

M.L Case No 06 of 2024
CNR-WBCS01-000615-2024
Present : Shri Sukumar Ray
J.O. CODE NO. WB00590
Chief Judge, City Sessions Court, Calcutta

Order No 21 dated 06.06.2025

- 1) Today is fixed for production of the accused person namely Lakshman Hembram and passing order in respect of the petition dated 15.02.2025 u/s 227 of the Code of Criminal Procedure, 1973.
- 2) Accused person namely Lakshman Hembram is produced from J.C.
- 3) Ld. Advocate for the accused person is present.
- 4) Ld. Public Prosecutor is also present.
- 5) This is an application under section 227 of the Criminal Procedure Code praying for discharging the accused person in this case.
- 6) The contention of the accused/petitioner is that after filing this case under Prevention of Money Laundering Act, 2002 by the Enforcement Directorate, this Court took cognizance and this accused/petitioner appeared before this Court as per summons issued by this Court but inspite of that he is detained in custody and the Enforcement Directorate never filed any application that custodial interrogation of the accused/petitioner is required for the purpose of investigation.
- 7) He further submits that as per Judgement of the Hon'ble Supreme Court of India in **Tarsem Lal Vs Enforcement Directorate** that after summons is issued under section 204 of the Cr.P.C on taking cognizance of the offence punishable under section 4 of the PMLA on a complaint, if the accused appears before the Special Court pursuant to the summons, he shall not be treated as if he is in custody. Therefore, it is not necessary for him to apply for bail. However, the Special Court can direct the accused to furnish bond in terms of section 88 of the Cr.P.C.
- 8) He further submits that there is no materials on record to suggest that the accused/petitioner violate any service condition, while in service and this accused/petitioner has not committed any offence of money laundering and has been falsely implicated in this case and as such the offence under Section 3 of the PML Act 2002 punishable under Section 4 of PMLA, 2002 does not attract against the accused person and hence, the accused person is entitled to be discharged from this case.
- 9) Countering such submissions, Ld. Public Prosecutor submits that allegations of misappropriation, defalcation of public money against this accused/petitioner are very serious in nature and this accused/petitioner while working as Sub-post Master, Ramchandrapur, Sub Office during the period from 09.02.2014 to 20.09.2018 misappropriated, defalcated and siphoned off huge amount of money to the tune of Rs. 4,49,73,857/- causing monetary loss to the Post Office department and he is very much involved in the alleged offence. So, he prays for dismissal of the application under section 227 of the Code of Criminal Procedure in limini.
- 10) Perused the contents of the case diary.
- 11) In **Dilwar Balu Kurane Versus State of Maharashtra; (2002) 2 Supreme Court Cases 135** in dealing with a case under Prevention of Corruption Act the Hon'ble Apex Court has observed that –
“.....In exercising powers under Section 227 of the Code of Criminal Procedure, the settled position of law is that the Judge while considering the question of framing the charges under the said

section has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out; where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained the court will be fully justified in framing a charge and proceeding with the trial; by and large if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully justified to discharge the accused, and in exercising jurisdiction under Section 227 of the Code of Criminal Procedure....”.

12) In ***State of Bihar Versus Ramesh Singh, AIR 1977 Supreme Court 2018*** it was held that

“...Reading Ss. 227 and 228 together in juxtaposition, as they have got to be, it would be clear that at the beginning and the initial stage of the trial the truth, veracity and effect of the evidence which the prosecutor proposes to adduce are not to be meticulously judged. Nor is any weight to be attached to the probable defence of the accused. It is not obligatory for the Judge at that stage of the trial to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the accused or not. The standard of test and judgment which is to be finally applied before recording a finding regarding the guilt or otherwise of the accused is not exactly to be applied at the stage of deciding the matter under S. 227 or S. 228 of the Code. At that stage the Court is not to see whether there is sufficient ground for conviction of the accused or whether the trial is sure to end in his conviction...”

13) In ***Ram Prakash Chadha vs State of Uttar Pradesh*** reported in ***AIR 2024 Supreme Court 3540*** the Hon’ble Apex Court observed that at the stage of consideration of such an application for discharge, defence case or material, if produced at all by the accused, cannot be looked at all. Once “the record of the case and the documents submitted therewith” are before the Court they alone can be looked into for considering the application for discharge and thereafter if it considers that there is no sufficient ground for proceeding against the accused concerned then he shall be discharged after recording reasons therefore.

The Hon’ble Court again observed that the strong suspicion in order to be sufficient to frame a charge should be based on the material brought on record by the prosecution and should not be based on supposition, suspicions and conjectures. In other words, in order to be a basis to frame charge the strong suspicion should be the one emerging from the materials on record brought by the prosecution.

14) I have also gone through the chargesheet submitted by the IO along with the materials produced with it.

15) I have also heard the public prosecutor as well as the learned advocate for the accused person.

16) The law relating to discharging of accused person under section 227 of the Code of Criminal Procedure Code, 1973 is well settled.

17) The court is required to go through the materials sent with charge sheet. But the court is not required to make any roving enquiry with regard to the charges to be framed against the accused person. The court is also not required to go deeper into the different kinds of evidence collected during investigation. What the Court is required to do is to make a prima facie finding based upon the satisfaction reached at by taking into consideration the materials in the charge sheet, and upon hearing both the accused and the prosecution.

18) At this stage of framing of charge court is not required to get it satisfied by analysing the materials collected and produced by the investigating officer in the same manner as the court is

required to satisfy itself during trial of the case. Therefore, dissatisfaction at the stage of framing of charge and satisfaction during trial with regard to the materials brought before the court vis- a – vis the accusation against the accused is completely different. During trial the court has to record its finding on the basis of proof beyond reasonable doubt but at the time of framing of charge the court is not required to apply the said rule. A prima facie finding is enough. Even a strong suspicion is sufficient to frame charge against the accused persons.

19) It appears from the materials on the record that this accused while working as Sub-post Master, Ramchandrapur, Sub Office during the period from 09.02.2014 to 20.09.2018 misappropriated, defalcated and siphoned off huge amount of money to the tune of Rs. 4,49,73,857/- causing monetary loss to the Post Office department. The modus operandi adopted by this accused leading to defalcation amount of Rs. 4,49,73,857/- was that when he was posted as SPM in Ramchandrapur Post-office between 2014-2018, he used to make premature of Term Deposits by forging the signatures of various customers without their knowledge and such amounts were credited to the savings accounts of customers. It also appears from the record that such premature amounts were not entered by him into their pass books and then again after forging their signatures, he used to withdraw the case either parts or in full, without knowledge of the customers. Whenever, any customer came for enquiry of their balances of savings accounts, he used to deposit cash in their accounts so that they could not get aware about the forgery. In this way, he used to siphon off the money of various customers of post office for his personal use/gain.

20) Therefore considering the accusation made against the accused person, the materials brought before this court after completion of investigation, and submissions advanced by the accused person as well as the prosecution, it appears to this court that the instant application has no merit and it required to be rejected.

21) Accordingly, the application under section 227 of the Code of Criminal Procedure is thus disposed of in the **negative**. Based on the ratiocination adhere to above, I find that there are sufficient materials to proceed against the accused person.

Fixing **24.06.2025** for production of the accused person and framing of charge.

Accused person be remanded to J.C till 24.06.2025.

Case diary be returned.

Investigating Officer is directed to produce the case diary on the next date fixed positively.

The Superintendent Presidency Correctional Home is directed to produce the accused person physically before this Court.

Let a copy of this order be sent to the Superintendent Presidency Correctional Home for information and necessary compliance.

Let a copy of this order be given to the Investigating Officer through Ld. Public Prosecutor for information and necessary compliance.

Dictated & corrected by me

Sd/-

Chief Judge
City Sessions Court, Calcutta.

Sd/-

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City Sessions Court, Calcutta.