

Reserved On:- 25/06/2026
Pronounced On : 29/06/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - BEFORE
 CHARGESHEET) NO. 7098 of 2026**

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**SH. RAJENDRAKUMAR MAHENDRABHAI PATEL S/O MAHENDRABHAI
 PATEL**

Versus

**DIRECTOR OF ENFORCEMENT THRO. HARMANPREET SINGH, ASST.
 DIRECTOR & ANR.**

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Appearance:

MR SUDHIR I NANAVATI, SR. ADVOCATE with MS KAJAL D SHAH(11966), MR VAIBHAV
 B SHUKLA, MR ANIL H PATEL and MS POOJA V MAHESHWARI for the NANAVATI &
 NANAVATI(1933) for the Applicant(s) No. 1

SR. ADVOCATE MR SV RAJU, ADDL. SOLICITOR GENERAL with MR ZOHEB HOSSAIN,
 SPL. COUNSEL with MR RAJESH K KANANI(2157) for the Respondent(s) No. 1
 MR HARDIK MEHTA, APP for the Respondent(s) No. 2

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

CAV ORDER

[1.0] Present application was re-listed before this Court due to change of roster. With the consent of learned Counsel appearing for the respective parties, present application is taken up for final hearing.

[2.0] The present bail application is filed under Section 483 of the Bharatiya Nyaya Suraksha Sanhita, 2023 (for short "BNSS") for Regular Bail in connection with ECIR No.ECIR/HIU-II/43/2025 dated 23.12.2025 PMLA Case Complaint No.03/2026 filed by the respondent No.1 for the offence registered under Sections 3 and punishable under Section 4 of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as "PMLA").

SUBMISSIONS ON BEHALF OF THE APPLICANT:

- [3.0] Learned Senior Advocate Mr. Sudhir I. Nanavati assisted by learned advocates Ms. Kajal D. Shah, Mr. Vaibhav B. Shukla, Mr. Anil H. Patel and Ms. Pooja V. Maheshwari for the applicant has submitted that present applicant is falsely enroped in the offence in absence of any statement of any victim or agriculturist and merely based on presumption the applicant is arraigned as an accused. That, applicant is an IAS Officer of 2015 Batch and was posted as Collector at Surendranagar on 01.02.2025 and prior to that the applicant had been performing his duty as Assistant Collector at Talaja, (Bhavnagar); District Development Officer at Sabarkantha and Deputy Municipal Commissioner at Surat and applicant is having blot less career and subsequently the applicant was transferred to Surendranagar and took over charge as a Collector of District Surendranagar on 01.02.2025.
- [3.1] It is further submitted that respondent No.1 – authority has initially registered ECIR No.ECIR/HIU-II/43/2025 dated 23.12.2025. Pursuant to the said ECIR, complaint came to be filed by the Assistant Director as PMLA Case i.e. Complaint No.03/2026. On the same day, FIR being CR No.0/2025 came to be registered by the ACB, Surendranagar Police Station for the offence under Sections 12, 13(1)(d), 13(2) and 7 of the Prevention of Corruption Act (for short “PC Act”) and subsequently said ‘0’ numbered FIR was registered as FIR being CR No.11194070250007 of 2025 on 23.12.2025 under the provisions of the PC Act. Based on the said FIR under the PC Act, first blush of argument on behalf of the applicant was

that respondent No.1 – authority has misused the power and in absence of any predicate offence, straightway PMLA complaint came to be registered and it is settled principle of law that such type of criminal complaint is not maintainable and permissible in absence of predicate offence.

[3.2] Learned Senior Advocate Mr. Nanavati has further submitted that in the complaint registered with ACB Police Station, it is alleged that at the office of Collector, Surendranagar, one employee namely Mr. Chandrasinh Mori was serving as Deputy Mamlatdar and on 23.12.2025, from the house of said Mr. Chandrasinh Mori, cash to the tune of Rs.67.50 lakh has been recovered and based on the statement of Mr. Chandrasinh Mori, allegation has been leveled against the present applicant that the present applicant is also accomplice of the said Mr. Chandrasinh Mori and FIR bearing No.7/2025 dated 23.12.2025 was registered in absence of any demand and acceptance of illegal gratification and recovery of money. The impugned ECIR bearing No.ECIR/HIU-II/43/2025 dated 23.12.2025 was registered by the Director of Enforcement. It is pertinent to note that till date the present applicant has not been arrested in connection with the said registered under the PC Act.

[3.3] The search was carried at the official residence of the present applicant on 23.12.2025. He has submitted that the panchnama and seizure memo to that effect was prepared and upon perusal of the same, it appears that no incriminating documents or material were found at the place of official residence of the present applicant and 10 digital devices, one pen-drive and one hard drive were seized however, nothing is

found which show the involvement of the present applicant.

[3.4] He has further submitted that even if the allegations leveled against the applicant are accepted to be true without admitting the same, then also the allegations leveled are nothing but hypothetical and unbelievable. On the basis of the statement of co-accused Mr. Chandrasinh Mori and other co-accused, ECIR was registered without any corroborative piece of evidence or material. Vague allegations are leveled against the applicant that in the office of Collector, Surendranagar, for the purpose of converting the land tenure i.e. agriculture use to non-agriculture use, bribe rate came to be fixed and out of the total amount of illegal gratification, 50% share was received by the present applicant, 25% by Residential Additional Collector, 10% each by Chitnis and Mamlatdar and 5% by Clerk. He has further submitted that for Change of Land Use (for short "CLU") the bribe amounts were fixed in advance at Rs.10 per sq. meter for CLU applications under Sections 65 and 65B of the Gujarat Land Revenue Code and Rs.5 per sq. meter for CLU applications under Sections 54 and 55 of the Saurashtra Gharkhed Tenancy Settlement and Agricultural Lands Ordinance, 1949.

[3.5] It is further submitted that during the period of 05.12.2024 to 06.11.2025, in total **842** applications were received by the office of Collector, Surendranagar. Such land was approximately admeasuring 3541 Sq. Meter however, on hypothetical basis, in absence of any material, same is multiplied by Rs.10 i.e. bribe rate and based on the investigation and data collected, multiplying all 842

applications, it is alleged that total proceeds of crime generated is **Rs.9,70,59,900/-** in which the tenure of the present applicant, from 04.02.2025 to 23.12.2025, as prior to two months also taken into consideration by the authority for computation of illegal gratification, straightway benefit is counted in favor of the applicant stating that during the tenure of applicant, **501** CLU applications came to be processed and hence, it is alleged that total proceeds of crime attributed to the employees of Collector Office, Surendranagar during the tenure of the present applicant is **Rs.7,14,99,691/-**.

[3.6] He has vehemently submitted that it is the case of the original complainant that during the tenure of Mr. Rajendrakumar K. Oza, Resident Additional Collector, Mr. Chandrasinh B. Mori, Dy. Mamlatdar and Mr. Mayursinh D. Gohil, Clerk, **842** CLU applications were processed still however, said co-accused persons are till date not arrested and they are enjoying the liberty and continued in government service also.

[3.7] Further, during the tenure of present applicant, only **501** CLU applications were processed and quantified at 50% share of bribe amount towards proceeds of crime is **Rs.3,12,62,230/-** though the applicant is arrested and detained without any trial. Charge is yet to be framed and trial is protracted which is nothing but amounts to pre-trial conviction of the applicant – accused. Except the statement of co-accused much less no material or evidence is collected which show the involvement of the present applicant. Further, nothing is required to be recovered or discovered from the present applicant and no

one is arrested in connection of the predicate offence and no alleged recovery or discovery is done from any of the accused.

[3.8] He has further argued that present applicant is arraigned based on hypothetical statement given by the Mr. Jayrajsinh Zala, Personal Assistant of present applicant and in the office computer one word sheet is found wherein it is stated about the details of application number, land survey number and amount received but it is not received from the conscious possession or control of the present applicant or any device of the present applicant.

[3.9] He has thus submitted that sum and substance of the allegation is that in Surendranagar District, for the purpose of land use conversion illegal gratification came to be collected by the officials of Collector's office. He has also submitted that said racket was also going on prior to present applicant took over as Collector, Surendranagar on 04.02.2025. Meaning thereby, previous Collector had established the said practice and other co-accused who were working at relevant point of time while present applicant has taken over the charge as Collector, he has continued same practice and indulged in same activity and it clearly reveals that they have participated in process to clear **842** applications pertaining to conversion of land use. He has also argued that till date neither the earlier Collector nor the Additional Collector nor other employees from their tenure who indulged in such activities has been arrested and there is no any whisper or allegation against *erstwhile* officials. If the allegations against the applicant as per the complainant that the present applicant being the final

authority and financial head of the office, illegally has continued such practice and misused the power and his official position are accepted to be true without admitting the same, the said designed racket was continuing since long and syndicate was already formed by *erstwhile* officials and therefore, the present applicant cannot be prosecuted in connection of the alleged offence under the PMLA.

- [3.10] He has further argued that so far as twin condition under Section 45 of the PMLA is concerned, *prima facie* case is not made out. Present applicant is not guilty and question does not arise to commit any type of offence since present applicant is suspended and all evidence and material is seized by the ED and hence, question of tamper with the evidence if released on bail does not arise. Even, the evidence clearly indicates that proceeds of crime is also not in connection with the alleged offence as prior to November, 2024, wife of the present applicant had purchased jewelry of Rs.2 lakh and prior to 10 years of service, the applicant had purchased the flat and so far as purchase of i-Phone 17 Pro Max mobile phone is concerned, cash amount of only Rs.3500/- was withdrawn though the applicant purchased the said phone. Except this, no any material or evidence which shows that present applicant has invested in any property from the alleged proceeds of crime and other allegation is that brother in law of the present applicant has facilitated trip of Goa. Present applicant has inducted in service in the year 2015 and purchase of property is dated 26.07.2010 and hence, there is no nexus with the proceeds of crime also.

- [3.11] Further, it is submitted that present applicant was arrested on 02.01.2026 and remand custody of 5 days was handed over to ED and no further remand was sought for. Further, investigation *qua* present applicant is over and such positive statement itself is made by ED in complaint and the complainant – ED does not want to arrest other co-accused. Hence, no purpose would be served by continuing the detention of the present applicant since no predicate offence is made out and proceeds of crime is recovered and therefore, present applicant deserves consideration as twin test under Section 45 of the PMLA is satisfied.
- [3.12] To buttress his arguments, he has relied on the decision of Hon'ble Supreme Court in the case of **P. Chidambaram vs. Directorate of Enforcement** reported in **(2020)13 SCC 791**; **Arvind Dham vs. Directorate of Enforcement** reported in **2026 INSC 12** and **Sachin Balasaheb Sawant vs. Union of India (Bombay High Court)** rendered in **Criminal Misc. Application No.728/2024** and requested that considering the peculiar facts of the case and more particularly in view of the fact that no predicate offence has been made out. He has also relied on the decision of the Hon'ble Supreme Court in the case of **Vijay Madanlal Choudhary vs. Union of India** reported in **(2022)10 SCC 24** and submitted that in the said decision the Hon'ble Supreme Court has been pleased to hold that if the scheduled offence is not made out then proceeding under the PMLA would not stand alone. He has also submitted that commencement and conclusion of trial will take considerable long time and therefore also, he has requested to allow the present application.

SUBMISSIONS ON BEHALF OF RESPONDENT – ED:

- [4.0] Mr. S.V. Raju, learned Additional Solicitor General with learned Special Counsel for ED Mr. Zoheb Hossain assisted by learned Retainer Counsel for ED Mr. Rajesh Kanani has submitted at the outset that present applicant is facing charge under the PMLA and he ought to have first satisfy the test of twin condition enumerated in section 45 of the PMLA. The twin condition test is required to be considered and compliance of said provision to grant bail is required to be considered.
- [4.1] Learned ASG has further submitted that present case is not a simple case under the IPC or any other offence and considering the triple test like quantum of punishment, flight risk and tampering with evidence is only the test applicable in the present offence. He has submitted that if we peruse the rigors of section 45 of PMLA, no case is made out to enlarge the applicant on bail mainly on the ground that the applicant was working as a Collector and is a influential personality and is a kingpin and had fixed the rate for conversion of land tenure and he has accumulated illegal proceeds of crime and in this regard, offence under the PC Act came to be registered and pursuant to the said predicate offence, offence under the PMLA was registered and even proceeds of crime is also traced out. Further, statements of witnesses have been recorded under Section 50 of the PMLA and if we peruse section 50(2) (3) of PMLA, such statements are admissible in evidence and are having evidentiary value under the PMLA.
- [4.2] Learned ASG has further submitted that the predicate offence

is not a *sine qua non* considering the scheme of PMLA. The arrest is part of investigation and power of arrest under Section 19 of the PMLA is meant for investigation alone and Hon'ble Supreme Court in the case of **V. Senthil V. Senthil Balaji vs. State** reported in **2023 SCC OnLine (SC) 934** has clearly held that powers under Section 19(1) of the PMLA can only be exercised during investigation. Hence, the submission that investigation is not completed and charge-sheet is not filed in predicate offence is irrelevant. He has further submitted that if during the PMLA inquiry and investigation, the predicate offence was committed and it was noticed that due to this reason, intimation was given to the concerned authority and said issue is very clear after giving the intimation to the jurisdictional police, inquiry may be completed and/or continued scheduled offence may be reported to authority enabling him to take further action under the PMLA. The said issue is also clarified by the Hon'ble Supreme Court in the case of **Vijay Madanlal Choudhary (Supra)**. It is further submitted that the arrest in PMLA case need not avail the arrest in the scheduled offence as scheduled offence and offence under the PMLA both are different offences. In section 19 of the PMLA, phrase used is "reason to believe" that any person has been guilty of an offence punishable under the PMLA. The said phrase is also interpreted and section 19 of PMLA is a stringent provision and validity of the said section is upheld by the Hon'ble Supreme Court in the case of **Vijay Madanlal Choudhary (Supra)**.

- [4.3] He has further argued that ED has made arrest of the applicant at the stage of investigation as requirement of section 19 of

the PMLA is satisfied which requires *prima facie* view of guilt of accused even in absence of charge-sheet in the predicate offence, the only test is, "reason to believe" in the PMLA offence, merely because charge-sheet is not filed in scheduled offence is not a ground to grant bail and considering sections 19 and 45 of the PMLA, both employs similar expression, namely, "guilty of such offence". While deciding the bail application, Court has to see that, whether case under PMLA is made out or not and ED is not duty bound to decide or investigate the existence of scheduled offence. Further, the stage of investigation in the predicate offence any such argument is an irrelevant consideration for grant of bail as offence under PMLA is an independent offence and in this regard, learned ASG has relied on the decision of the Hon'ble Supreme Court in the case of **Directorate of Enforcement vs. Aditya Tripathi** reported in **2023 SCC OnLine (SC) 619**.

- [4.4] He has further submitted that rigors of section 45 of the PMLA is applicable in the present case. The offence of money laundering is an independent offence and in this regard, learned ASG has relied on paragraph 269 of the decision of the Hon'ble Supreme Court in the case of **Vijay Madanlal Choudhary (Supra)** and argued that proceeds of crime would constitute an offence of money laundering and this offence otherwise has nothing to do with the criminal activity relating to the scheduled offence except the proceeds of crime derived or obtained as a result of that crime and sweep of section 5(1) is not limited to the accused named in the criminal activity relating to a scheduled offence and it would apply to any person if he is involved in any process or activity connected

with the proceeds of crime and such a person besides facing the consequence of provisional attachment order may end up in being named as accused in the complaint to be filed by the authorised officer concerning offence under Section 3 of the PMLA. He has further placed reliance on the decision of Hon'ble Supreme Court in the case of **Pavana Dibbur vs. Enforcement Directorate** reported in **2023 SCC OnLine (SC) 1856** wherein it has been held that in a given case if the prosecution for the scheduled offence ends in acquittal of all the accused or discharge of all the accused or the proceedings of the scheduled offence are quashed in its entirety, the scheduled offence will not exist and therefore, no one can be prosecuted for the offence punishable under Section 3 of the PMLA as there will not be any proceeds of crime. He has submitted that herein no such situation does arise. Learned ASG has further relied on the decision of Hon'ble Supreme Court in the case of **Dr. Manik Bhattacharya vs. Ramesh Malik & Ors.** reported in **2022 SCC OnLine (SC) 1465** wherein it has been held that the power of arrest under Section 19 of the PMLA is independent and money laundering is an independent offence. Even, second proviso to Section 5 of PMLA permits the attachment against any person who is in possession of any proceeds of crime and section 66(2) of the PMLA provides that during the investigation registration of FIR and reporting of such non-cognizable offence to the jurisdictional police also. He has relied on the decision of the Delhi High Court in the case of **Gautam Khaitan vs. Union of India** reported in **2025 SCC OnLine (Del) 8434** and argued that as per second proviso to section 5 of the PMLA, it is no

longer mandatory that a person against whom a provisional attachment order is issued, must have been charged with a scheduled offence and Special Leave Petition (Cri.) No.36510/2025 against the said decision came to be dismissed on 16.01.2026.

[4.5] Learned ASG has further submitted that even trial under the PMLA can independently be proceeded without filing the charge-sheet in the predicate offence and he has relied on the decision of Hon'ble Supreme Court in the case of **Siddhant Gupta vs. Directorate of Enforcement** rendered in **Special Leave to Petition (Cri.) No.14392/2024** as well as in the case of **Bharathi Cement Corpn. (P) Ltd. vs. Enforcement Directorate** reported in **2022 SCC OnLine (TS) 3559** and argued that offence of money laundering is independent of the trial of scheduled offence. He has further submitted that scope and ambit of independent offence of money laundering is also defined under Section 3 of the PMLA which starts with the expression, "whosoever", which denotes that only 'whosoever' need not only be the main accused person but any number of persons who may directly or indirectly attempt to indulge or knowingly assist or knowingly are a party or are actually involved in any process or activity connected with the proceeds of crime. Further, section 3 of PMLA is wide enough to cover all processes of activities and argued that stand taken by the learned Senior Advocate for the applicant that no charge-sheet is filed in the predicate offence is not sustainable.

[4.6] Further, learned ASG has argued that the bone contention of

learned Counsel appearing for the applicant is that without predicate offence, Enforcement Directorate, on the same day has registered the complaint but said argument is not tenable in law more particularly in light of section 66 of the PMLA. Under Section 66(2) of the PMLA, if the Director or authority is of the opinion, on the basis of information or material in his possession, that the provisions of any other law for the time being in force are contravened, then the Director or such other authority shall share the information with the concerned authority and concerned agency / authority shall have to take necessary action. Herein, it was found that the present applicant has taken illegal gratification and due to this reason, concerned authority herein is ACB and in this regard, in due course, ACB Police Station came to be informed and accordingly, the offence was registered and such type of registration of offence is also permissible and in this regard, learned ASG has relied on paragraph 290 of the decision of the Hon'ble Supreme Court in the case of **Vijay Madanlal Choudhary (Supra)** and argued that in case schedule offence is not already registered by the jurisdictional police or complaint is not filed before the Magistrate, it is open for the Authorized Officer to proceed under Section 5 of the PMLA and hence, without registration of predicate offence herein, under the PC Act, proceeding under the PMLA is maintainable and filing of ECIR and complaint is permissible.

- [4.7] He has further submitted that since investigation is going on, during the investigation proceeds of crime were traced out based on the statement of Mr. Jayrajsinh Zala, Personal Assistant of the present applicant and other witnesses and co-

accused wherefrom it clearly reveals that present applicant was getting share of 50% from the total amount of illegal gratification and said share came to be fixed. Hence, *prima facie* material is collected which suggests involvement of the present applicant in the alleged offence and investigation under the PMLA is continued and on the basis of FIR alone, even without charge-sheet being filed. Hence, still investigation is going on and mere non-filing of charge-sheet in scheduled offence is not a ground to enlarge the present applicant on bail.

[4.8] Further, he has argued that authority under Section 19(1) of the PMLA is having the power to arrest the accused. If the Director or Deputy Director having "reason to believe" that any person has been guilty of an offence punishable under this Act may be arrested and under section 45(2) of the PMLA, Court has to satisfy prior to enlarging the accused on bail that there is a reasonable ground for believing that he has not been guilty of such offence. Herein, *prima facie* material is collected and this is not a case wherein quantum of punishment is 7 years or less than 7 years but opinion *qua* guilt of the accused as to whether the accused is guilty or not is required to be formed on reasonable ground. Sufficient material has been collected to establish that the present applicant has used his power and position and has indulged in corrupt practice. Hence, rigors of section 45 of the PMLA at the stage of bail application are required to be considered.

[4.9] He has further argued that offence under Section 3 of the PMLA is an independent offence and proceeds of crime would

constitute an offence of money laundering and such offence otherwise has nothing to do with the criminal activity relating to the scheduled offence except proceeds of crime derived or obtained as a result of crime. He has submitted that in the case of **Pavana Dibbur (Supra)**, the Hon'ble Supreme Court come to the conclusion that if an accused is acquitted or discharged from the scheduled offence, no one can be prosecuted for the offence punishable under Section 3 of the PMLA as there will be no any proceeds of crime but herein no such situation has arisen. Proceeds of crime is also traced out and applicant is neither discharged or acquitted from the scheduled offence.

- [4.10] Further, the applicant herein is arrested on 02.01.2026 and applicant has generated money taking bribe from several land use conversion applications and Clerk, Deputy Mamlatdar, Chitnish and Resident Additional Collector were responsible only for preliminary scrutiny and recording of opinion *qua* application but they cannot approve or reject the application and present applicant having the final authority to approve the application/s and for that he has received the largest single share i.e. 50% and "hisab sheets" and statements of co-accused establish that 50% share of bribe amount i.e. **Rs.3,12,62,230/-** has been collected and received by the applicant. He has also argued that digital evidence from his digital device i.e. 800 photographs of applications filed were found from his personal mobile device and he was also monitoring progress of every application from which bribes were being generated. If the present applicant is released on bail, possibility of tampering with evidence cannot be ruled out. He has further submitted that the applicant has tried to

destruct the evidence prior to one day before the ED raid and his google activity record shows that the applicant had searched for "*how to reset Samsung S24 Ultra*". The said device i.e. Samsung S24 Ultra belonged to the applicant which was received by the applicant as a Diwali gift from someone however, the applicant does not know as to who gifted him the said mobile device.

[4.11] He has further submitted that during the investigation actual utilization of proceeds of crime has been traced out amongst which the commercial shop was registered in the name of wife of present applicant and undervalued consideration of only Rs.9 lakh is shown and remaining amount has been paid by the applicant in cash. Further, unaccounted jewelry worth Rs.2 lakh was purchased by the applicant for his wife. He has submitted that the wife of the applicant is not having any independent income and high value electronic devices were purchased in cash despite withdrawal of only Rs.3500/- from the bank in the year 2025.

[4.12] So far as submission of learned advocate for the applicant that other co-accused have not been arrested is concerned, learned ASG has submitted that considering different role of co-accused, accused No.3 Mr. Rajendrabhai Ojha, Resident Additional Collector, accused No.4 Mr. Mayur D. Gohil, accused No.5 Mr. Mayur Dave and accused No.6 Mr. Jayrajsinh Zala are not arrested. He has submitted that if the role and decision making power in the process are considered, present applicant is having the final and exclusive authority and digital approval on IORA portal is solely with the applicant and files could move

further without the approval or rejection of the present applicant. It is submitted that Mr. Rajendrabhai Ojha having only intermediate power of recording remarks and opinion on IORA portal and do not have any other authority whereas accused No.4 Mr. Mayur Gohil having no power to take any decision except to download the files and verify the documents and prepare a title sheet and submit to his superior. Further, accused No.5 Mr. Mayur Dave having the role of recording initial remarks on IORA portal and held portal login credentials used by subordinates and had no approval authority and accused No.6 Mr. Jayrajsinh Zala had no role in CLU approval process at all and even he has not received any share and he has only acted as a custodian and distributor only of the alleged bribe amount. He has further submitted that quantified proceeds of crime of accused No.4 is **Rs.48,42,995**, of accused No.5 is **Rs.14,13,501/-** and accused No.6 is having no any quantified proceeds of crime or beneficiary. However, the role of the present applicant is different and considering the culpability and involvement in conspiracy and potentiality to tamper with the evidence, present application deserves to be dismissed.

- [4.13] He has further argued that applicant cannot claim parity with non-arrested accused since benefit of parity is not required to be extended without considering the role of the accused. In this regard, he has relied on the decision of the Hon'ble Supreme Court in the case of **Tarun Kumar vs. Enforcement Directorate** reported in **2023 SCC OnLine (SC) 1486** and **Sagar vs. State of U.P. & Anr.** reported in **2025 INSC 1370**. He has further argued that mere non-arrest of co-accused is not a

ground to grant bail and in this regard, he has relied on the decision of the Hon'ble Supreme Court in the case of **Central Bureau of Investigation vs. Vijay Sai Reddy** reported in **(2013) 7 SCC 452**. He has further submitted that sufficient evidence is collected from the digital device of the applicant and concealment of proceeds of crime is also found. The role of the present applicant is different from other accused who have not been arrested. Hence, merely because co-accused are not arrested is not a ground for the applicant to claim absolute parity.

- [4.14] He has further argued that in light of section 19 of the PMLA, the ED has power to arrest any person if the authorized officer has "reason to believe" on the basis of material in his possession that such person has been guilty of an offence punishable under the PMLA and such decision to arrest is based on, (a) the role and culpability of the accused; (b) the necessity of custodial interrogation and (c) the likelihood of tampering with evidence or influencing witnesses. He has submitted that merely because the predecessors of the applicant are not made accused and illegal activity continued since long is not a ground to allow the present application. In this regard, learned ASG has relied on the decision of the Hon'ble Supreme Court in the case of **D.Ventatasubramaniam vs. M.K. Mohan Krishnamachari** reported in **(2009)10 SCC 488** and **M.C. Abraham vs. State of Maharashtra** reported in **(2003)2 SCC 649** and also argued that it is the sole discretion of the investigating agency to decide who shall be arrayed as an accused and who as a witness. In this regard, reliance is placed on the decision of Hon'ble Supreme Court in the case of

Laxmipat Choraria vs. State of Maharashtra reported in **1967 SCC OnLine (SC) 30.**

[4.15] He has further submitted that present applicant is involved in serious offence and no person who has committed an offence will be permitted to go scot-free. Sufficient material is collected which shows the involvement of the present applicant and the applicant has played a major role in the present offence and maximum proceeds of crime i.e. 50% **(Rs.3,12,62,230/-)** are attributed to the applicant only and hence, the applicant cannot seek parity with other co-accused whose role is either under investigation or who have been made an accused without the necessity to arrest them. He has also argued that recovery of incriminating material from accused is not *sine qua non* for determining the guilt of an accused. Further, any property of equivalent value of the proceeds of crime acquired prior to the commission of the offence of money laundering can also be attached as proceeds of crime as defined under Section 2(1)(U) of the PMLA, under Section 5 of the PMLA. The present applicant has purchased the property showing undervalue of the property without any income of his mother and his wife and he has generated the income using their name and account. He has further submitted that there is ample evidence corroborating purchase of shop No.12A from the proceeds of crime and the applicant has failed to satisfy the rigors of mandatory twin condition under Section 45 of the PMLA. Hence, he has requested to dismiss the present application.

[4.16] Learned ASG Mr. Raju has further argued that the argument

canvassed by learned Senior Advocate for the applicant that the investigation is over and nothing is required to be recovered or discovered from the applicant is a stock argument which is not permissible in special statute and not enough to come out from the rigors of section 45 of the PMLA and such argument makes the provision of section 45 of PMLA nugatory. Further, considering sections 3 and 44 of the PMLA, investigation is continue and merely investigation is over is not a ground to secure the bail and applicant has to satisfy the Court about the rigors of section 45 of the PMLA. Hence, as decided by the Hon'ble Supreme Court in the case of **P. Chidambaram (Supra)**, triple test is not applicable. Learned ASG has also argued that no any statement *qua* illegal gratification has been recorded. During the investigation, statement of one Advocate Mr. Chetan Kanzariya under Sections 50(2) and 50(3) of the PMLA is recorded wherein he has admitted that he has paid bribe amount of Rs.65 lakh to the co-accused Mr. Chandrasinh Mori on behalf of the person associated with CLU applications as per the fixed rate of bribe as it was a prevailing practice in the office of Collector, Surendranagar that if illegal gratification is not parted with, in that event, the officials of Collectorate, Surendranagar used to create problem in speedy clearance of CLU applications and used to raise clumsy queries with intent of unnecessarily delaying the file until a bribe was eventually demanded for removal of such objections. The statement of said witness clearly reveals about the involvement of applicant and illegal racket to collect or to ask for illegal gratification from the public. Hence, considering the statement of said middleman

and other statements, the involvement of the present applicant clearly reveals. Further, the hisab sheets, calculation, survey number and handwritten sheets are also found and subsequently from the mobile device of the applicant also, evidence is received which has been tried to be destroyed by the applicant. Thus, the present applicant has received major chunk of illegal gratification and evidence of rate fixed by the office is also substantiated by the said statements and said statements are admissible in evidence under Section 50 of PMLA. He has therefore submitted that against the present applicant, accusation and involvement is made out and he has concealed the proceeds of crime. Hence, merely because investigation is over is not enough to carve out any exception of section 45 of the PMLA and recovery of proceeds of crime is not a *sine qua non* as under the PMLA, attachment of property having equivalent value is permissible in case proceeds of crime is not traceable. Hence, tracing of money of proceeds of crime is not *sine qua non* and hence, during the investigation nothing is found or nothing is traced out is not a ground to consider the bail application of the present applicant who is involved in serious economic offence, which adversely affect the economic and social fabric of the country. In this regard, he has relied on the decision of Hon'ble Apex Court in the case of **State of Gujarat vs. Mohanlal Jitamalji Porwal & Others** reported in **(1987) 2 SCC 364** as well as in the case of **Y.S. Jagan Mohan Reddy vs. C.B.I.** reported in **(2013)7 SCC 4**.

- [4.17] Lastly, learned ASG has submitted that the applicant is an IAS officer and is duty bound to serve the public at large though he has indulged in rampant large scale corruption and in such

situation if bail is granted to the applicant, it would shock the conscience of the society. So far as ground of delay in trial as raised by the learned Senior Advocate for the applicant is concerned, learned ASG has submitted that as such there is no chance of delay in trial and even otherwise the applicant is recently arrested and hence, he has requested to dismiss the present application.

REJOINDER ON BEHALF OF APPLICANT:

[5.0] In rejoinder, learned Senior Advocate Mr. Nanavati appearing for the applicant has submitted that rigors of section 45 of the PMLA is not applicable to the present applicant more particularly when the legislature has imposed burden on both the sides. Present applicant is not guilty either under the PMLA nor the predicate offence. As per the case of prosecution, prior to search, already offence was registered under the PMLA. The search was conducted at the residence of Mr. Mori and then ECIR was registered. He was produced before the Magistrate before 8.30 p.m. and ECIR in PMLA was registered for the first point of time and subsequently the scheduled offence was registered. Unless and until the provision of section 2(y) of PMLA *qua* predicate offence is satisfied, no scheduled offence is registered and hence, question does not arise to straightway register PMLA offence. Hence, ECIR No.43/2025 itself is not maintainable and therefore, arrest of applicant is absolutely illegal.

[5.1] He has further argued that question does not arise to consider the period of incarceration and in this regard, he has relied on the decision of the Apex Court in the case of **Arvind Dham**

(Supra) wherein incarceration was only for three months whereas in the present case, applicant is facing incarceration since last 5 & ½ months. Hence, to decide the bail application, period of incarceration is not a criteria and Court has to decide the bail application on its own merit considering Article 21 of the Constitution and personal liberty of an individual since personal liberty is not over and above section 45 of the PMLA. Herein, Court has to consider the possibility of tampering with the evidence and influencing the witnesses. Herein, all the witnesses are educated and government officials and hence, question does not arise to tamper with the evidence as already investigation is over and has clearly stated before the Court while remain of 5 days' remand got over and it was clearly stated in the complaint that investigation *qua* accused No.2 i.e. present applicant is over. Hence, no further investigation is going on and now there remains no purpose to continue the incarceration of the present applicant and therefore, with stringent condition, present applicant is required to be enlarged on bail. He has further submitted that applicant is ready and willing to abide by any condition including not to enter District Surendranagar or not to contact any witnesses etc.

- [5.2] He has further submitted that applicant has satisfied the provision of section 45 of the PMLA and that in the present case, bias and prejudicial investigation is conducted only with a view to target the present applicant. As per the case of prosecution itself, Additional Collector Mr. Ojha who had got 25% share i.e. Rs.2.48 Crore towards bribe involving 842 CLU applications, is still serving as Additional Collector at Vadodara

and even not facing any departmental proceeding also. Hence, question of tampering with the evidence does not arise. He has further submitted that the accused persons who are already named and not arrested may influence the witnesses whereas present applicant is suspended and is not in service. Hence, he has submitted that the argument canvassed by learned ASG on behalf of the ED as regards tampering with evidence may not be accepted.

[5.3] He has further argued that till date applicant is not arrested in connection with predicate offence and same is not investigated and even charge-sheet is not filed in connection with the predicate offence. Even if for the sake of argument submission on behalf of learned ASG that there is any predicate offence is accepted then also, if the applicant is acquitted or closure report is filed then question does not arise to prosecute under PMLA. Even otherwise, predicate or scheduled offence remained without investigation then trial under the PMLA is also required to be stayed or judgment is not pronounced till predicate offence gets over. In this regard, he has relied on the decision of the Hon'ble Supreme Court in the case of **Sidhant Gupta vs. The Assistant Director, Directorate of Enforcement [SLP (Cri.) No. 14392 of 2024]**.

[5.4] In response to the argument as regards statement of Mr. Mori recorded under Section 50 of the PMLA made by learned ASG, learned Senior Advocate has submitted that prosecution has relied on the statement of co-accused Mr. Mori but already he has retracted from his statement made before the police and

through jail which is submitted before the Court. Another witness Mr. Kanzariya – middleman has not given the name of present applicant and there was no direct dealing qua alleged bribe. Further, he has submitted that even otherwise proviso to Section 45 PMLA provides that sick and infirm are required to be considered and bail is required to be granted. He has further submitted that through RTI application, applicant has received the treatment papers which he has received inside the jail which shows that applicant is having knee joint injury in his left leg and swelling and X-Ray, MRI etc. shows that applicant diagnosed “***bucket handle tear of lateral meniscus***” for which applicant is advised for arthroscopic surgical lateral meniscus repair and the applicant has to undergo for surgery and he has relied on the decisions of **Prem Prakash vs. Union of India** reported in **2024 INSC 637** as well as **V. Senthil Balaji (Supra)**. Hence, he has requested to allow the present application.

FINDINGS AND ANALYSIS:

[6.0] Heard learned Counsels for the respective parties at length. Perusing the record, it appears that against present applicant Complaint is filed for the offence under Section 3 of the PMLA punishable under Section 4 of the PMLA. A search was conducted under Section 17 of PMLA in another ECIR bearing ECIR/HIU-II/42/2025 at the residential premises of Mr. Chandrasinh Mori, Deputy Mamlatdar on 23.12.2025, a cash amount to the tune of Rs.67.50 lakhs was recovered along with *hissab sheet* containing record bribe collected while processing CLU applications in The Office of District Collector, Surendranagar. The said information was shared with

AntiCorruption Bureau as per Section 66(2) of PMLA on 23.12.2025 and accordingly, FIR No.0/2025 was registered under the PC Act against the accused persons including the present applicant. Subsequently, the said FIR came to be registered as CR No.11194070250007 by ACB, SurendraNagar Police Station. The statement of co-accused Mr. Chandrasinh Bhupatsinh Mori was recorded under Section 50 of the PMLA which revealed the *modus operandi* of the accused persons who were working in the office of Collector office, Surendranagar in connivance with each other for conversion of land use for Agriculture to Non- Agricultural under Sections 65 and 65B of the Gujarat Land Revenue Code and applications under Sections 54 and 55 of the Saurashtra Gharkhed Tenancy Settlement and Agricultural Lands Ordinance, 1949. The rate for illegal gratification fixed in advance for such application advance at Rs.10 per sq. meter for CLU applications. Out of such illegal gratification amount, applicant – Collector was getting 50% Share, 25% Share by Residential Additional Collector, 10% each by Chitnis and Mamlatdar and 5% by Clerk.

- [6.1] The Investigation and statement also revealed that Applicant was a District Collector and had 50% share of the bribe collected for getting the land use permission granted. It is further the case of ED that the applicant was the final authority for deciding CLU permission applications and the "*hisaab sheets*", digital evidence collected from the accused persons revealed details of each applications which were processed and said "*hisaab sheets*" also contained detail about the particular amount of bribe for processing and granting the CLU applications. The information was sent by Enforcement

Directorate to Anti-Corruption Bureau, Ahmedabad and FIR No.0/2025 dated 23.12.2025 was registered for the offence under Section 12, 13(1)(d), 13(2), 7 of the PC Act against the persons including the present applicant. It *prima facie* reveals that the officials of District Collector office, Surendranagar were indulged in corrupt practice for processing Conversion of land use application and bribe received as rate was fixed for granting change of land use.

[6.2] The applicant is named in the ECIR and he came to be arrested on 02.01.2026. The investigation case papers and complaint would *prima facie* reveal that for approving CLU application, the officials had fixed the rate, wherein, the applicant being District Collector, his share was 50% of the illegal gratification and other officials share were fixed as per their hierarchy. As per the case of Enforcement Directorate, considering the period of applicant as District Collector, Surendranagar and his 50% share for **501** CLU applications, which were processed/approved, it is stated that an amount of **Rs.3,12,62,230/-** has been received by the applicant and material is collected in this regard in form of *hisaab sheets*, statements of co-accused recorded under Section 50 of PMLA and digital records. It is required to consider that the offence against applicant under Section 12, 13(1)(d), 13(2) and 7 of the PC Act registered which is scheduled offence. The applicant is also facing charge under the PMLA for having derived **Rs.3,12,62,230/-** of illegal gratification for conversion of Land tenure.

[7.0] The main contention on behalf of applicant is without a

predicate offence, money laundering cannot occur. To deal with said argument, it is apt to refer to and rely upon pronouncement of the Hon'ble Supreme Court in the case of **Vijay Madanlal Choudhary (Supra)**, wherein it is held that a person cannot be proceeded against under the PMLA unless a first information report (FIR) has been registered in respect of the predicate offence and/or a case is awaiting trial before a competent forum. Moreover, in paragraph **187(v)(d)** of the said decision, it is held that even if predicate offence is quashed by the Court of competent jurisdiction, there can be no offence of money laundering against the accused. Further, in paragraph No.270 of **Vijay Madanlal Chaudhary (Supra)**, the Supreme Court has held as under:

"270. Needless to mention that such process or activity can be indulged in only after the property is derived or obtained as a result of criminal activity (a scheduled offence). It would be an offence of money-laundering to indulge in or to assist or being party to the process or activity connected with the proceeds of crime; and such process or activity in a given fact situation may be a continuing offence, irrespective of the date and time of commission of the scheduled offence. In other words, the criminal activity may have been committed before the same had been notified as scheduled offence for the purpose of the 2002 Act, but if a person has indulged in or continues to indulge directly or indirectly in dealing with proceeds of crime, derived or obtained from such criminal activity even after it has been notified as scheduled offence, may be liable to be prosecuted for offence of money-laundering under the 2002 Act — for continuing to possess or conceal the proceeds of crime (fully or in part) or retaining possession thereof or uses it in trenches until fully exhausted. The offence of money-laundering is not dependent on or linked to the date on which the scheduled offence or if we may say so the predicate offence has been committed. The relevant date is the date on which the person indulges in the process or activity connected with such proceeds of crime. These ingredients are intrinsic in the original provision (Section 3, as amended until 2013 and were in force till 31.7.2019); and the same has been merely Page 39 of 59 explained and clarified by way of

Explanation vide Finance (No.2) Act, 2019. Thus understood, inclusion of Clause (ii) in Explanation inserted in 2019 is of no consequence as it does not alter or enlarge the scope of Section 3 at all."

Further, in paragraphs 281 to 284 and 467(v)(d) of the decision in the case of **Vijay Madanlal Choudhary (Supra)**, Paragraph No.467 is summarization of the conclusion on similar points in issue. Accordingly, there is no quarrel over the proposition that if the predicate offence is quashed or the accused persons are discharged or it ends in acquittal finally, the proceedings under PMLA cannot be continued.

- [7.1] It is settled position of law that the predicate offence is not a *sine qua non* considering the scheme of PMLA and the arrest is part of investigation and power of arrest under Section 19 of the PMLA which is meant for investigation alone. At this stage, it is apposite to refer to the decision of The Supreme Court in the case of **V. Senthil Balaji (Supra)** wherein it has been clearly held that powers under Section 19(1) of the PMLA can only be exercised during investigation. Considering the powers under Section 19 of the PMLA, arrest in PMLA offence is based on standalone offence. Further, the arrest in PMLA case need not avail the arrest in the scheduled offence as scheduled offence and offence under the PMLA both are different offences. In section 19 of the PMLA, phrase used is "***reason to believe***" that any person has been guilty of an offence punishable under the PMLA. The said phrase is also interpreted and section 19 of PMLA is a stringent provision and validity of the said section is upheld by the Supreme Court in the case of **Vijay Madanlal Choudhary (Supra)**. The ED has only to see as to whether case

under PMLA is made out or not and ED is not duty bound to decide the existence of scheduled offence. Hence, this Court is of considered of view that, at the stage of bail application investigation in the predicate offence is an irrelevant consideration for grant or refusal of bail as offence under PMLA is an independent offence and proceeds of crime would constitute an offence of money laundering and this offence otherwise has nothing to do with the criminal activity relating to the scheduled offence except the proceeds of crime derived or obtained as a result of that crime and sweep of section 5(1) of PMLA is not a limited to the accused named in the criminal activity relating to a scheduled offence and it would apply to any person if he is involved directly or indirectly in any process or activity connected with the proceeds of crime and such a person besides facing the consequence of provisional attachment order may end up in being named as accused in the complaint to be filed by the authorized officer concerning offence under Section 3 of the PMLA.

- [7.2] In the case on hand, admittedly, proceeding under the PC Act is pending and the accused is neither discharged, acquitted nor proceedings against accused are quashed. The Hon'ble Supreme Court in the case of **Vijay Madanlal Choudhary (Supra)** in paragraph No.290 has recognized the rights of Enforcement Directorate to work out the remedies as per law and relevant portion of the said paragraph is extracted hereunder:

"290. ...In case the scheduled offence is not already registered by the jurisdictional police or complaint filed before the Magistrate, it is open to the authorised officer to still proceed under Section 5 of the 2002 Act whilst contemporaneously sending information to the jurisdictional police under Section 66(2) of the 2002 Act for registering FIR in respect of cognizable offence or report

regarding non-cognizable offence and if the jurisdictional police fails to respond appropriately to such information, the authorised officer under the 2002 Act can take recourse to appropriate remedy, as may be permissible in law to ensure that the culprits do not go unpunished and the proceeds of crime are secured and dealt with as per the dispensation provided for in the 2002 Act. Suffice it to observe that the amendment effected in 2015 in the second proviso has reasonable nexus with the object sought to be achieved by the 2002 Act. As such, if the Investigating Agency dealing with a predicate offence is not taking appropriate action as per law and on account of the same an accused is allowed to go scot free with the proceeds of crime, the Enforcement Directorate, for the purpose of achieving the objects under PMLA and to deal with the proceeds of crime under PMLA is entitled to take recourse to the remedies available under law."

Further, Hon'ble Supreme Court in the case of **Pavana Dibbur (Supra)** has held that where a person, though accused in the scheduled offence is later found to have aided in the concealment of the proceeds of crime or to have become involved after the commission of the scheduled offence, such person cannot claim the benefit of the acquittal of others in the scheduled offence. The Hon'ble Supreme Court has also held that when the prosecution for the scheduled offence concludes with the acquittal or discharge of all accused persons, or when the proceedings for the scheduled offence are entirely quashed, the scheduled offence ceases to exist. Consequently, no prosecution under Section 3 of the PMLA can be sustained as there would be no proceeds of crime but once the proceeds of crime are traced, PMLA proceedings become a stand-alone process and only for mere initiation of the same, a predicate offence is required. The above issue was considered by the Hon'ble Supreme Court in the case of **Vijay Madanlal Choudhary (Supra)** and it was observed as under:

"467(v)(d). The offence under Section 3 of the 2002 Act is dependent on illegal gain of property as a result of criminal

activity relating to a scheduled offence. It is concerning the process or activity connected with such property, which constitutes the offence of money- laundering. The Authorities under the 2002 Act cannot prosecute any person on notional basis or on the assumption that a scheduled offence has been committed, unless it is so registered with the jurisdictional police and/or pending enquiry/trial including by way of criminal."

[7.3] As ED has power under Section 66(2) of PMLA, in case the scheduled offence is not already registered by the jurisdictional police or complaint filed before the Magistrate, it is open to the authorised officer to still proceed under Section 5 of the PMLA whilst contemporaneously sending information to the jurisdictional police under Section 66(2) of the PMLA. Further, the power of arrest under Section 19 of the PMLA is independent and money laundering is an independent offence. Even, second proviso to Section 5 of PMLA permits the attachment against any person who is in possession of any proceeds of crime and section 66(2) of the PMLA provides that during the investigation, registration of FIR and reporting of such non-cognizable offence to the jurisdictional police also. The said proposition has been laid down by the Supreme Court in the case of **Vijay Madanlal Chaudhry (Supra)** and **Dr. Manik Bhattacharya (Supra)**. It is also pertinent to note that as held by the Delhi High Court in the case of **Gautam Khaitan (Supra)**, as per second proviso to section 5 of the PMLA, it is no longer mandatory that a person against whom a provisional attachment order is issued, must have been charged. Even, trial under the PMLA can independently be proceeded without filing the charge-sheet in the predicate offence since offence of money laundering is independent of the trial of scheduled offence. In this regard, reference is required to be made to the decision of

the Hon'ble Supreme Court rendered in the case of **Siddhant Gupta (Supra)** as well as in the case of **Bharathi Cement Corpn. (P) Ltd. (Supra)**.

[7.4] In view of above settled proposition of law and in the light of various provisions of PMLA and authoritative pronouncement argument canvassed by learned Senior Advocate Mr. Nanavati for the applicant that without predicate offence, offence under PMLA is not maintainable, reliance placed on the decision of Bombay High Court in the case of **Sachin Balasaheb Sawant (Supra)** while in **Siddhant Gupta (Supra)** case order was passed not to pronounce any judgement in case under PMLA case since proceedings under scheduled offence were pending. But nowhere stated or opined by Hon'ble Supreme Court about maintainability of PMLA proceedings. Hence, said order would not avail any assistance to the applicant in peculiar facts of the case on hand. Herein, in the case on hand, neither the applicant is discharged, acquitted nor proceedings under predicated offence closed/quashed under the PC act. While deciding bail application under PMLA, Court cannot make or decide application based on assumption that in future possibility cannot be ruled out filing or possibility of filing closure report in predicated offence. It is needless to say that, Court has to consider fact and law which stands at present.

[8.0] Further, at the stage of bail, Court has to keep in mind provision of Section 45 of PMLA. It is required only to assess whether reasonable grounds exist for believing that the accused is not likely to be guilty and not to conduct a roving enquiry for a mini-trial as laid down by the Hon'ble Supreme Court in the case of

Vijay Madanlal Choudhary (Supra). Section 45 of the PMLA, in particular, sets a high threshold for bail. Under Section 45 of the PMLA, the Public Prosecutor has to be given an opportunity to oppose the bail application and the Court must be convinced that there are valid reasons to believe that the accused is innocent of the offence and is unlikely to commit any further offences while out on bail. The section mandates that an accused shall not be released on bail "unless" two conditions are met: (i) the Public Prosecutor has been heard and (ii) the Court is satisfied that there are reasonable grounds for believing the accused is not guilty of money laundering and he is not likely to commit any offence while on bail. In short, both twin conditions must be fulfilled to grant bail. Courts have repeatedly held these conditions to be mandatory and onerous. The Apex Court has emphasized that Section 45 imposes a near-"not bail" regime. In the case of **Vijay Madanlal Chaudhary (Supra)**, the Court upheld the mandatory twin conditions and stringent bail provisions noting that PMLA reverses the presumption of innocence and places the burden on the accused to make out a prima facie case for bail under Sec.45 of PMLA. Likewise, in the case of **Gautam Kundu vs. ED** reported in **(2015)16 SCC 1** and subsequent pronouncements reiterate that twin conditions mentioned in Section 45 of PMLA are "mandatory and need to be complied with". Further, in the case of **Tarun Kumar (Supra)**, the Court reiterated that these conditions must be satisfied before bail under Section 439 CrPC can be granted. Thus, bail in PMLA is truly the exception and not the norm. The PMLA is a "special statute" targeting money laundering which has been described as an "aggravated form of crime" with serious

transnational impact. The object of PMLA is to protect the economic strength of our nation. Hence, it is essential that the investigating agencies involved in the process of unearthing the offence pertaining to money laundering to do so in a free and fair manner and work with an object to protect the interest of Citizen.

[8.1] Applicant herein was serving as a Collector and he indulged in corrupt practice and under Section 13 of the PC Act, it amounts to "*criminal misconduct*" and still investigation qua PC Act is pending. It is needless to say that nowadays government officials also indulge in rampant corruption and indulging in that impunity by highly placed person that has led to the economic unrest in the country which adversely affect the progress of society and prosperity of nation. Today, corruption in our country not only poses grave danger to the concept of constitutional governance but affects the foundation of democracy and rule of law and magnitude of corruption in public life is incompatible. Tackling the corruption, government has taken various steps. As District administrative head, applicant ought to have performed his duty with integrity, Commitment and with righteous approach in the good faith of public at large though he indulged in corrupt practice and continued to allow the corruption in the office with an open eye.

[8.2] At this juncture, it is apt to refer to the phrase from Essay on "**Freedom and Power**" penned by **Lord Acton** wherein, he has stated "***Power tends to corrupt, and absolute power corrupts absolutely***". The phrase crystallizes timeless concern about the coercive influence of power on human character. Involvement of

the present applicant is found in offence since 800 photographs of CLU applications and files were recovered from the email account of applicant also. Further, prior to one day of the raid, the applicant has tried to reset his mobile being Samsung S24 Ultra. It is nothing but amounts to tempering with an evidence. Such conduct speaks volume and clearly indicates that such photographs were not kept for supervision or to track timely disposal of applications. *Prima facie* involvement of the applicant in offence under PMLA is revealed. The concealment of proceeds of crime is yet to be investigated and traced out and recovered. In para 4 of the complaint, it is clearly stated that prosecution is going to file supplementary complaint and to act after further investigation. In light of para 4 of the complaint investigation qua accused No.2 is over. It is required to be considered in context of no further remand or custody over five days required.

- [8.3] Learned ASG has also submitted that further investigation is going on. The Hon'ble Supreme Court in the case of **Vijay Madanlal Choudhary (Supra)** authoritatively held that:

"The Explanation to Section 44 permits the Authority to bring on record further evidence in respect of further investigation even after cognizance has been taken and it is always open to the authorized authority to seek permission of the Court during trial, keeping in mind the provision of the Code of Criminal Procedure."

Herein, in the case on hand, cognizance yet to be taken. The purchase of jewellery and routing of rental income and other income through the wife and mother's account having no any source of independently generated income and creation of FDRs to conceal the proceeds of crime intentionally to come out

from the rigors. The multiple deposits of Rs.49,000/- each have been done, which is kept as part of pre-planning below Rs.50,000/- with a view to avoid PAN disclosure requirement. Cash withdraw from the account of applicant is minimal commensurate with daily expenses and routine requirements. Hence, it is essential that the investigating agencies involved in the process of unearthing the offence pertaining to money laundering do so in a free and fair manner and work with an object to protect the interest of the nation. The present applicant-accused is involved in white collar socio-economic offence which constitute a class apart and needs to be visited with a different approach. The economic offences adversely affect the economic and social fabric of the country. At this stage, reference is required to be made to the decision of the Apex Court in the case of **State of Gujarat vs. Mohanlal Jitmalji Porwal & Others** reported in **(1987)2 SCC 364** wherein it has been observed in paragraph -5 as under :

"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."

Even subsequently, the Hon'ble Supreme Court held that economic offences constitute an altogether distinct class of offences. That being so, in spite of the salutary doctrine of "*bail is the rule and jail is an exception*", matters of bail in cases

involving socioeconomic offences have to be visited with a different approach as held in the case of **State of Bihar & Anr. vs Amit Kumar** reported in **(2017)13 SCC 751** and in the case of **Y.S. Jagan Mohan Reddy vs CBI** reported in **(2013)7 SCC 439**. 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. Further, on the aspect of bail in cases involving socio-economic offences, differential treatment in consideration unlike conventional crimes. A reference is required to be made to the cases of **Nimmagadda Prasad vs. CBI** reported in **(2013)7 SCC 466**; **Rohit Tandon vs. Directorate of Enforcement** reported in **(2018)11 SCC 46** and **Serious Fraud Investigation Officer vs. Nitin Johari** reported in **(2019)9 SCC 165**.

- [8.4] Further, the investigation would reveal that schematic approach was made by the accused persons to escape from the clutches of PMLA proceedings. Once the "proceeds of crime" is traced out by the Enforcement Directorate and a complaint under PMLA has been filed before the Competent Court, the offence under PMLA has become standalone offence and standalone process, which is to be proceeded by following the procedures as contemplated under PMLA. In the present case, the ACB, Gujarat State is investigating the offence under the PC Act. The investigation under PMLA has *prima facie* established that the applicant was the principal beneficiary and key conspirator in the generation, acquisition, concealment, and laundering of the proceeds of crime. The co-accused and subordinate staff acted

at his behest and under his instructions in collecting illegal gratification and routing the same through sham investments and transactions undertaken in the names of his wife, mother, and other relatives, who lacked any independent financial means to support such investments. The applicant, being an IAS officer with potentials and substantial administrative authority, financial acumen, and domain expertise, deliberately structured and facilitated the diversion and layering of funds with the intent to conceal their illicit origin and project them as legitimate assets without PAN disclosure. The evidence collected during the investigation clearly discloses his active and conscious involvement in the offence of money laundering.

- [8.5] Further, the prosecution has also relied upon statements recorded under Section 50 of the PMLA which are admissible in evidence. One witness Mr. Chetan Kanzariya under Sections 50(2) and 50(3) of the PMLA is recorded wherein he has admitted that he has paid bribe amount of Rs.65 lakh to the co-accused Mr. Chandrasinh Mori on behalf of the person associated with CLU applications as per the fixed rate of bribe as it was a prevailing practice in the office of Collector, Surendranagar that if illegal gratification is not parted with, in that event, the officials of Collectorate, Surendranagar used to create problem in speedy clearance of CLU applications and used to raise clumsy queries with intent of unnecessarily delaying the file until a bribe was eventually demanded for removal of such objections. The statement of said witness clearly reveals about the involvement of applicant and illegal racket to collect or to ask illegal gratification from the public. Hence, considering the statement of said middleman and other

statements, the involvement of the present applicant clearly reveals. Further, the *hissab sheets*, calculation, survey number and handwritten sheets are also found and subsequently from the mobile device of the applicant also, evidence is received which has been tried to be destroyed by the applicant. Thus, the present applicant has received major chunk of illegal gratification and evidence of rate fixed by the office is also substantiated by the said statements and said statements are admissible in evidence, against the present applicant, accusation and involvement is made out and he has concealed the proceeds of crime. Hence, merely because investigation is over is not enough to carve out any exception of section 45 of the PMLA and recovery of proceeds of crime is not a sine qua non as under the PMLA, attachment of property having equivalent value is permissible in case proceeds of crime is not traceable. Hence, tracing of money of proceeds of crime is not sine qua non and hence, during the investigation no proceeds of crime or nothing is found or nothing is traced out accepted 4 circumstance pointed out by applicant including purchase of property prior to join service is not sufficient to satisfy twin test under Sec.45 of PMLA or ground to consider the bail application of the present applicant who is involved in serious economic offence.

- [8.6] Under Section 50 of PMLA statements are admissible and can form the basis for forming a prima facie view at the stage of bail. Since the proceeds of crime is yet to be investigated and free and fair investigation is the hallmark of the criminal justice system. It is essential that investigating agencies operate in free and fair manner to ensure that both the rights of the accused and the State are well protected during the course of

investigation. In this regard, it would be in profit to refer the decision of the Supreme Court rendered in the case of **Rohit Tandon (Supra)** wherein the Apex Court held that statements recorded under Section 50 are admissible and can form the basis for forming a prima facie view at the stage of bail.

- [8.7] Learned Senior Advocate Mr.S.I.Nanavati for the applicant has canvassed argument, A confessional statement made by co-accused Mr.Mori was retracted at later stage by him on 09.02.2026 and he has relied on **Prem Prakash vs. Union of India** reported in **2024 INSC 637**, having distinguishable facts, wherein para 32 observed as under :

"32. We have no hesitation in holding that when an accused is in custody under PMLA irrespective of the case for which he is under custody, any statement under Section 50 PMLA to the same Investigating Agency is inadmissible against the maker. The reason being that the person in custody pursuant to the proceeding investigated by the same Investigating Agency is not a person who can be considered as one operating with a free mind. It will be extremely unsafe to render such statements admissible against the maker, as such a course of action would be contrary to all canons of fair play and justice"

The Court ruled that any self-incriminatory statements recorded from an accused under Section 50 of the PMLA, while in the custody of the Enforcement Directorate (ED), are inadmissible as evidence in another money-laundering case where the person's formal arrest has not yet been shown. The Court noted that a person in custody does not operate with a "free mind," rendering it unsafe to use these forced statements to deny bail. In the case of **Prem Prakash (Supra)**, the appellant had been in judicial custody from 25.08.2022 in connection with another ECIR, being ECIR No.4 of 2022 and while in judicial

custody his arrest was shown in the current ECIR. The question arose was, when a person is in custody in another case investigated by the same Investigating Agency and statement had been made by accused. Herein, present applicant had not made any such statement. The statement is made while he was in custody of another offence. Even otherwise, whether evidentiary value of such statement was exculpatory or inculpatory, is subject matter of trial as alleged retraction is made by co-accused before the jail authority subsequently while he was produced before the learned Sessions Judge and co-accused has not raised any question about his statement was recorded under coercion, pressure or third degree methods. One more aspect is also required to be considered is that in the decision in the case of **Vijay Madanlal Chaudhry (Supra)** Hon'ble Apex court has concluded that the process envisaged by Section 50 of the PMLA is in the nature of an inquiry against the proceeds of crime and is not "investigation" in strict sense of the term for initiating prosecution and the Authorities under the PMLA (referred to in Section 48) are not police officers as such. The statements recorded by the Authorities under the PMLA are not hit by Article 20(3) or Article 21 of the Constitution of India. Moreover, such retraction is a disputed question of fact which cannot be gone into at this bail stage. In this regard, learned ASG has relied on the decision of the Hon'ble Supreme Court in the case of **Abdulvhab Abdulmajid Shaikh vs. State of Gujarat** reported in **(2007)4 SCC 257** and argued that conviction can be recorded based on retracted confessional statement. Under Section 24 of PMLA, burden of proof is on accused and the said question is subject matter of trial. Hence, authority relied on by

learned Senior Advocate would not avail any assistance at this stage and argument canvassed by the learned Counsel for applicant is not accepted.

[8.8] As discussed above, applicant herein, failed to satisfy the twin conditions under Section 45 of the PMLA as there exists no reasonable grounds to believe that he is not guilty or unlikely to commit the offence again. It is apparent from the record that applicant played a key role in a deep rooted conspiracy involving diversion and laundering of public funds, with material evidence prevailing during investigation, his active involvement in acquiring '*proceeds of crime*' routed through sham entities and transaction. Therefore, in view of decision in the case of **Directorate of Enforcement vs. Aditya Tripathi** reported in **2023 SCC OnLine SC 619** and **Radha Mohan Lakhotia vs. The Deputy Director, PMLA, Directorate of Enforcement** reported in **2010 SCC OnLine (Bom) 1116**, the economic offence like money laundering are grave in nature and bail must be granted cautiously, especially when there is risk of tampering of evidence or influencing witnesses. Further, the sham transactions to conceal proceeds of crime i.e. tainted money through a dummy entity and control over it to see same is to return as untainted which underscores the deliberate design to project tainted money as untainted.

[8.9] Insofar as argument on behalf of the applicant as regards medical ailment of the applicant is concerned, in X-Ray and MRI report, it has been found there is "*Bucket handle tear of lateral meniscus*". Further, it is argued that orthopsychiatry surgical lateral repair is advised by Doctor. Thus, it is clear that present

applicant is not terminally ill or sick and whatever medical reason is stated is general in nature which does not fall in category of serious or life threatening ailments. Applicant may take treatment in jail also or may file an application seeking temporary bail if situation does arise. As in such situation rest, physiotherapy and medication is the treatment and in case knee is locking then arthroscopic surgery to repair is required. Section 45 of PMLA provides that in case the accused is sick or infirm, bail is required to be granted. However, the present applicant is not so sick or terminally ill. Hence, said *proviso* would not be applicable in the present case.

- [9.0] Learned Senior Advocate Mr. Nanavati for applicant has also argued about the selective approach adopted by the authority in arrest of accused. Since his role is found to be serious one and applicant has received largest single share of bribe amount and the role of the present applicant is different or higher than other accused who have not been arrested or yet to be arrested. Hence, merely because co-accused are not arrested is not a ground for the applicant to claim absolute parity and in this regard, it would be apposite to refer to the decisions of the Hon'ble Supreme Court rendered in the case of **Tarun Kumar (Supra)** and **Sagar (Supra)**. Further, the applicant is not entitled to claim parity as of right and it is well settled law that mere non-arrest of co-accused is not a ground for bail as held by the Hon'ble Supreme Court in the case of **Vijay Sai Reddy (Supra)** wherein it has been held that it is the sole discretion of investigating agency to decide as to who shall be arraigned as an accused or as a witness. Hon'ble Supreme Court in the case of **D. Ventatasubramaniam vs. M.K. Mohankrishnamachari** reported

in **(2009)10 SCC 488** and **M.C. Abraham vs. State of Maharashtra** reported in **(2003)2 SCC 649**, it is the sole discretion of the investigating agency to decide who shall be arrayed as an accused and who as a witness. In this regard, reliance may be placed on the decision of Hon'ble Supreme Court in the case of **Laxmipat Choraria vs. State of Maharashtra** reported in **1967 SCC OnLine (SC) 30**.

[9.1] Herein, the applicant is arrest based on circumstantial evidence indicating his active role in the offence of money laundering and the ongoing investigation justifies differential treatment based on individual culpability. The contention that other accused have not been arrested does not entitle the applicant to bail in view of decision in the case of **Vijay Sai Reddy (Supra)** and **Tarun Kumar (Supra)** wherein, the Hon'ble Supreme Court clarified that each accused must be assessed independently based on their role or evidence. At this stage, reference is required to be made to the decision of the Hon'ble Supreme Court rendered in the case of **Ash Mohammad vs. Shiv Raj Singh @ Lalla Babu** reported in **(2012)9 SCC 446** wherein, it has been held that the concept of liberty is not in the realm of absolutism but is restricted.

[9.2] Insofar, the submission made on behalf of the applicant that the trial will take considerable time and therefore, applicant is entitled to bail and reliance placed on the decisions of Hon'ble Supreme Court in the case of **Arvind Dham (Supra)** and considering concept of personal liberty under Article 21 of the Constitution of India requested to allow bail application is concerned, it is true that accused has right to speedy trial in case

of ordinate delay in trial since it amounts to violation of fundamental right of an accused and this Court has also considered the said fact in many cases but herein argument canvassed by learned Senior Advocate for the applicant is not accepted on two counts (i) in the case on hand no any such inordinate delay in trial could be noticed from the record and applicant/accused was arrested on 02.01.2026 and has remained in judicial custody approximately for 5 & 1/2 months which includes the statutory period i.e. investigation, right to get copies of documents, statutory period for filing of a discharge application, which is followed by pre-cognizance hearing under Section 223(1) of the BNSS. In light of statutory time limit framed under procedural law and rights of accused and principles of fair trial, it cannot be said or presumed that the trial is unlikely to commence or conclude and cause inordinate delay in trial and (ii) Insofar as arguments canvassed for applicant's personal liberty under Article 21 and Bail under special statute is concerned, as in the case of **Tasleem Ahmed vs. State (NCT) Delhi and Syed Iftikhar Andrabi vs. NIA**, same issue concerning personal liberty under Article 21 and restrictions in bail matter under special statute and prolong incarceration or detention is pending for consideration before Hon'ble Supreme Court. Hence, this Court is not going to discuss further on the said issue.

- [9.3] The main object of PMLA is to prevent money laundering. The economic health of the Nation needs to be protected and money laundering scars the economic condition of nation as a whole. It is needless to say that Sovereignty of nation always prevail over personal liberty.

CONCLUSION:

[10.0] In wake of aforesaid conspectus, present application being devoid of any merit stands ***dismissed***.

[11.0] It is made clear that the observations made in the present order are tentative in nature and learned trial Court shall decide the case of the applicant on its own merits without being influenced by the observations made in the present order.

Ajay

Sd/-
(HASMUKH D. SUTHAR,J)