

**IN THE COURT OF THE ADDITIONAL SPECIAL SESSIONS
JUDGE, (SPE/CBI)-III, ERNAKULAM**

Present :-

SRI.SHIBU THOMAS, SPECIAL JUDGE.

Friday the 05th day of January, 2024/ 15th Pousha, 1945.

Crl. M.P. Nos.25/2024,26/2024,27/2024,28/2024,30/2024 and 31/2024

in

S.C.3/2023

Crl. M.P.25/2024

Petitioner /Accused No.10: Shri Chanchal Jain, aged 49 years,
S/o.Late Shri. Lal Chand Jain,
Currently residing at C 156, First Floor,
Preet Vihar, Delhi-110092.

Represented By : Advs. M.A. Mohammed Siraj,
Harikrishnan.S, Cyriac Tom,
Rizlana Nazar & Navlendukumar.

Respondent/Complainant: Director of Enforcement, Government of
India, represented by its Assistant Director,
Cochin Zonal Office, Kanoos Castle,
A.K. Sheshadri Road (Mullassery Canal
Road West), Cochin – 682001.

Represented By : Adv.Govindu P. Renuka Devi.,
Special Public Prosecutor.

Crl. M.P.26/2024:**Petitioners/Accused Nos.1 &3:**

1. Shri Rakesh Kumar Garh,
aged 63 years, S/o. Niranjan Lal Garg,
F 303, Tulip Ivory, Sector-70,
Opp Orange, South City-II,
Gurgaon, Haryana, Pin-122018 (A1).
2. Shri Sanjeev Kumar Aggarwal,
aged 67 years, S/o. Late Niranjan Lal
Aggarwal, H.No. 106, Sector-4,
HUDA, ROHTAK, Near Sky Tech
Mall, Haryana, Pin-124001.(A3).

Represented By : Adv. Sasthamangalam S.Ajithkumar.

Respondent/Complainant: Director of Enforcement,
Government of India, represented by its
Assistant Director, Cochin Zonal
Office, Kanoos Castle, A.K. Sheshadri
Road (Mullassery Canal Road West),
Cochin – 682001.

Represented By : Adv.Govindu P. Renuka Devi.,
Special Public Prosecutor.

Crl. M.P.27/2024:

Petitioner/Accused No.11: Shri Gaurav Bhasin, aged 32/2022,
S/o.Bharat Bhasin, 5, N.C. Sengupta
Sarani, Dum Dum, Kolkata-700080.

Represented By : Advs. Lakshmi Sreedhar, Ummul Fida,
Lakshmi. P.Nair, Amitha. K.M and
Harsh. K. Sharma.

Respondent/Complainant:

Director of Enforcement,
Government of India, represented by
its Assistant Director, Cochin Zonal
Office, Kanoos Castle, A.K.
Sheshadri Road (Mullassery Canal
Road West), Cochin – 682001.

Represented By

: Adv.Govindu P. Renuka Devi.,
Special Public Prosecutor.

Crl. M.P.28/2024**Petitioners/Accused Nos. 6 & 7:**

1. Shri Pushkar Bhasin, aged 37/2022,
S/o. Bharat Basin, Flat No. 7044,
Tower No.7, Prestige Apartments,
Marine Drive, Cochin.
2. M/s. Pushkarraj Construction Pvt. Ltd.,
Represented through its Director
Shri Pushkar Bhasin 5 N C Sengupta
Sarani Dum Dum , Kolkata-70080.
Through its Director Shri Pushkar
Bhasin, aged 37/2022, S/o. Bharat
Basin, Flat No. 7044, Tower No.7,
Prestige Apartments, Marine Drive,
Cochin.

Represented By

: Advs. Lakshmi Sreedhar, Ummul Fida,
Lakshmi P Nair, Namitha K.M and
Harish. K Sharma)

Respondent/Complainant:

Director of Enforcement,
Government of India, represented
by its Assistant Director,
Cochin Zonal Office, Kanoos Castle,

A.K. Sheshadri Road (Mullassery
Canal Road West), Cochin – 682001.

Represented By : Adv.Govindu P. Renuka Devi.,
Special Public Prosecutor.

Crl. M.P.30/2024

Petitioner/Accused No.4: Shri Kanav Khanna, aged 39/2022, S/o.
Sanjeev Khanna, No.29, Silver Oak
Farms, Road No.1, Ghitorni, M.G.Road
near Bakshi Farms, New Delhi-110030.

Represented By : Advs. John S Ralph, Vishnu Chandran,
Sumer Singh, Giridhar Krishna Kumar,
Ralph R John, Appu Babu and Apoorva
Ramkumar.

Respondent/Complainant: Director of Enforcement,
Government of India, represented by
its Assistant Director,
Cochin Zonal Office, Kanoos Castle,
A.K. Sheshadri Road (Mullassery
Canal Road West), Cochin – 682001.

Represented By : Adv.Govindu P. Renuka Devi.,
Special Public Prosecutor.

Crl. M.P.31/2024

Petitioner/Accused No.2 : Shri Sanjeev Khanna, aged 62/2022,
S/o. Late Shri Raja Ram Khanna,
No.29, Silver Oak Farms, Road No.1,
Ghitorni, M.G. Road, Near Bakshi
Farms, New Delhi-110030.

Represented By : Advs. John S Ralph, Vishnu Chandran, Sumer Singh, Giridhar Krishna Kumar, Ralph R John, Appu Babu and Apoorva Ramkumar.

Respondent/Complainant: Director of Enforcement, Government of India, represented by its Assistant Director, Cochin Zonal Office, Kanoos Castle, A.K. Sheshadri Road (Mullassery Canal Road West), Cochin – 682001.

Represented By : Adv.Govindu P. Renuka Devi, Special Public Prosecutor.

These petitions coming on for hearing on 05.01.2024 in the presence of Counsels on both sides having stood over for consideration on the same day the Court passed the following:

COMMON ORDER

Crl. MP. 25/2024 is the bail application for 10th accused. Crl. MP. 26/2024 is the bail application for A1 and A3. Crl. MP. 27/2024 is the bail application for 11th accused. Crl. MP. 28/2024 is the bail application for A6 and A7, company represented by accused No. 6. Crl. MP. 30/2024 is the bail application for 4th accused. Crl. MP.31/2024 is the bail application for A2.

2. The prosecution case is that the first accused Rakesh Kumar

Garg, the then Chief Engineer (Naval Works), Military Engineer Service (MES), Kochi engaged in corrupt practices by demanding and collecting illegal gratifications equal to 1% of the tender value from the contractors for awarding various civil contracts at the Naval Base in Kochi. It is alleged that he received bribe not only directly from contractors, but also through 4th accused, Kanav Khanna and other intermediaries. Bribes were transferred through hawala routes and direct payments by private contractors. Initially, the illicit funds were concealed at the residence of 4th accused and later moved to the residence of his brother, one Sanjeev Kumar Agarwal. The CBI filed a charge sheet u/s. 173(2) of Cr.P.C on 29.06.2021 against several accused persons. During the investigation, Kanav Khanna and Sanjeev Khanna sought pardon in the case and have given statements u/s.164 of Cr.P.C. During investigation, the CBI, Delhi Unit registered another FIR on 25.05.2022 against first accused for allegedly possessing disproportionate assets. It is brought out in investigation that the first accused allegedly possessing disproportionate assets exceeding Rs.1,60,27,015.39 beyond his known source of income and to acquire property involved in money laundering and their act constitute the offence of money laundering u/s. 3 and punishable u/s. 4 of

PML Act, 2002.

3. The case of the petitioners is that they are totally innocent of the offence alleged against them. They are prepared to execute bond with sufficient sureties and they are ready to abide any condition imposed by this Court. During argument, the learned counsel for the petitioners submitted that these petitioners were not arrested during investigation; they were available during investigation and have extended full co-operation with the investigation; there is no possibility of tampering of evidence or influencing witnesses or fleeing from justice since all evidences in this case are documentary in nature which cannot be tinkered by the accused/petitioners. It is further submitted that in compliance of the summons issued by this Court, they appeared and they are ready to furnish sufficient sureties to release them on bail. They are ready to co-operate with the further investigation if any and also to appear in this Court as and when directed. For these grounds, the petitioners prayed to release them on bail.

4. The learned Special Prosecutor appearing for the complainant/respondent submitted that he has only formal objection in allowing this application and he is not filing any written objection.

5. Heard both sides.

6. I have gone through the records. There are indeed serious allegations against the petitioners. However, in this case, this Court took cognizance on the complaint submitted by the complainant/respondent. The matter is pending for trial. The petitioners were not arrested during the investigation of PMLA case. The complainant does not have a case against them, that the petitioners neither participated in nor co-operated with the investigation. The investigating officer even after filing the complaint, did not apply for the custody of the petitioners. The statement of the petitioners u/s. 50 of PML Act were recorded at several times. The learned counsel for the petitioners submitted that as such the petitioners are not required to pass the test of Sec. 45 of PML Act at this stage and it is only applicable in a case where the petitioners filed a petition either u/s. 439 of the Code after arrest during investigation or u/s.438 of Code apprehending their arrest during investigation. It is an admitted case of the complainant that the applicants were not arrested during investigation. These applications are made while the petitioners appeared before Court on summons.

7. In Rana Kapoor's case, the Hon'ble High Court of Delhi

considered similar facts, Sec. 170 of Cr.P.C and sec. 45 of PML Act as well as the judgment of the Hon'ble Supreme Court in Satinder Kumar Antil's case and granted bail to the petitioners of that case. It is pertinent to note in the case on hand that no attempt was made by the complainant to arrest the petitioners during the investigation stage and no petition is filed in this Court seeking custody of any of them. Bearing in mind the principles laid down in Satinder Kumar Antil's case and Rana Kapoor's case, I am of the view that the restrictions in Sec. 45 of PML Act is not a ground to reject the bail applications filed by the petitioners at this stage. The apprehension raised by the prosecution during hearing that there is chance of absconding of accused can be alleviated by imposing conditions for which petitioners are willing, ready and amenable. Therefore, the petitions are allowed and petitioners are released on bail with following conditions:-

1. Petitioners shall execute bond for Rs.1,00,000/- (Rupees One lakh only) each with two solvent sureties each for the like amount.
2. Petitioners shall not leave the country without prior permission of the Court.
3. They shall produce their original passports within two weeks. If they are not in possession of passports, file an affidavit to that effect.

4. They shall not influence, intimidate any of the witnesses and shall not interfere with the trial of this case.

5. They shall appear before Court as and when required.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open Court on this the 5th day of January, 2024.

Sd/-

Shibu Thomas

**Special Judge, (SPE/CBI) – III
Ernakulam**

Appendix: Nil.

Id/-

Special Judge, (SPE/CBI) – III

Typed by:-
Compd by:-