Sessions Judge, Chennai and on further conditions that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police daily at 10.30 a.m. for a period of six weeks and thereafter on the 1<sup>st</sup> Monday of every month as required for interrogation. In the event of his undergoing surgery, necessary petition may be filed on his behalf with documentary proof thereupon seeking to modify/relax the condition.



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trial



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[c] the petitioner shall not abscond either during investigation or

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

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ssk

Index: Yes.

To

1. Assistant Director,  
Directorate of Enforcement,  
Government of India,  
Ministry of Finance,



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Department of Revenue,  
No.84, Greams Road, Thousand Lights,  
Chennai 600 006.

2. The Superintendent,  
Central Prison,  
Puzhal, Chennai.
3. The Special Public Prosecutor  
for Enforcement Directorate,  
High Court of Madras.



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CrI.O.P.No.25190 of 2022

A.D.JAGADISH CHANDIRA.J.

ssk.

P.D. ORDER IN  
CrI.O.P.No. 25190 of 2022

Delivered on  
29.11.2022

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