

**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. No. 1186/2023

in

SC PMLA 04/2023

(F. No. ECIR/KCZO/45/2021)

Petitioner/Accused No.3 : Aravindakshan, aged 58 years,
S/o.Raghavan, Puthenpuraykkal House,
Parlikkad Village, Thalappilly Thaluk,
Thrissur District, Pin-680623.

Represented By : Adv. K.V. Viswan and Arun Bose. D

Respondent/Complainant: Assistant Director, Directorate of
Enforcement, Government of India,
Cochin Zonal Office, Kanoos Castle,
A.K. Sheshadri 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 03rd day of January, 2024 in the presence of Counsels on both sides having stood over for consideration till day the Court passed the following:-

ORDER

This 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') by 15th accused.

2. The prosecution case is that petitioner, along with other accused in the above case, committed offences defined u/s 3 and punishable u/s 4 of PMLA. 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 PML Act 2002 and ECIR has been recorded on 02.08.2021 with ECIR No.ECIR/KCZO/45/2021. 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, in collusion with high profile persons including politicians, conspired to misappropriate the funds of the Karuvannur Service Co-operative Bank 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. Earlier, petitioner filed CrI.M.P. 926/2023, and it was dismissed on 20.10.2023 finding that there are no grounds to believe that petitioner is not guilty.

5. The petitioner contended that he is a responsible politician and is a councilor of Vadakkancherry Municipality. There are calculated and baseless allegations raised against this petitioner in pursuance of a criminal conspiracy hatched by the political opponents and some persons who were expelled from his party. There is absolutely no material against this petitioner, so as to rope the petitioner in the above offence and he has not committed any offence. He has duly appeared before the respondent and produced documents and co-operated with the investigation. He had also appeared on 11.09.2023 though his daughter's engagement function was fixed on that day. He again appeared on 12.09.2023 as directed, but he was manhandled and assaulted by the ED officers for no reason. The petitioner was arrested on 26.09.2023 and was given Enforcement custody twice. The investigation with regard to the petitioner is over and a complaint has been filed. The petitioner is the only bread winner of his family consisting of his aged mother, wife and children. The petitioner is

ready to abide by any conditions that may be imposed by this Court and ready to furnish solvent surety. Hence he prayed to allow the petition and release him on bail.

6. The Deputy Director of Enforcement Directorate filed detailed counter affidavit through Special Prosecutor. The first bail application filed by the petitioner was dismissed by this Court finding that there are no ground to believe that petitioner is not guilty. This petition is filed without any change of circumstance. Since there is no change in the fact situation or in law which requires the earlier view being interfered with or where the earlier finding has become obsolete, the second application is not maintainable before the same forum. He relied judgment of Supreme Court in Kalyan Chandra Sarkar Vs. Pappu Yadav (2005 (2) SCC 42).

7. It is submitted that certain individuals took advantage of their positions within the bank in clear violation of the rules and bylaws governing co-operative societies. A9/Kiran PP, who resided outside the operational area of the society, was granted membership against the co-operative societies bylaws. Subsequently, substantial loans were approved in his name and that all 51 others, totally a shocking amount of Rs.24,56,06,618/-. These loans secured by mortgaging property of various individuals. Now the outstanding balance including interest is Rs.48,57,10,662/-.

8. Furthermore, a substantial portion of Rs.24.56 Crores availed by the 9th accused, amounting to over Rs.14 Crores was transferred to the fourteenth accused/Satheeshkumar, both by cash and through his bank account. It is revealed from the statement of Kiran.

9. It is further submitted that a significant sum of this unlawfully obtained money, Rs.50 Lakhs was laundered and placed into deposits in the name of the petitioner at Karuvannur Service Co-operative Bank Ltd., and the petitioner, who is Councilor at Vadakkancherry Municipality, played an active role in layering and concealing illicitly obtained funds. Numerous bank accounts associated with him across various banks, including the State Bank of India in Vadakkancherry and Peringandoor Service Co-operative Bank, showed substantial cash flow during the relevant period. It is further submitted that the petitioner could not provide any facts to show that these cash flows were not the result of tainted money.

10. It is further submitted that the petitioner maintained a bank account No. 9340 with the Karuvannur Service Co-operative Bank, Ltd. On multiple occasions, he deposited substantial amounts, amounting to one crore in 10 deposits, allegedly at the behest of the A14/Satheeshkumar and one Mr.Madhu Ambalappuram. Petitioner admitted this fact during his statement u/s 50 of the PML Act, 2002.

11. Moreover, it is further submitted that the petitioner maintained a bank account with State Bank of India in Vadakkancherry, where large cash deposits were made in the year 2015, 2016 and 2017. Additionally a significant sum amounting to Rs.20,00,500/- was credited to this account by transfer from the 14th accused. However, the source of income for these deposits remained undisclosed.

12. It is further submitted that petitioner also had bank account with Peringadoor Service Co-operative Bank, with a substantial credit transaction since 2014 including a cash credit for an amount of Rs.11 Lakhs from one Binoy Mohan. It is submitted that the purpose and source of these transfers are not disclosed by the petitioner.

13. It is further submitted that despite these financial activities, petitioner's reported income during this period was limited to a honorarium of Rs.8,600/- per month, and he failed to disclose any other source of income or filed his income tax returns. Therefore, it is submitted that this deposits were connected to the proceeds of crime acquired by A9 and the petitioner knowingly received and possessed these funds for the purpose of layering.

14. It is further submitted that petitioner failed to provide details of all bank accounts in his names and also his family members, prompting enquiries of various banks for these details. One bank account in the name of Chandramathi,

the mother, showed significant transactions including those involving A14 and a credit transaction from Binoy Mohan. It is submitted that, in the statement recorded, petitioner has admitted that the account is in the name of his mother.

15. It is further submitted that the ongoing investigation has revealed significant involvement of petitioner in the alleged money laundering scheme. The statements given by Sri. Biju M.K., the former Manager of the Karuvannur Service Co-operative Bank,Ltd., and a key accused in the case, disclosed that a substantial amount of Rs.25 Lakhs, originally part of the illegal loan availed by A9/ Kiran P.P. was deposited as a fixed deposit in the name of petitioner. These statements were supported by other witnesses who endorsed petitioner's role in layering the illicitly obtained funds. Furthermore, significant sum were transferred from the bank account of A14/Satheeshkumar and his brother Sreejith. P to the bank account of the petitioner. Said Biju, in his statement, disclosed that petitioner along with one Madhu Ambalappuram, at the instruction of A14, threatened his life and his family. One Jayarajan.P, a witness gave statement to the effect that he has paid an amount of Rs.77,00,000/- to Aravindakshan as per the instruction of Sathish kumar. Furthermore, one Jijor, another witness gave statement to the effect that the petitioner was directly involved in generation of proceeds of crime by influencing the governing body of Karuvannur society to sanction illegal loans.

16. It is further submitted that during the search at the residence of A14/Satheeshkumar a mobile phone was seized and data from the mobile were extracted and it revealed incriminating call records between A14 and the petitioner. When it was confronted with the petitioner, he admitted his voice and content of these calls. According to the prosecution, it further underscores his involvement in the financial activities.

17. It is submitted that the petitioner has connections with high profile persons in politics and in ruling party. Based on the material and considering the seriousness and gravity of the matter under investigation, and his non-cooperation, there is all chances of influencing the witnesses and tampering the witnesses if he is released on bail. Many of the benami borrowers are non-aware about the actual amount borrowed in their name and some of the accused were granted loans due to the compulsion or pressure of some political 'Bigwings'. Investigation is going on against the person who are affected to commit scheduled offence and assisted in committing the offence of money laundering.

18. It is further submitted that the rigor of section 45 of the Act is applicable in this case since there are cogent and irrefutable grounds to believe that petitioner has committed the offence under this Act. Considering the gravity and seriousness of the matter under investigation, petitioner's influence in

politics and ruling party, there is every chance of intimidating and influencing the witnesses and also tampering with the evidence. If the petitioner is enlarged on bail, he will try to interfere with the trial, and his mere presence would intimidate the witnesses. Hence, prayed to dismiss the petitions.

19. Heard both sides elaborately and perused the petition, objection and records.

20. 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 “.

21. 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 ”.

22. 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 ".

23. 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 “.

24. The learned Special Prosecutor vehemently argued that the first bail application filed by the petitioner as CrI. M.P.926/2023 was dismissed on 20.10.2023 finding that there are no ground to believe that petitioner is not guilty. Thereafter no change of circumstance is pointed out in bail application to reconsider the materials already perused by this Court in earlier bail application. Relying the judgment of Hon’ble Supreme Court in Kalyan Chandra Sarkar Vs. Pappu Yadav (2005 (2) SCC 42), the learned Prosecutor submitted that a subsequent bail application in cases where earlier bail applications have been rejected can be filed only when there is a change in the fact situation or in law which requires the earlier view being interfered with or where the earlier finding has become obsolete. According to the learned Prosecutor, this is the limited area in which an accused can move a subsequent bail application. The

learned counsel for the petitioner submitted that there is change of circumstances in this case. The earlier bail application was filed before completion of the investigation and now the investigation of the case is completed and a complaint was filed against 45 accused persons arraying the petitioner as 15th accused. The learned counsel for the petitioner vehemently argued that since the investigation is completed and complaint is filed, 41 accused persons who have alleged to have committed similar offences are not arrested, there is change of circumstances in this case and petition is perfectly maintainable and the petitioner is entitled to bail, and further custody of the petitioner is not at all necessary.

25. In the *Kalyan Chandra Sarkar Vs. Pappu Yadav*, the respondent Pappu Yadav who was an accused in a murder case had filed multiple bail applications seeking bail during the pendency of trial. His earlier applications were either rejected by Hon'ble High Court or, when granted, were subsequently set aside by Hon'ble Apex Court. In the order, the Hon'ble Supreme Court recognized that the accused has a right to make successive applications for bail. However, the Apex Court emphasized that when entertaining subsequent bail applications, the Court has a duty to consider the reasons and grounds on which the earlier bail application were rejected and the fresh grounds or circumstances that may have arisen since the previous application. It is also held that it is

essential for the Court to record the fresh grounds that persuaded the Court to take a different view from the one taken in the earlier application.

26. The PMLA is a stringent law aimed at preventing money laundering and confiscating proceeds of crime. When an accused seeks bail, the Court considers various factors including circumstances at the time of arrest. However, the circumstances may change during the course of investigation. When a new fact or events emerged that effect the right of the accused to grant bail the concept of change of circumstances comes into play. The Hon'ble Apex Court in Vijay Madanlal Choudari Vs. Union of India held that the provisions of PMLA including Sec. 45 are constitutionally valid. Sec. 45 states that bail can be granted only if the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty and won't commit any offence while on bail. In this case, previous bail applications filed by the petitioner was dismissed finding that the accused could not be considered as not guilty at that time, but that dismissal was occurred before the filing of the complaint. Now, after the complaint has been filed, the petitioner has filed another bail application claiming that there has been a change of circumstances since the previous dismissal. The petitioner wants to demonstrate the specific circumstances have been changed for assessing by the Court that the changes warrant re-consideration of bail application. The question whether the second

application is maintainable depends on some legal considerations. Even though the petitioner's first bail application was dismissed, it does not automatically bar the petitioner from filing a second application. However, the Court is required to examine whether there are any new ground or circumstances that justify re-consideration of bail application. It is settled position that the completion of investigation itself constitute a change of circumstance. The petitioner can very well argue that the complaint or other development, warrant a fresh look at his application for bail. It is also settled that though a second bail application is not automatically barred, the petitioner must demonstrate a valid reason for re-consideration of his plea for bail.

27. Bearing in mind the above said legal proposition and while considering the averments in this petition the petitioner asserted that no offence under PMLA can be attributed against him. He is a councilor of Vakakkancherry Municipality and a responsible politician, and claims that he is falsely accused of a crime by his political rivals and some former party members. There is no evidence against him and that he has cooperated with the investigation. He claimed that he attended the inquiry even on his daughter's engagement day and that he was abused and arrested by the ED officers without any reason. Investigation against him is completed and complaint is filed, therefore,

further judicial custody is not at all necessary. He is the sole bread winner of his family consisting of his elderly mother, wife and children.

28. Refuting the contentions the respondent alleges that the petitioner has multiple bank accounts with large and suspicious transactions. It is further alleged that the petitioner received money from the fourteenth accused, Satheesh kumar, who obtained it from the ninth accused, Kiran P.P, who took loans from a co-operative bank by violating its rules. The petitioner deposited the money in various banks, including the Karuvannur Co-operative bank, and tried to conceal its origin. It is further alleged that the petitioner did not disclose the source of his income, which was much higher than his known source of income, and did not file his income tax returns. It further states that the petitioner did not provide the details of all his bank accounts and his family members accounts, which also showed significant transactions with the accused. It is also alleged that the former manager of the co-operative bank, a key accused, stated that the petitioner got and deposited a large sum of money from the illegal loan of ninth accused. Other witnesses also confirmed that the petitioner hide the source of money, threatened the former manager, and influenced the bank to give illegal loans. It is also alleged that a mobile phone seized from the residence of A14/Satheeshkumar contained call records between him and the petitioner, which the petitioner admitted to be his and it proves his involvement in the

financial crimes. It is also alleged that the petitioner has ties with influential political figures and parties and the petitioner poses a risk of influencing and tampering with the witnesses if he is granted bail.

29. On the basis of above allegations the learned Special Prosecutor seriously opposed the bail application contending that petitioner shall not be released on bail since the twin conditions provided u/s.45 of the Act has 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.

30. 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 applies 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. I have perused the materials produced by the prosecution before this Court and also observed the conspicuous absence of any explanation from the petitioner regarding the source and mode of acquisition of such a huge amount by him. The prosecution is relying on the statements of 82 witnesses, accused and also 89 documents. These statements are admissible in evidence under Section 50 of the PMLA. These documents strongly indicate a prima facie case of involvement of the petitioner in a grave offence of money laundering. Therefore, I am not in a position to record a finding that there are reasonable grounds for believing that the petitioner is not guilty of such offence.

31. During the argument, the learned counsel for the petitioner argued that the petitioner was not given the grounds of arrest in writing at the time of his arrest. Therefore, the petitioner is entitled to get the benefit of the direction of the Hon'ble Supreme Court in Pankaj Bansal's case. 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. Moreover 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. In the absence of any such grounds in this case, my humble opinion is that the petitioners are not entitled to be released on bail. It is seen from the records that the grounds of arrest were duly prepared and served to accused at the time of arrest. He read the same and the content of grounds of arrest was explained to him in his language. The accused understood the grounds of arrest and endorsed it.

32. Furthermore, in *Ram Kishore Arora Vs. Directorate of Enforcement* in Crl. Appeal No.3865/2023 dated 15.12.2023, the Hon'ble Supreme Court held that the direction given in *Pankaj Bansal* case to furnish a copy of the written grounds of arrest to the arrestee at the time of arrest was prospective in nature

and would apply only to the cases where the arrest took place after 03.10.2023, Hon'ble Supreme Court observed that the word 'henceforth' used in Pankaj Bansal's case implied that the direction was not intended to have retrospective effect and did not apply to the cases where the arrest had already taken place before the date of the judgment. In the present case on hand, the arrest took place on 26.09.2023 whereas the judgment on Pankaj Bansal's case was delivered on 03.10.2023.

33. During the argument, the next contention advanced by the learned counsel is that though there are fifty five accused persons in this case, except four accused, others were not arrested during the investigation of money laundering case and they were granted bail when they appeared before court on summons. The learned Special Prosecutor replied that the other fifty one accused were not arrested during the investigation of money laundering case since they co-operated throughout in the investigation including appearing before investigating officer whenever called. He further submitted that there is no need to forward such accused person along with the charge sheet. He relied on the judgment of the Hon'ble Supreme Court in Satender Kumar Antil Vs. Central Bureau of Investigation.

34. In Satender Kumar Antil Vs. Central Bureau of Investigation, the Hon'ble Supreme Court categorised the offences into four different categories

and certain guidelines were laid down for the grant of bail to an accused person who satisfies the pre-requisite conditions that 1) he has not been arrested by the investigating agency during the investigation and 2) he has co-operated throughout the investigation. Offences punishable under [Special Acts](#) containing stringent provisions for bail like NDPS (S.37), PMLA (S.45), UAPA (S.43D(5), [Companies Act](#), 212(6), etc are included in category C offences. In this case, the accused persons who were not arrested during the investigation of the money laundering case and who have co-operated with the investigation were granted bail. In this case, the petitioner was arrested during the investigation and the prosecution has a specific case that he has not co-operated with the investigation. It is settled proposition that parity is not the law. Therefore, I am of the view that the contention that the co-accused persons who are similarly placed as the petitioner have been granted bail when they appeared on summons, and therefore, the petitioner is entitled to bail on the ground of parity cannot be accepted.

35. 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, role of the petitioner 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 responsibility to satisfactorily answer regarding the huge cash flow shown in his account, but he failed to do so.

36. After taking into account the overall situation arising in the case, I am not persuaded that the petitioner deserves bail. Moreover, while scrutinizing the claims in the petition, I am unable to identify any new ground or circumstance that warrants reconsideration of his plea for bail. I have taken into consideration the reason and grounds on which the earlier bail application was rejected. There are no fresh grounds or circumstances brought to the attention of the Court since the disposal of the previous application that justify reconsideration of his plea for bail despite prior rejection. Considering the nature of the allegations against the petitioner, the stake involved, gravity of offences, the fact that petitioner has political connections and high influence in the society, it cannot be ruled out that there is a risk of influencing, intimidating the witnesses and tampering with the evidence. It has also been pointed out that the entire proceeds of the crime are not yet traced. There are prima facie materials to believe that he has committed the offence alleged against him.

Keeping in mind all these aspects, I am of the opinion that it will not be in the interest of justice to grant bail to the petitioner.

In the result, 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 5th day of January, 2024.

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

Appendix: Nil.

Id/-
Shibu Thomas
Special Judge, (SPE/CBI) – III

Typed by:-
Com by:-