

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

Present :-

**SRI. K.K. BALAKRISHNAN, SPECIAL JUDGE.**

Friday, the 23<sup>rd</sup> day of June, 2023/ 2<sup>nd</sup> Ashada, 1945.

**Crl. M.P. No. 615/2023**

in

**S.C.01/2023**

- Petitioners/Accused No.2** : Smt. Swapna Prabha Suresh,  
Aged 41/2023,  
D/o Shri Sukumaran Suresh,  
Vayalil House, Minchin Road,  
Jagathy, Thiruvananthapuram &  
Flat No.401, Fourth Floor, A3 Homes,  
Ayyappa Nagar, Hoodi,  
Bengaluru – 560 048.
- Accused No.3** : Shri Sarith P.S., S/o Shri S. Sadana Kumar,  
“Mudra” TC 65/2055, HRA 48,  
Thiruvallam P.O., Trivandrum – 695 027 &  
Flat No.401, Fourth Floor, A3 Homes,  
Anoop Layout, Krishnarajapuram,  
Hoodi, Bangalore - 560 048.
- Represented By** : Advs. B.N. Shivshankar, R. Krishna Raj &  
Tinu T. Joseph.
- Respondent/Complainat** : Asst. Director, Directorate of Enforcement,  
Government of India,  
Represented by it 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 23<sup>rd</sup> day of June, 2023 in the presence of Counsel on both sides having stood over for consideration on the same day the Court delivered the following:

### **ORDER**

This petition is filed by A2 and A3 in the above matter for granting bail. The petitioners says that they are totally innocent of the offence alleged against them, they are prepared to execute a bond with sufficient sureties if they were released on bail and they are ready to appear before this Court either in person or through their counsel. On these grounds, the petitioners prayed to release them on bail.

2. Against the petition, the learned Special Public Prosecutor raised serious objection and opposed the bail application citing the restrictions in sec.45 of Prevention of Money Laundering Act, 2002 (for brevity 'PML Act').

3. Heard both sides.

4. The learned counsel for the petitioners submitted that none of the conditions in Sec.45 is against the petitioners. The case was registered in the year 2020 and final report filed on 13.04.2023. The petitioners will co-operate with the investigation and recorded their statements. Till the date there was no attempt from the investigating agency to arrest the petitioners. The learned counsel also submitted that the final report is very lengthy and the copy is not received by the petitioners. The learned counsel for the petitioners also submitted

that A3 is the only bystander of A2, who is an epileptic patient and residing with A3 alone. During the recurrent attack of fits, A3's presence is essential along with A2. So the learned counsel prayed to grant at least interim bail to the petitioners.

5. The learned Special Public Prosecutor seriously opposed the petition and prayed to dismiss the petition repeating the restriction in Sec.45 of the Act.

6. Sec. 45 read as follows:

(1) 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 of the Schedule shall be released on bail or on his own bond unless—]

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

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail: Provided that a person who is under the age of sixteen years or is a woman or is sick or infirm, may be released on bail, if the special court so directs: Provided further that the Special Court shall not take cognizance of any offence punishable under section 4 except upon a complaint in writing made by—

(i) the Director; or

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

[(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 authorised, 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.

The first proviso of Sec.45 (1) (ii) is an exception for the two restrictions in Sub Clause (ii) which says that a woman can be released on bail if the Special Court so desires. Considering the fact that there was no attempt from the investigating officer to arrest A2 during the investigation stage and she is an epilepsy patient revealed from the copy of the treatment records, the first proviso is applicable in favour of her. So, bail is granted to A2 on following conditions:-

1. A2 is directed to appear before the investigating officer as and when directed by the investigating officer.
2. She submitted that her passport surrendered in the NIA Court. If so file an affidavit to that effect.
3. She shall not leave the country without prior permission of the Court.
4. She shall furnish her e-mail ID, residential address and contact phone number to the Investigating Officer.
5. She shall not commit any offence.
6. She shall execute a bond for Rs.5,00,000/- (Rupees Five lakh only) with two solvent sureties, each for the same amount.
7. Considering the bail application of A3, Sec.45 (2) insist to consider the requirements in that provision for granting bail. The submission of the learned defence counsel is that the big final report is not served to the petitioners and to identify the materials against the petitioners, he needs time. The copy of the final

report given at the time of the arguments only.

8. A1 is still in custody from 14.02.2023 and his bail application is pending before the Hon'ble Supreme Court and the another interim bail application is pending before the Hon'ble High Court of Kerala, A5 surrendered before this Court on 06.06.2023 and in custody from 06.06.2023 after dismissing his bail application by this Court. Today there was no representation for A1 and A5. Both appeared through video conference and replied to the Court that they have engaged their own counsel to defend their case. But there was no representation by any counsel on behalf of A1 and A5. A7 is already on bail. The Hon'ble High Court of Kerala by setting aside the order of this Court, permitted to release his passport with stringent conditions. The learned Public Prosecutor submitted that petition to cancel the bail of A7 is pending before the Hon'ble High Court of Kerala.

9. The final report spread to 373 pages along with 108 documents in three volumes and 29 witnesses were cited. So the final report split into six big volumes. Therefore, sufficient time is needed to answer the two restrictions in sub clause (ii) of Sec.45 based the voluminous final report. Considering the above facts and submission of both sides, especially considering the submission of the learned defence counsel that he needs time to verify the voluminous final report and documents and also considering the submission that A3 is the only

person to be a bystander of A2, interim bail is granted to A3 till 24.07.2023 with same conditions applicable to A2 as follows.

1. A3 is directed to appear before the investigating officer as and when directed by the investigating officer.
2. He submitted that passport surrendered in NIA Court. If so file an affidavit to that effect.
3. He shall not leave the country without prior permission of the Court.
4. He shall furnish e-mail ID, residential address and contact phone number to the Investigating Officer.
5. He shall not commit any offence.
6. He shall execute a bond for Rs.5,00,000/- (Rupees Five lakh only) with two solvent sureties, each for the like amount.

In the result, prayer of A2 is allowed and bail granted to her with above said conditions and interim bail granted to A3 with same conditions. A3 is directed to appear on 24.07.2023.

Dictated to the Confidential Assistant transcribed and typed by her, revised and corrected by me and pronounced in open Court on this the 23<sup>rd</sup> day of June, 2023.

**Sd/-**  
**K.K Balakrishnan**  
**Special Judge, (SPE/CBI) – III**  
**Ernakulam**

APPENDIX : Nil

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

Typed by:-Apb/-  
Compd by:-