

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

Present :-

**SRI.SHIBU THOMAS, SPECIAL JUDGE.**

Wednesday the 29<sup>th</sup> day of November, 2023/ 8<sup>th</sup> Agrahayana, 1945.

**Crl. M.P. No. 1071/2023**

in

**SC PMLA 04/2023**

**Petitioner/Accused No.14** :Shri Satheeshkumar P, aged 56 years,  
S/o P.N. Kunhiraman Nambiar,  
Resident of Anjanam House, Kolazhy P.O.,  
Thrissur, Pin -680010

**Represented By** : Advs. R. Anil, V.B. Sujesh Menon, T. Anilkumar,  
Thomas Sabu Vadakekut, Mahesh Bhanu S,  
Ressil Lonan, S. Lakshmi Sankar.

**Respondent/Complainant:** Assistant Director, Directorate of  
Enforcement, Government of India,  
Cochin Zonal Office, Kanoos Castle,  
A.K. Seshadri Road, (Mullassery  
Canal Road West, Cochin -682011.

**Represented By** : *Adv.M.J. Santhosh*  
Spl. Public Prosecutor,  
Directorate of Enforcement

This petition coming on for hearing on 27<sup>th</sup> day of November, 2023 in the presence of Counsels on both sides having stood over for consideration till day the Court passed the following:-

**ORDER**

Application for regular bail has been filed u/s 439 (1) of Code of Criminal Procedure r/w section 45 of Prevention of Money Laundering Act, 2002 (hereinafter referred as 'PMLA'). The petitioner was the first accused in Crime No.ECIR/KCZO/45/2021, registered by Enforcement Directorate on 02.08.2021. On 01.11.2023 the Enforcement Directorate filed complaint u/s. 44 and 45(1) of PMLA alleging offence u/s.3 r/w. Sec. 17 punishable u/s. 4 of PMLA, 2002 arraying the petitioner as accused No. 14 and cognizance was taken as SC PMLA 4/2023.

2. Case of the prosecution is that the petitioner along with other accused, committed the above said offences. The predicate offences as stated in the FIR No. 650/2021 registered on 14.07.2021 by Irinjalakkuda Police Station against the petitioners and others u/s 406, 420, 409, 465 r/w 34 of IPC. Since the offences u/s 420 of IPC in the predicate offence is a scheduled offence under PMLA, an ECIR bearing No. ECIR/KCZO/45/2021 dated 02.08.202 has been recorded. The said crime registered by Irinjalakkuda Police Station has been subsequently transferred to Crime Branch dated 21.07.2021 and the Crime Branch re-registered the case as crime No.165/ CB/TCR/R/ 2021 by SPCB, Thrissur.

3. The crux of the prosecution case is that, petitioner along with other accused and in collusion with high profile persons including politicians, conspired to misappropriate the funds of the Karuvannur Service Co-operative Bank Ltd (hereinafter referred as 'society') and to defraud the depositors of their hard earned money, they created fictitious borrowers, manipulated the officials, violated the bye-laws of Co-operative Bank, contravened the Provisions and Rules under the Co-operative Societies Act and disregarded the circulars of Registrar of Societies, to obtain illegal loans and to acquire property involved in money laundering and their act constitute the offence of money laundering u/s. 3 of PML Act.

4. Case of the petitioner is that more than two years after the registration

of ECIR (Enforcement Case Information Report), which has not been presented in Court or served to the petitioner. The specific offenses, accused persons, or nature of accusations in this ECIR remain undisclosed and secret, not even shared with the Court or the petitioner. Despite a prolonged investigation by the Crime Branch, no accusations have been made against the petitioner in this case. Numerous FIRs regarding fund embezzlement in the society were filed, none of which implicate the petitioner. Even a detailed inquiry by the Joint Registrar of Co-operative Societies didn't find any accusations against the petitioner, though it bring out serious lapses by the bank. Despite these clear facts, the petitioner was arrested on 04.09.2023, i.e more than two years and one month after ECIR/KCZO/45/2021 was registered. During the arrest, a false story was concocted to connect the petitioner with an accused in Crime No.650/2021, presenting them as an accused without any substantial basis.

5. The petitioner contended that he has been engaged in various business activities for the past 33 years. He successfully operated a manufacturing unit for about fifteen years, specializing in the production of bags and suitcases for esteemed organizations, and additionally generated income from real estate ventures over the last two decades. By 2007, he started to concentrate on real estate business. Later in 2015 and 2016 he established Devi Finance as a proprietor business concern which obtained license under Kerala Money Lenders Act 1958 with KML License No. 32080449611. As a matter of fact, the authorities under the KML scrutinized the accounts of the Devi Finance for the financial years 2016-2017, 2017 to 2018, 2018 to 2019, 2019 to 2020 and 2020 to 2021 and approved the accounts as maintained. In the above scrutiny even a single objection has raised against the conduct of business by Devi Finance. It is emphasized that the petitioner has consistently filed income tax returns, declaring income and expenses since 2008. Furthermore, the petitioner's brothers have their own businesses in Gulf countries funded by their own earnings. These crucial facts,

allegedly concealed by the investigating agency, are pivotal to counter the false allegations against the petitioner. It is submitted that if there is any deficiencies or mistakes in complying with statutory requirements like the Income Tax Act or the Money Lending Act, these should not be exploited by the investigating agency to support baseless allegations under the Prevention of Money Laundering Act (PMLA). He also own and manage Anjanam Residency, a lodge near the Medical College, Thrissur.

6. It is further submitted that the petitioner and one C.G.Babu entered an agreement for the sale of property in May 2015, for a consideration of Rs.3,00,00,000/- with a condition to discharge the debt of said Babu to the tune of Rs.1.80 crores to KFC and the same will be adjusted towards the advance payment. However, the agreement did not specify terms for repayment if the deal fell through. Kiran, who is arrayed as the accused No. 9 in the complaint, a partner of said Babu, facilitated this deal. Said Kiran agreed to repay the amount used for discharging the debt of said Babu when the agreement was defeated. Kiran had told the petitioner that he had applied for a loan in the society with intention to clear the debt due to the petitioner. The loan was sanctioned by the bank and amount would be released once the bank had sufficient amount from repayments and deposits. He further told the petitioner that if the petitioner deposited sum amount in the society under the name of the petitioner, the bank can use that money to release the amount passed in the loan account of the said Kiran and that amount could be used to discharge the liability towards the petitioner. Believing the submission of the said Kiran, the petitioner deposited one crore rupees in the society and his brother, Sri. Sreejith deposited Rs.48,50,000/- in the society. When Kiran defaulted on repayment, the petitioner confronted him, leading to an agreement acknowledging the debt. Subsequently, a complaint was also filed before the D.Y.S.P, Irinjalakuda and it leads to a partial repayment. The petitioner never borrowed from the society and, after June 2018, ceased all transactions with said Kiran having no further

communication with him.

7. ED officers tried to coerce him into naming political figures for alleged monetary transactions, which he ignored. Subsequently, he cooperated by providing bank details and appeared as requested, accompanied by his Accountant. However, the investigating agency seemed focused on compelling the petitioner to confess a false claim of giving money to a senior political leader. Despite the petitioner's disclosure of facts related to a police complaint regarding funds transferred deceitfully in 2016, the agency persisted in seeking irrelevant details about his transactions and family assets, unrelated to the ongoing investigation into the society scam.

8. The petitioner refused to comply with illegal demands to implicate political leaders. Hence the petitioner was unjustly made an accused on 04.09.2023 and arrested along with Kiran/A9, who misused funds deposited in the society. The petitioner has been in custody for over 50 days without justification based on these false charges.

9. The accusation that the petitioner layered the proceeds of crime lacks legal or factual basis. The petitioner vehemently denies engaging in money laundering as defined under Section 3 of the PMLA, which is punishable under Section 4 of the same Act. Allegations of non-cooperation with the investigation and failure to provide details requested by the agency are unfounded. Similarly, claims made in the remand report regarding the petitioner receiving 14 crore rupees from Kiran/A9 are baseless. The actual amount received is significantly lower than what was agreed upon in Annexure 4. The assertion that the petitioner's brother did not appear despite notices is false. He has appeared on multiple occasions. Claims of properties being purchased under benami names and undisclosed bank accounts are also untrue. The allegation that the petitioner layered substantial amounts through Jayarajan is also baseless.

Furthermore, the petitioner notes that the written grounds of arrest were not provided, a violation of Sec. 19(1) of PMLA, as highlighted in the case of Pankaj Bansal vs. Union of India by the Hon'ble Supreme Court of India. Continued incarceration of the petitioner cannot be justified, considering these legal violations. It is also submitted that the investigation is ongoing regarding predicate offenses under Section 420 IPC from 2021 onwards. The petitioner's family comprises two unmarried daughters and a sick mother. The petitioner expresses readiness to comply with any conditions set by the Court and ensures non-interference with the investigation, evidence tampering, witness influence, or commission of any offense while on bail. Sufficient sureties are available for executing a bail bond on behalf of the petitioner to ensure prompt appearance before the Court. Hence prayed to allow the petition.

10. The Deputy Director of the Enforcement Directorate filed a detailed counter-affidavit through the Special Prosecutor. The affidavit reveals that certain individuals exploited their positions within the bank, violating cooperative society rules and bylaws. Sri. Kiran P.P, who lived outside the society's operational area, obtained membership against the co-operative society bylaws. Subsequently, substantial loans totaling a shocking amount of Rs.24,56,06,618/- were approved in his name and 51 others. These loans were secured by mortgaging the properties of various individuals. Several individuals associated with this criminal activity were summoned, and their statements recorded under Section 50 of the PMLA. Moreover, it was revealed that a significant portion, over Rs. 14 Crores, of the Rs. 24,56,06,618/- availed by the accused No. 9, Kiran was transferred to the petitioner, both through cash and his bank account. These transactions are revealed from statement of A9. Now the total outstanding balance in the loan A/c is Rs. 48,57,10,662/-.

11. It is further submitted that illegal loan amount availed by A9, transferred to the bank account of the petitioner stood in the said society and also paid to him in cash. Petitioner admitted during the recording of his

statement on 04.09.2023 that he received Rs. 2,15,50,000/- from the said society through A9. Subsequently, A9 admitted on 06.09.2023 while recording his statement that he handed over Rs. 1.2 Crores of the total amount received from society, to the petitioner in the car parking area of the society in the last month of 2014, in the presence of Sri. Jijor.K., Suresh, and Mr. Shaju. In another instance, in 2016, A9 obtained a cash loan of Rs. 3,00,00,000/- through a benami borrower and handed it over to petitioner at the bank's car parking area in three bags. This transaction was done in the presence of Smt. Salini, and Sri. Saju, the driver of Sri. Satheeshkumar and the then Manager of the bank, Sri. Biju.M.K. Statements of said Saju, driver of Sri. Satheeshkumar, A15/Aravindakshan, A9/Kiran, Mr. Jijor. K.A and Mr. Biju.M.K, the then Manager of Karuvannur society have been recorded u/s. 50 of PMLA and they have admitted these facts in their statements. Statements of A9 indicate multiple cash transfers of the Rs. 14 crores received from the bank to different individual's bank accounts as demanded by A14. Witnesses statements u/s. 50 of PMLA confirm these facts. A14 is alleged to have abetted and facilitated A9 in committing the scheduled offence, thereby acquiring proceeds of crime invested in his business. This is evident from the financial statement of A14's firm, M/s. Devi Financiers, as submitted by the Chartered Accountant, Sri. Sanalkumar.C.V. Discrepancies were noted in the capital account balances between 31.03.2016 and 31.03.2017, with no reflection in A14's Income Tax return. When the Chartered Accountant enquired about this escalation in the capital account, A14 told him that fund was received from Jayarajan.P for investment and he has shown a letter said to be issued by Jayarajan to A14. Though A14, in his statement, claimed the investment was by Jayarajan.P. for his real estate business, however, Jayarajan denied making such a statement when questioned. Jayarajan.P, in his statement, revealed that A14 asked him to provide the letter for the Income Tax Department and handed it over in the presence of the Chartered Accountant at Anjanam Residency, owned by A14. He clarified that it was

given for the only purpose of regularizing A14's income source and denied with A14's version. The respondent argued that this was an instance of layering of proceeds of crime by A14. Jayarajan.P stated about receiving of Rs.2.50 crores from A14's Catholic Syrian Bank account and subsequently transferring it to the account of brother-in-law of A14. Jayarajan.P. further submitted that A14 asked him to keep the said amount in his account for a certain period and transfer to the account of Sri. Mukundan, who is none other than the brother-in-law of A14. It is submitted that these funds originating from the scheduled offence were parked and layered through the account of Jayarajan.P and Mukundan constituted an offence u/s. 3 of PMLA.

12. Sunilkumar T.R., the former Society Secretary, testified that Satheesh Kumar had connections with high-profile figures in police and politics. He alleged in his statement that A14 has threatened him to secure loans. He stated that Rs.25 lakhs each in the names of Aravindakshan and Sunil Kumar was deposited under pressure from A14.

13. Aravindakshan's statement recorded u/s.50 of PMLA revealed his association with A14 for ten years, introduced by Madhu Ambalapuram. He confirmed accompanying Satheesh Kumar and Madhu Ambalappuram to the society, multiple times for loan transactions, stating specific amounts received by A14/Satheesh Kumar in 2016-2017 and 2018-2019. He admitted depositing Rs. 50 lakhs as FD in the society under his name.

14. The investigation uncovered numerous cash deposits and withdrawals in the bank account of the petitioner indicating layering of proceeds of crime received from Kiran.P.P. The search at the petitioner's residence led to the seizure of a mobile phone containing incriminating call records between the A14 and Aravindakshan P.R. related to illegal loans.

15. During interrogation, the petitioner disclosed only 27 bank accounts despite maintaining 44 accounts in various Indian banks. The petitioner could not satisfactorily explain the source of cash deposits in these accounts during the relevant period, indicating they were generated through proceeds of crime.

16. There is sufficient evidence to indicate that the petitioner has committed offence u/s.3 r/w 4 of PMLA. Considering the facts and circumstances, rigour u/s. 45 of the Act, 2002 is applicable in this case. Throughout the investigation, A14 remained uncooperative, offering evasive responses and withholding crucial information regarding the use, concealment, and parking of crime proceeds, despite possessing pertinent knowledge. The investigation also revealed A14's connections with high-profile individuals, including politicians. In light of these submissions, the Learned Prosecutor argued that petitioner played a pivotal role in layering the crime proceeds and implicated him in the offence of money laundering. The grounds of arrest were duly prepared, served to the petitioner at the time of arrest, and explained to him in his language. Both accused understood the grounds and endorsed them. If the petitioner is granted bail, there is risk of influencing, intimidating the witnesses and interfering with the trial and tampering of evidences still within the exclusive knowledge of the petitioner. Hence prayed to dismiss the petition.

17. I have considered the rival contentions and also perused the records.

18. The point to be considered is, whether the petitioner should be released on bail?

19. **The Point:-** Before going to the merit of the case, it may be profitable to refer the important judicial precedents relating to money laundering cases. The Hon'ble Apex Court in State Of Gujarat vs Mohanlal Jitamalji Porwal And Anr. AIR 1987 SC 1321 recognizes that the money

laundering is a threat to national economy and national interest and the importance of protecting the economic well-being and security of the nation and the court responsibility to safeguard the national economic interest in cases involving financial crimes. In Para 5 of the Judgment, it is held thus :-

*“The entire Community is aggrieved if the economic offenders who ruin the economy of the State are not brought to books. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the Community. A disregard for the interest of the Community can be manifested only at the cost of forfeiting the trust and faith of the Community in the system to administer justice in an even handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the National Economy and National Interest “.*

20. The Hon'ble Apex Court in *Gautam Kundu Vs. Manoj Kumar, Assistant Director AIR 2016 SC 106* held that:-

*“ We have heard the learned counsel for the parties. At this stage we refrained ourselves from deciding the questions tried to be raised at this stage since it is nothing but a bail application. We cannot forget that this case is relating to “Money Laundering” which we feel is a serious threat to the national economy and national interest. We cannot brush aside the fact that the schemes have been prepared in a calculative manner with a deliberative design and motive of personal gain, regardless of the consequence to the members of the society”.*

21. The Hon'ble Apex Court in *Y.S.Jagan Mohan Reddy Vs. CBI AIR 2013 SC 1933* held that:-

*“ Economic offences constitute a class apart and need to be*

*visited with a different approach in the matter of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country".* In the order Hon'ble Apex Court further outlines the various factors and considerations that a court should take into account when granting bail to ensure a fair and just legal process while balancing the right of the accused and the interest of public and state. In Para 16 of the judgment, it is observed thus :

*" While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations ".*

22. The Hon'ble Supreme Court in Shri.Nammagadda Prasad Vs. Central Bureau of Investigation Cr.MA No.728 of 2013 also laid down rules required to be considered while granting bail. In the order it is observed that the use of phrase " the reasonable grounds for believing " rather than " the evidence signifies that, during the bail process the court's concern is not to establish the accused's guilt beyond reasonable doubt. Instead it focuses on determining whether there is a genuine case against the accused and whether the prosecution can present prima facie evidence to support the charge and also underscores the importance of balancing various factors and considerations, when deciding on bail, highlighting that the court should

consider not only the right of the accused but also the larger interest of the public and state for ensuring a fair and just legal process. It is observed in Para.27 thus:

*“ While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the Legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the Court dealing with the grant of bail can only satisfy it as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt “.*

23. Bearing in mind the said settled legal principles, I may be permitted to consider merit of the case. The specific case of the petitioner is that he has not committed any offence and he is totally innocent of the accusations levelled against him and none of the ingredients to attract under PMLA against the petitioner are made out in this case; the complaint filed u/s.44 of PMLA on 01.11.2023 is only for the purpose of defeating the provisions of Sec.167(2) of Cr.P.C and to deny the default bail to the petitioner; in this case there were no sufficient complaints of provisions of sec. 19 of PMLA. In Pankaj Bansal Vs. Union of India and others, the Hon'ble Supreme Court categorically held that the grounds of arrest would have to be conveyed in writing. But in this case,

no grounds of arrest in writing were given to the accused at the time of his arrest. Therefore, the petitioner is entitled to be released on bail in view of the said judgment of the Hon'ble Apex Court.

24. Refuting the contention, the learned Special Prosecutor referring to various records and statements of witnesses recorded u/s.50 of PMLA vehemently argued that the petitioner had committed a serious offence and had laundered money by cheating the said society. It is contended that u/s. 45 of the Act, twin conditions are required to be satisfied before a Court can grant bail. The intention of the legislature in restricting the right of the Court to grant bail is clearly expressed in Sec.45 of the Act and therefore, in the absence of any finding by the Court that the petitioner is not guilty of the offence, bail ought not to be granted. In the instant case, both the twin conditions are not satisfied since there are explicit materials to come to the conclusion that the petitioner is guilty of the offence alleged. The learned Special Prosecutor also submitted that in view of the filing of the complaint on 01.11.2023, Sec.167(2) Cr.P.C does not apply to the case. It is also submitted that in explanation (ii) of Sec.44 of PMLA, subsequent complaints or additional complaints can also be treated as a new complaint. It is also submitted that the judgment of the Hon'ble Apex Court in Pankaj Bansal's case is not applicable in this case since the direction of the Hon'ble Supreme Court in that judgment would be prospective in operation. In this case, the arrest was made before the passing of the judgment by the Hon'ble Apex Court and It would not affect the arrest in this case. It is further submitted that the essential ingredients of Sec. 19 have been complied with by the Officer at the time of arresting the petitioner and the grounds of arrest running into 3 pages in writing were provided to the petitioner as to why he was being arrested and what was the investigation conducted so far by the Investigating Agency and as to how he was prima facie guilty of the offence under PMLA. These grounds of arrest were provided to the petitioner and these are part of the record and these were also placed before this Court. Therefore, the learned Prosecutor contended that the

petitioner cannot say that he was not aware of the grounds of his arrest.

25. The learned Special Prosecutor seriously opposed the bail application contending that petitioners shall not be released on bail since the twin conditions provided u/s. 45 of the Act have not been satisfied in this case. Considering the parameters of section 45 (1) under PML Act for releasing the accused on bail there should be reasonable ground to believe that the petitioners are not guilty of the alleged offence. In this connection, it is profitable to extract section 45 of PML Act.

*Offences to be cognizable and non-bailable:-*

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

*(i) the public prosecutor has been given a opportunity to oppose the application for such release; and*

*(ii) where the public prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail: provided that a person, who, is under the age of sixteen years, or is a woman or is sick or infirm, [or is accused either on his own or along with other co-accused of money-laundering a sum of less than one crore rupees] may be released on bail, if the Special Court so directs: Provided further that the Special Court shall not take cognizance of any offence punishable under section 4 except upon a complaint in writing made by -*

*(i) the Director; or*

*(ii) any officer of the Central Government or a State Government authorized in writing in this behalf by the Central*

*Government by a general or special order made in this behalf by that Government.*

*(1A) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), or any other provision of this Act, no police officer shall investigate into an offence under this Act unless specifically authorized, by the Central Government by a general or special order, and, subject to such conditions as may be prescribed.*

*(2) The limitation on granting of bail specified in sub-section (1) is in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.*

26. Regarding Section 45 of the PML Act, Section 45 (1) provides that persons accused of offences punishable with a term of imprisonment exceeding three years under part A of schedule are not released on bail unless two conditions are satisfied (i) the public prosecutor has been given an opportunity to oppose the application; and (ii) If the public prosecutor opposes the application, the court must be satisfied that there are reasonable grounds to believe that the accused is not guilty of such offence and that he will not commit any offence while on bail. However an exception to these twin conditions is carved out in proviso to Section 45(1). These exceptions apply to the accused falling under three categories (i) Those aged 16 years or below (ii) women and (iii) accused who are sick. On a plain reading of the proviso to Section 45 (1) it could be gathered 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. The petitioner has no case that he will fall within the said exceptions. Although the petitioner raised certain contentions regarding illness, the learned counsel did not apprise the Court of any relevant information or produce any supporting documents for these contentions.

27. I have examined the complaint and material relied upon by the

prosecution. From the statement of A9, it is seen that a significant portion, of the Rs. 24.56 Crores availed by the accused No. 9, Kiran was transferred to the petitioner, both through cash and his bank account.

28. Petitioner admitted during the recording of his statement on 04.09.2023 that he received Rs. 2,15,50,000/- from the said society through A9.

29. On 06.09.2023, A9/Kiran has gave a statement that he handed over Rs. 1.2 Crores of the total amount received from society, to the petitioner in the car parking area of the society in 2014, in the presence of Sri. Jijor.K. (CW10), Suresh, A24 and Shaju, who is the driver of the petitioner. He further stated that in 2016, he obtained a cash loan of Rs. 3,00,00,000/- through a benami borrower and handed it over to the petitioner at the bank's car parking area in three bags. He further stated that these transactions were done in the presence of Smt. Salini (A49), Sri. Shaju, the driver of the petitioner and the then Manager of the bank, Sri. Biju.M.K(A34). These facts are admitted by said Shaju, Mr. Jijor. K.A and Mr. Biju.M.K, while recording their statements u/s. 50 of PMLA.

30. The CW.12/Chartered Accountant, Sri. Sanalkumar.C.V stated in his statement that discrepancies noted in the capital account balance between 31.03.2016 and 31.03.2017, were not reflected in the petitioner's Income Tax return. When he enquired about the escalation in the capital account, the petitioner told him that the fund was received from Jayarajan.P (CW.11) as an investment. However, Jayarajan denied making such a statement when questioned. Jayarajan.P, in his statement, stated that the petitioner asked him to provide a letter for the Income Tax Department and he handed over a letter in the presence of the Chartered Accountant/CW.12 at Anjanam Residency. He further stated that the letter was given for the sole purpose of regularizing the petitioner's income source and specifically denied the petitioner's version. Further, Jayarajan.P/CW11 stated about receiving of Rs.2.50 crores from the petitioner's account at Catholic Syrian Bank and

subsequently transferring it to the account of the brother-in-law of the petitioner. CW11/Jayarajan.P. further gave a statement that the petitioner asked him to keep the said amount in his account for a certain period and transfer to the account of the brother-in-law of the petitioner, Sri. Mukundan. The learned Prosecutor vehemently argued that these funds originated from the scheduled offence and were parked and layered through the account of Jayarajan.P/CW11 and Mukundan constituted an offence u/s. 3 of PMLA.

31. Sunilkumar T.R., the former Society Secretary, stated that the petitioner had connections with high-profile figures in police and politics. He alleged in his statement that the petitioner had threatened him to secure loans and further stated that Rs.25 lakhs each in the names of Aravindakshan/A15 and **Sunil Kumar** were deposited under pressure from the petitioner.

32. Aravindakshan's statement recorded u/s.50 of PMLA revealed his association with the petitioner. He stated that he accompanied the petitioner and Madhu Ambalappuram multiple times for loan transactions, stating specific amounts received by the petitioner in 2016-2017 and 2018-2019. He admitted depositing Rs. 50 lakhs as FD in the society in his name.

33. It is further brought out from the records that during interrogation, the petitioner disclosed only 27 bank accounts despite maintaining 44 accounts in various banks. But the petitioner could not satisfactorily explain the source of cash deposits in these accounts during the relevant period.

34. The prosecution relying on the statement of several witnesses, documents and accused at this stage. These statements are admissible in evidence, u/s 50 of PML Act. These statements of witnesses, accused and documents strongly support a compelling case about the involvement of the petitioner in the commission of a serious offence of money laundering. It is,

therefore not possible for me to record satisfaction that there are reasonable grounds for believing that the petitioner is not guilty of such offence.

35. The petitioner was arrested on 04.09.2023. The investigation is completed and a complaint running into more than 231 pages, citing 82 witnesses and several documents, was filed u/s. 44 and 45(1) of PMLA on 01.11.2023 alleging the offence u/s.3 r/w. Sec. 70 punishable u/s. 4 of PMLA against petitioner and 54 other accused. In such circumstances, I am of the opinion that petitioner is not entitled to be released on default bail.

36. The direction of Honourable Supreme Court in Pankaj Bansal v. Union of India regarding handing over the grounds of arrest in writing to the accused will take effect from the date of the judgment, which is October 3, 2023. The Honourable Supreme Court said that it would be necessary, henceforth, that a copy of such written grounds of arrest is furnished to the arrested person as a matter of course and without exception. This means that the ED and other agencies that have the power to arrest under the PMLA must follow this norm from now on, in order to ensure compliance with the constitutional and statutory rights of the arrested persons. In this case, bail was granted due to the cumulative effect of certain important other grounds also, such as:

The ED acted in a vindictive manner by arresting the accused without any fresh material or evidence, and by opposing their bail applications on frivolous grounds; the ED failed to comply with Section 167 of the Code of Criminal Procedure (Cr.P.C), which requires the production of the accused before a Magistrate within 24 hours of their arrest, and the submission of a report explaining the reasons and grounds for their arrest; the ED's conduct reeked of arbitrariness and violated the fundamental rights of the accused to life, liberty and dignity under Article 21 of the Constitution. No such grounds are taken in this case. On the perusal of records it revealed that all the essential ingredients of Sec.19 had been complied with by the officer arresting the petitioner. The arrest order dated 04.09.2023 records that the authorized

officer had reasons to believe that the petitioner was guilty of an offence under the provisions of PMLA. It is seen from the records that the grounds of arrest were duly prepared and served to the accused at the time of arrest. The petitioner read the same and the content of grounds of arrest was explained to him in his language. The petitioner understood the grounds of arrest and endorsed them, and these grounds of arrest are part of record.

37. Money laundering is not like conventional crime and the modus operandi involves three stages (a) placement (b) layering (c) integration. A normal business transaction between different entities involved in criminal conspiracy cannot be expected in such cases and therefore, the provision for reverse burden has also been made u/s 23 and 24 of PML Act. In the present case, the role of the petitioners has come up in the statement of witnesses recorded by the investigating officer. Huge cash transactions have been shown in the account of the petitioner and other accused. No plausible explanation has been given by the petitioner regarding the said huge cash transactions though the petitioner has the responsibility to satisfactorily answer regarding the huge cash flow shown in his account, but he failed to do so.

38. After considering the totality of the situation emerging in the case, I am not convinced that the petitioner is justified in seeking bail. Having regard to the nature of the allegations against the petitioner, the stake involved, gravity of the offences, the fact that the petitioner has political connections and high influence in the society, it cannot be said that there is no risk of influencing, intimidating the witnesses. The prosecution was able to produce, prima facie evidence in support of their case. At this stage, it is not expected to have the evidence establishing the guilt of the accused beyond reasonable doubt. There are prima facie materials to believe that he has committed the offences alleged against him. The intention of the legislature in restricting the right of Courts to grant bail is clearly expressed in Sec. 45 of the Act, and therefore, in the absence of any finding that the petitioner is not guilty of the offence, and taking note of all the above aspects, I am of the opinion that it will not be in

the interest of justice to enlarge the petitioner on bail.

In the result, the petition dismissed and plea for bail of the petitioner is rejected.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open Court on this the 29th day of November, 2023.

Sd/-

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

**Appendix: Nil**

Id/-

Special Judge, (SPE/CBI) – III

Typed by:-

Com by:-