

**IN THE SPECIAL COURT FOR THE TRIAL OF PMLA CASES/
SPECIAL COURT (SPE/CBI)-I, ERNAKULAM.**

Present:-

Sri. P.K. Mohandas, Judge, Special court for PMLA Cases

Monday the 18th day of March, 2025/27th Phalguna, 1946

Crl.M.P. No.289/2024

In

SC No.533/2018

Petitioner/ Accused No.1 : S Martin, Aged 62 Years, S/o.Santiago, 135/1,
Thiruvalluvar Street, G.N Mill Post, Vellaikinar
Road,Coimbatore – 641 029.

By Adv. Sri. Mathews K Uthuppachan.

Respondent/Complainant: : **Directorate of Enforcement, Represented by
Smt. Govindu. P. Renuka Devi,
Special Public Prosecutor (PMLA),
Directorate of Enforcement.**

This Criminal M.P coming on for hearing before me on 12.3.2025 and the Court on 18.3.2025 passed the following:

ORDER

This is an application filed by the 1st accused in the case seeking permission to renew his passport for 10 years and to travel abroad.

2. According to the petitioner, the case was taken on file based on the complaint filed by the respondent in ECIR No. KCZO/04/2014 against seven

persons alleging offence punishable u/s. 4 r/w. section 70 and 8(5) of Prevention of Money Laundering Act, 2002. When he appeared before the Court on summons, he was released on bail after executing necessary bond. The Enforcement Directorate filed supplementary complaints on 03.06.2022 and 27.10.2023 against 37 accused and has completed the investigation. The petitioner is also the 1st accused in CC No.218/2015 which was pending in Court of the Chief Judicial Magistrate, Ernakulam, wherein one final report was submitted in 7 RCs. On appearance, the Chief Judicial Magistrate, Ernakulam released him on bail. Later, the case was transferred to this Court and taken on file as S.C. (PMLA) No. 3/2023 for consideration along with this case.

3. In 2018, when the passport of the petitioner was about to expire, he obtained permission from this court as well as from the CJM for the renewal of his passport and to travel abroad for a period of three years subject to the condition imposed by the respective courts. Accordingly, he got his passport renewed till 08.11.2021.

4. In 2021, when the passport was about to expire, the petitioner moved applications before this court (Crl.M.P.1350/2021) as well as CJM Court (Crl.M.P.1260/2021) for granting fresh permission to travel abroad and to renew the passport. The CJM Court allowed the petition as per order dated 31.08.2021.

5. Crl.M.P. 1350/2021 was opposed by the Prosecution and this Court dismissed the same as per order dated 18-10-2021. The petitioner challenged the order before the Hon'ble High Court in Crl.M.C. No.5569/2021. Hon'ble High

Court dismissed the appeal as per order dated 01-04-2022 stating that, it is open to the petitioner to move the trial court afresh after appearing before the investigating officer and co-operating with the investigation.

6. Later, the petitioner appeared before the Enforcement Directorate and his statements were recorded under Section 50 of the PML Act. Subsequently, he filed Crl.M.P. No.52/2022, seeking permission to renew his passport. The petition was allowed as per order dated 26.11.2022 and the petitioner was permitted to renew the passport for two years. Now the passport is about to expire.

7. The petitioner is required to travel abroad for business as well as personal needs. As the passport of the petitioner bearing No.Z7237416 expires on 08.06.2025, he seeks permission of this court to renew it for 10 years and to travel abroad during this period. He undertakes that he will comply with all conditions imposed by the court.

8. The Deputy Director of Enforcement Directorate filed objection opposing the petition stating that the petitioner is the main accused in the case and is facing serious charges as per the final report. During the investigation 6 provisional attachment orders were issued as detailed in the objection. Value of the attached property comes to 910.66 Crores. During the investigation the petitioner was asked to submit the current status of the properties attached. He submitted a reply as per letter dated 23-09-2024, which revealed that two properties under attachment were sold by the petitioner while the order was in

force. The sale was conducted in violation of the order of this court. After release on bail by this court, the petitioner failed to respond to the repeated summons and notice. He is not co-operating with the investigation of the case. Fresh ECIR No.ECIR/HIU-1/16/2024 has been recorded against the petitioner in furtherance of an FIR dated 11.09.2023 registered at Sadar, Khasi Hills East District, Meghalaya for offence u/s.406, 420, 500, 506 and 120B r/w.s.34 of the IPC. In that case the allegation is that the petitioner is unlawfully preventing official distribution of Meghalaya State Lotteries and thereby caused loss to the tune of Rs.2,500/- crores. Search was conducted in the premises of the accused and Rs.11.1 Crores in cash and other evidence, including digital devices/documents were seized. On 28.11.2024 and 04.12.2024 the petitioner was summoned to appear before the Directorate and he did not comply. He is not co-operating with the investigation of the case. Considering the gravity of the offence and the necessity of his presence at the time of trial, permission for passport renewal or travel abroad should not be granted.

9. The petitioner filed a detailed reply to the objection filed by the Public Prosecutor. I have heard the counsel for the petitioner and the Public Prosecutor. Perused the records.

10. This application is filed seeking permission to renew the passport of the petitioner. He had surrendered his passport as per the order of the CJM while releasing him on bail in the predicate case. Section 6 of the Passports Act, 1967 deals with the refusal of passports and travel documents. Sub-clause 2(f) is the

provision applicable in this case. It reads as follows:-

“(2) Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of subsection (2) of section 5 on any one or more of the following grounds, and on no other ground namely:-

.....

(f) That proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India.”

11. Section 22 of the Passports Act enables the Central Government to exempt any persons or class of persons from the operation of any of the provisions of the Passport Act. Invoking the said power, the Government of India issued notification GSR No.570(E) dated 25.08.1993, exempting citizens of India against whom proceedings in respect of offences alleged to have been committed by them are pending before a criminal court in India and who produce orders from the court concerned permitting them to depart from India, from the operation of provisions of clause (f) subsection(2) of Sec.6 of the Act.

12. According to the petitioner, he is a businessman and wants to undertake extensive travel throughout the world. He got business interest abroad also. He was permitted to renew his passport and go abroad on two occasions. His passport is still valid. Now the passport is about to expire. The case is of the year 2018. The connected predicate case is of the year 2015. This case is not ripe for trial. It is submitted that as further investigation is in progress.

13. The contention of the learned Special Public Prosecutor is that the

petitioner is not co-operating with the further investigation of the case. It is submitted that large number of properties belonging to the petitioner was attached by the ED as per 6 provisional attachment orders. The total value of that property comes to Rs.910.66 Crores. She submits that while the attachment is in force, the petitioner has sold two items of properties worth Rs.79 lakhs to third parties and thereby flouted the attachment order. The learned counsel for the petitioner denied the allegation and submitted that the petitioner has not sold any property under attachment. According to him, the property allegedly sold do not belong to the petitioner and he has no control over the companies which sold the properties. In the reply filed by the petitioner on 11.03.2025, it is stated that the petitioner had submitted a reply before the investigating officer on 11.02.2025 stating that the properties/part of the properties attached at the value of Rs.79 lakhs were inadvertently sold by two companies, i.e., M/s.Martin Realcon Pvt. Ltd. and M/s.Charles Promoters Pvt. Ltd. The petitioner ceased to be a director of these companies in 2015. It is also stated that both the companies had made request for substitution of the properties with equivalent value of FDR with lien marked to the ED, Kochi. Chapter III of the PMLA deals with attachment, adjudication and confiscation of proceeds of crime. Section 5 empowers the Deputy Director authorised by the Director to attach a property on satisfaction of the certain conditions stipulated therein. This order will be valid for a maximum period of 180 days from the date of order and will cease to have effect after the expiry of period, unless an order is made by the Adjudicating Authority u/s.8(3) of

the Act. Section 8 deals with the process of adjudication by the Authority on receipt of a complaint u/s.5(5) of the Act. Sub section (3) states that when the Adjudicating Authority decides under sub section (2) that any property is involved in money laundering, he shall confirm the attachment. The provision also states the period upto which the attachment shall be in force and other procedures. As an enquiry into those details are not germane for consideration in this petition, I am not going to the details of the allegations. Suffice to say that, if any property is sold or transferred while the attachment is in force, that will not affect the attachment and the right, if any, accrued on the purchaser will be subject to the liabilities provided under the Act. In this case the petitioner is denying the disposal of any attached property and according to him, he has no connection with such property. As the sale, if any, will not affect the rights of the investigating agency, the allegation of such alienation is not a ground to reject this petition.

14. The other contention of the learned counsel for the respondent is that the petitioner is not co-operating with the investigation of the case. It is submitted that though notice was given on 3 occasions to the petitioner for his personal appearance to give statement u/s.50 of the Act, he did not appear. The learned Special Public Prosecutor submitted that in the earlier order this court had specifically directed the petitioner to co-operative with further investigation of the case. It is submitted that in the previous order this court had directed that *“The petitioner shall fully co-operate with the Enforcement Directorate and shall appear before the Enforcement Directorate in response to the summons issued*

to him as part of the further investigation going on in the above case. Three consecutive non appearance will be treated as a deliberate instance of non co-operation with the ongoing further investigation by the petitioner.” It is submitted by her that though notices were issued to the petitioner, he failed to appear before the Directorate without any reason. The learned counsel for the petitioner denied the allegations. He submitted that the petitioner is fully co-operating with the investigation and he appeared before the investigating officer as and when called for. In the reply the petitioner has stated that he was served with summons dated 30-01-2025 directing him to appear before the Assistant Director, ED, Delhi on 18-02-2025. It is stated that on 13-02-2025 evening, the petitioner suffered a severe brain stroke and had been hospitalised. The Company Secretary sent a letter to the Assistant Director. The petitioner has produced copy of the letter and also the medical records to show that he was hospitalized. The discharge summary available in the records show that the petitioner was being treated as an inpatient from 14-02-2025 to 22-02-2025. The diagnosis in the same is “*Left Basal Ganglia Bleed, Hypertension, old ischemic CVA and Peripheral Vascular Disease*”. This shows that the petitioner was prevented from appearing before the investigating officer for valid reasons on that day. In the order of this court itself it was made clear that only failure for 3 consecutive times will lead to cancellation of the order. Though the respondent submitted that notices were given on 3 occasions, the objection contains the dates of only two notices. Any how, the respondent has no case that the petitioner failed to appear for 3 consecutive

times.

15. The other contention of the learned Public Prosecutor is that another case is registered as ECIR/HIU-1/16/2024 in Meghalaya and the petitioner did not appear before the investigating officer in that case. It is submitted by the learned counsel for the petitioner that the summons issued in that case is challenged before the Hon'ble Supreme Court. The Court, as per order dated 13-12-2024 in WP(Crl.) No.515/2024 has stayed the effect and operation of the summons u/s.50 of the Act to the extent that they require the presence of the petitioner for the purpose of extraction of data stored in the digital devices. So, the matter is pending before the Hon'ble Supreme Court and there is a partial stay in the matter. If the petitioner is not complying the summons in that case, the respondent can take appropriate steps in that case. The non-appearance of the petitioner in response of the summons in that case will have no effect in this case.

16. The other concern expressed by the Prosecutor is about the seriousness of the offence and his likelihood of abstaining from court during trial. The records of the case show that the accused has been complying the conditions imposed while granting bail and co-operating with the proceeding in the court. The apprehension of the Prosecutor can be solved by imposing suitable conditions. Reasonable restrictions can be imposed to ensure the petitioner's return and participation in the ongoing case proceedings. Therefore, the period of exemption can be fixed as 5 years. So, the petition can be allowed

to that extent.

In the result, the petition allowed as follows:-

1. The passport of the petitioner shall be renewed for a period of 5 (five) years.
2. The petitioner is permitted to leave India during the validity of the passport.
3. The petitioner shall appear before this Court as and when directed.
4. Whenever the petitioner intends to leave the country, he shall file an affidavit before this court containing details of his travel program with copies of the travel documents.
5. The petitioner shall file a memo before this Court within two weeks from his return from abroad.
6. The petitioner shall co-operate with the Enforcement Directorate and shall appear before the Enforcement Directorate in response to the summons issued to him as part of the further investigation in this case. Three consecutive non appearance without sufficient cause will be treated as a deliberate instance of non-co-operation.
7. In case of any such violation, the respondent is at liberty to file application before this court for revocation of this order.
8. The petitioner shall execute a bond for Rs.1 crore together with two solvent sureties for the like sum.
9. Breach of any one of the conditions mentioned above shall be a

ground for the cancellation of the permission granted by this order
and for the forfeiture of the bond.

Dictated to the Confidential Asst., transcribed and typewritten by her,
corrected and pronounced by me in open court on this the 18th day of March,
2025.

Appendix: Nil

Sd/-
P. K. Mohandas
Judge, Special Court for PMLA Cases

Id/-
Judge, Special Court for PMLA Cases
(By Order)

//True Copy//

Sd/-
Sheristadar.