

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****CrMP (M) No. : 2084 of 2025****Reserved on : 15.09.2025****Decided on : 25.11.2025**

Rajnish Bansal

...Applicant

Versus

Directorate of Enforcement

...Respondent

*Coram***The Hon'ble Mr. Justice Virender Singh, Judge.***Whether approved for reporting?¹*

For the applicant : Mr. Ajay Kochhar, Senior Advocate, with Mr. Anubhav Chopra, Ms. Swati Sharma and Ms. Preetika Thakur, Advocates.

For the respondent : Mr. Zoheb Hussain, Mr. Ajeet Singh Saklani, Advocates (through Video Conferencing) and Mr. Surila Sangam & Ms. Ananya Srivastava, Advocates.

Virender Singh, Judge.

Applicant-Rajnish Bansal has filed the present application, under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS'),

¹ *Whether Reporters of local papers may be allowed to see the judgment? Yes.*



as, he is apprehending his arrest in case, registered vide **ECIR No. SHSZO/04/2019**, dated **19th July, 2019**, with **Sub-Zonal Office, Directorate of Enforcement, Shimla** (hereinafter referred to as 'ED'), under **Sections 3 and 4 of the Prevention of Money Laundering Act, 2002** (hereinafter referred to as 'PMLA').

2. By way of the present application, the indulgence of this Court has been sought to direct the ED to release the applicant on bail, in the event of his arrest, in the afore-stated case.

3. The relief has been sought on the ground that the ECIR has been registered by the ED, on the basis of source information, contained in case FIR No. 133/2018, registered under Sections 409, 419, 465, 466 and 471 of the Indian Penal Code (hereinafter referred to as 'IPC'), with Police Station East, Shimla, H.P. The investigation of the same is stated to have, thereafter, been transferred to CBI, vide notification No. Home (A) A (9) 31/2018, dated 20th March, 2019 and, subsequently, RC No. 0962019S0002, dated 7th May, 2019, was registered with CBI/ACB, Shimla, under Sections 409, 419, 465, 466 and 471 IPC.



4. It is the further case of the applicant that since Sections 419 and 471 IPC were the Scheduled Offences, as defined under the PMLA, in both the FIRs, the ECIR was registered by the ED.

5. As per the further case of the applicant, after the registration of the case, i.e. RC No. 0962019S0002, CBI conducted searches and seizures at 22 private institutions, including Himalayan Group of Professional Institutions and Apex Group of Professional Institutions, which had applied for and received Post Matric Scholarship Scheme for SC, ST and OBC students of Himachal Pradesh. The applicant is stated to be the Chairman of Himalayan Group of Professional Institutions, Kala Amb, Sirmaur and Apex Group of Professional Institute, whereas, his brother Vikas Bansal is the Vice President of these institutions. The applicant and his brother are stated to be the trustees of Maa Saraswati Educational Trust and People Welfare Educational Trust. The Himalayan Group of Professional Institution, Kala Amb, Sirmaur, H.P., has been operating under Maa Saraswati Educational Trust, whereas, Apex



Group of Professional Institute is running under People Welfare Educational Trust.

6. According to the applicant, the CBI had arrested him on 8th April, 2022, during the course of the investigation, in the aforesaid FIR and was released on bail, by this Court, on 9th May, 2022, passed in CrMP (M) No. 852 of 2022. The CBI, after investigation, is stated to have filed the charge sheet in the Court of learned Special Judge (CBI), Shimla, on 18th April, 2022.

7. It has been averred, on behalf of the applicant, that the ED, based upon the material in possession, conducted searches, under Section 17 of the PMLA on 29th August, 2023, 30th January, 2025 and 6th March, 2025, on various premises of the applicant, including the residential premises of his brother Vikas Bansal, the Vice President of Himalayan Group of Professional Institutions and Apex Group of Institutions. The relevant documents, relating to the present ECIR were taken into possession, however, according to the applicant, nothing incriminating was found, during the searches conducted on 30th January, 2025 and 6th March, 2025.



8. The applicant has further pleaded that after the registration of the ECIR, in the month of July, 2019, the applicant was summoned by the ED, by issuing notice, under Section 50 of PMLA, for 27th June, 2024, pursuant to which, the applicant joined the investigation and his statements, under Section 50 of PMLA were recorded on 3rd July, 2024; 9th July, 2024 and 29th August, 2024. Thereafter, the applicant was again summoned for 6th December, 2024 and his further statements were recorded on 13th December, 2024 and 19th December, 2024, as per the provisions of Section 50 of PMLA.

9. According to the applicant, he has joined the investigation and submitted all the documents and material, sought by the ED and fully cooperated with the investigation of the case.

10. It is the further case of the applicant that in the year 2024, the investigation of the present ECIR was entrusted to one Vishal Deep, Assistant Director of ED, who, allegedly, threatened the applicant to arrest him and demanded ₹ sixty lakh from him, whereas, the applicant, as per the pleadings, was not inclined to pay the bribe,



being a law abiding citizen and he was being continuously harassed by said Vishal Deep. Consequently, the applicant reported the matter to CBI. The CBI, thereafter, conducted verification and registered RC No. 00520240034, dated 22nd December, 2024, under Section 7A of the Prevention of Corruption Act (hereinafter referred to as 'PC Act'). Subsequently, a trap was laid to nab said Vishal Deep, after recording the conversations between the applicant and Vishal Deep.

11. As per the further case of the applicant, although, the trap was laid, however, said Vishal Deep succeeded in fleeing away from the spot, but, during investigation, the money was recovered from one Yash Deep, a friend of Vishal Deep, to whom, the said amount was handed over by Vishal Deep, after fleeing away from the spot.

12. The applicant has further pleaded that during the course of investigation, the CBI arrested Vishal Deep, Assistant Director of ED and during further investigation, other officials of ED, namely Neeraj and Sunil, were also found to be involved. Apart from the said officials, as per



the applicant, during investigation, involvement of other persons, namely, Balbir Singh, the Investigating Officer of CBI; and Vikas Deep, brother of Vishal Deep, also surfaced. Balbir Singh, the then DySP, CBI and Vishal Deep were also arrested. The CBI, after conducting the investigation, has submitted the challan against the Investigating Officer of the ED, of the present ECIR, his brother Vikas Deep and DySP Balbir Singh, in the competent Court of law at Chandigarh.

13. It is his further case that after the registration of the case against Vishal Deep, Investigating Officer of the present ECIR, his arrest, arrest of his brother Vikas Deep, by CBI, the ED, with alleged ulterior motive and hidden agenda, started issuing notices to the applicant, whereas, according to the applicant, his statements, under Section 50 of PMLA, were already recorded, on various dates and the entire relevant record was seized, as well as, provided by the applicant.

14. Highlighting the fact that from 2019 till 2024, no coercive action was taken against the applicant or his family members and they were co-operating throughout the



investigation, without any requirement of being arrested, it has been pleaded, on behalf of the applicant that after the arrest of Vishal Deep, the brother of the applicant (Vikas Bansal) was also arrested on 30th January, 2025. The said arrest is stated to be out of sheer vengeance.

15. It is the further case of the applicant that the ED, after investigation, has submitted a supplementary complaint against the brother of the applicant, namely, Vikas Bansal, Shivender Singh, Panna Lal, Preeti Bansal, wife of Vikas Bansal, People Welfare Education Trust (running Apex Group of Professional Institute Indri Karnal) and Maa Saraswati Educational Trust (running Himalayan Group of Professional Institutions), of which, the applicant was the Chairman and his brother was Vice President, before the Court of learned Special Judge, Shimla. The learned Special Judge, Shimla, vide order, dated 28th July, 2025, has taken the cognizance against the institutions, as well as, against the private individuals.

16. According to the applicant, he received summons, dated 13th January, 2025, in the present ECIR, sent through e-mail, with a direction to remain present on



14th January, 2025 and to furnish information, under Section 50 of PMLA, within five days. The applicant has duly replied such notice vide reply, dated 20th January, 2025, mentioning the entire factual matrix, with a prayer to grant reasonable time to collect and supply the information.

17. Thereafter, the applicant again received notice, dated 24th January, 2025, requiring him to be present, before the ED, in Shimla, on 29th January, 2025, however, the applicant could not appear before the ED, as the applicant was already summoned by CBI in case FIR No. RC0052024A34, registered against Vishal Deep, Assistant Director of ED. The applicant is stated to have intimated, in advance, to ED, regarding his pre-occupation in connection with the case registered at his instance against Vishal Deep, as, he was already summoned for 28th and 29th January, 2025 by CBI at Chandigarh. The applicant further intimated his inability to appear before the ED, vide letter, dated 29th January, 2025, alongwith the copy of summons received from CBI.



18. It is the further case of the applicant that the ED with some malafide designs, conducted the search of house of the applicant and his brother on 30th January, 2025 in an unprecedented and cavalier manner. The brother of the applicant, on one hand, was handed over a summon at 8.10 a.m. on 30th January, 2025, with a direction to appear before Rajeev Kumar, Assistant Director at Shimla on 30th January, 2025, at 1.00 p.m., and, on the other hand, despite the summons, the ED proceeded with the search of the house of the brother of the applicant and applicant's house and his brother was arrested, on the same day, in violation of all settled principles of law and provisions of PMLA. The brother of the applicant challenged his arrest by filing CWP No. 3600 of 2025, which stands dismissed by this Court.

19. Thereafter, according to the applicant, the ED again issued a notice, dated 1st February, 2025, for his appearance on 2nd February, 2025. The said notice was issued to him through e-mail, which is stated to be in violation of the guidelines/directions issued by the Hon'ble Supreme Court in *Satender Kumar Antil versus Central*



Bureau of Investigation, Misc. Application No. 203 of 2022 in M.A. No. 1849/2021 in SLP (Cri) No. 5191/2021.

Thereafter, summons were again stated to have been issued on 4th February, 2025, directing the applicant to appear before the ED on 6th February, 2025, through e-mail, which gone unnoticed, as, the applicant is stated to be busy in making arrangements for the marriage of his son, which was scheduled for 20th February, 2025. The said summons were challenged by the applicant by moving application, under Section 50 read with Section 65 of PMLA, to direct the ED to issue proper summons to the applicant, as per the guidelines issued by the Hon'ble Supreme Court in *Satender Kumar Antil's case (supra)*. The said application was registered as CrMP No. 406 of 2025, to which, the ED had filed the reply and the said application was dismissed by the learned Special Judge, PMLA, Shimla, vide order, dated 30th April, 2025.

20. It is the further case of the applicant that the marriage of his son was scheduled for 19th / 20th February, 2025 and apprehending his arrest, due to the sudden action of the ED, the applicant had applied for anticipatory



bail on 13th February, 2025, with a prayer to grant interim bail, for smooth solemnization of marriage of his son and till final disposal of the bail application. The said bail application was taken up for hearing on 15th February, 2025. On the said date, the Vacation Judge granted interim bail to the applicant and the matter was adjourned to 6th March, 2025, on which date, his application was dismissed, by the learned Special Judge.

21. It is the case of the applicant that even during the interim protection granted to him, by the learned Special Judge, he was summoned by the ED for his appearance on 25th February, 2025 and in pursuance of such direction, he appeared before the ED, in its office, at Shimla, on 25th February, 2025, but, he was told that his presence was not required for that date, qua which, mail was sent on 15th February 2025 and they will again summon him, by issuing fresh summons. The applicant marked his presence in the register kept at the reception and, thereafter, according to him, he was never summoned.



22. As per the case of the applicant, when he had challenged the issuance of summons through e-mail, the ED had also filed an application on 7th February, 2025, before the learned Additional Sessions Judge (Fast Track) Special Court (Rape & POCSO), Shimla, for issuance of non-bailable warrants. The said application was registered as CrMP No. 407/2025, titled as Enforcement Department versus Rajnish Kumar. The said application was taken up on 17th February, 2025 and, thereafter, the same was listed for consideration on 28th February, 2025. On 28th February, 2025, the matter was adjourned for 11th March, 2025, on which date, the learned Special Judge, without giving an opportunity of being heard or filing reply to the application, allowed the said application and the non-bailable warrants were ordered to be issued. The applicant has placed on record the copy of the application, as Annexure P-14.

23. Re-iterating the fact that no opportunity of being heard was given to him, nor, any notice was served upon him by the learned Special Judge, it is the case of the applicant that he had filed an application, under Section



72 (2) of the BNSS for cancellation of NBWs, however, his application was dismissed on 16th July, 2025. The copy of the application filed by the applicant and the order passed by the learned Special Judge, have been annexed with the application, as Annexures P-15 and P-16, respectively.

24. According to the applicant, the orders, dated 11th March, 2025 and 16th July, 2025, passed by the learned Special Judge, have also been challenged, by way of the petition, filed under Section 528 of the BNSS, before this Court.

25. It is the further case of the applicant that the ED, after completion of the investigation, qua three/four institutions, filed complaint, on 21st October, 2023, against 28 persons/institutions, who/which were arrayed as accused, excluding the institutions, of which, the applicant is the Chairman, before the learned Special Judge, PMLA Court. On 23rd February, 2024, according to the applicant, the learned Special Court has taken cognizance of the said complaint, against the 28 persons, named in the complaint.



26. The applicant has further pleaded that in the present ECIR, the ED, after completion of the investigation, qua two institutes, has filed the supplementary complaint, against Vikas Bansal, Maa Saraswati Trust, People Welfare Educational Trust, Shivender Singh, Panna Lal and Preeti Bansal, before the Court of learned Special Judge, PMLA Court and the cognizance has been taken by the learned Special Judge.

27. Re-iterating the fact that in the year 2024, when the investigation was handed over to Vishal Deep, Assistant Director of ED, he, allegedly putting the brother of the applicant, under the threat of arrest, demanded ₹ 60.00 lacs from him and when, the brother of the applicant disinclined to pay the bribe money, as a law abiding citizen, he was harassed by said Vishal Deep. Thereafter, the matter was reported to CBI, upon which, FIR No. RC0052024A0034, dated 22nd December, 2024, was registered, under Section 7A of the PC Act. Consequently, a trap was laid. Although, Vishal Deep succeeded in fleeing away from the spot, but, money was



recovered from the friend of Vishal Deep, namely Yash Deep.

28. Highlighting the fact that after registration of the FIR by the CBI, efforts were made to arrest the applicant and notices were issued against him, according to the applicant, from the year 2019 till 2024, no coercive action has been taken against him and he has been cooperating throughout the investigation, without any requirement of being arrested. After the arrest of Mr. Vishal Deep, the brother of the applicant has also been arrested. The said arrest is stated to be an act of sheer vengeance.

29. Re-iterating the fact that the ED was under legal obligation to issue proper summons, to the applicant, as mandated by the Hon'ble Supreme Court in *Satender Kumar Antil's case (supra)*, and to provide reasonable time to comply with the summons, issued under Section 50 of the PMLA, it is the further case of the applicant that he had already informed the ED, qua his inability to appear, on 29th January, 2025, on account of the fact that he was summoned to appear before the CBI, in connection with



the investigation of the FIR, for which, the ED was duly intimated, as such, his absence on 29th January, 2025; 2nd February, 2025; and 6th February, 2025, cannot be considered as non-appearance. According to the applicant, the ED has not brought this fact to the notice of the learned Special Judge and consequently, the learned Special Judge has issued orders, by virtue of which, NBWs were ordered to be issued against him.

30. According to the applicant, the factum of challenge of issuance of the summons for 2nd February, 2025 and 6th February, 2025, has also been suppressed by the ED. Moreover, according to the applicant, the said summons were issued contrary to the technical circular of the ED.

31. Re-iterating the fact that the ED has woken up from slumber after a gap of about five years, it is the stand of the applicant that the act of the ED, in moving the application for issuance of NBWs, is soiled with malice, due to the registration of the FIR, by the CBI, against Vishal Deep, Assistant Director of ED and others.



32. Highlighting the fact that after the arrest of earlier Investigating Officer-Vishal Deep, ED swung into action and after issuing repeated summons, without affording sufficient time to the applicant to appear, obtained the orders for issuance of non-bailable warrants. According to the applicant, now, the ED has started the proceedings for declaring him proclaimed offender. The said proceedings are stated to be pending adjudication before the learned Special Judge.

33. The applicant has given certain undertakings, for which, he is ready to abide by, in case, directions are issued, under Section 482 of the BNSS.

34. On the basis of the above facts, Mr. Ajay Kochhar, learned Senior Counsel, assisted by Mr. Anubhav Chopra, Ms. Swati Sharma and Ms. Preetika Thakur, Advocates, appearing for the applicant, has prayed that the bail application may kindly be allowed.

35. Alongwith the bail application, the petitioner has annexed copy of the ECIR as Annexure P-1; copy of the charge sheet, filed by the CBI in case RC No. 00520245A0034 as Annexure P-3; copy of order, dated 28th



July, 2025, passed by learned Special Judge, Shimla, as Annexure P-4; copy of summons dated 13th January, 2025, issued by ED, to the Chairman/President/Director, Himalayan Group of Professional Institutions and reply dated 20th January, 2025, as Annexure P-5 (colly); copy of the application moved by applicant-Rajnish Bansal before the Court of learned Special Judge (PMLA), Shimla, under Section 50 read with Section 65 of PMLA, as Annexure P-8; copies of reply filed by the ED and the rejoinder filed by the applicant, in the said application, alongwith the summons, dated 4th February, 2025, as also their reports, as Annexure P-9 (colly); copy of the order, dated 30th April, 2025, by virtue of which the application, under Section 50 read with Section 65 of the PMLA was dismissed by the learned Special Judge, as Annexure P-10; copy of order, dated 15th February, 2025, passed by the learned Additional Sessions Judge (I), Shimla, by virtue of which, the ad interim protection of the applicant from arrest was granted to him, till 28th February, 2025, as Annexure P-11 and copy of order, dated 6th March, 2025, by virtue of which, the application under Section 482 read with Section



528 of the BNSS, filed by the applicant, before the learned Special Judge, Shimla, was dismissed, as Annexure P-12.

36. When put to notice, the ED has filed the reply, by taking the preliminary objections that the application is misconceived, not maintainable and is liable to be dismissed.

37. According to the ED, the applicant is facing serious allegations of money laundering, under Sections 3 and 4 of the PMLA.

38. It is the case of the ED that the applicant was summoned on various dates, but, he chose to avoid the summons, issued to him, under Section 50 of the PMLA, on 29th January, 2025; 2nd February, 2025; 6th February, 2025 and 6th March, 2025 and failed to join the investigation. Thereafter, according to the ED, the applicant challenged the summons issued to him, before the learned Special Judge (PMLA), Shimla, however, his application has been dismissed, on 30th April, 2025, with the observation that the applicant is bound to appear before the ED, but, he is not appearing intentionally before the competent authority under PMLA.



39. It is the further case of the ED that the anticipatory bail application, filed by the applicant, was dismissed by the learned Special Judge (PMLA), Shimla, vide order, dated 6th March, 2025.

40. In this background, according to the ED, the ED, having no other option, moved the application, before the learned Special Judge (PMLA) and the learned Special Judge (PMLA) has been pleased to issue non-bailable warrants against the applicant, vide order, dated 11th March, 2025. Thereafter, the applicant moved an application, under Section 72 (2) of the BNSS, for cancellation of the non-bailable warrants, however, his application was dismissed, vide order, dated 16th July, 2025.

41. The ED has opposed the prayer made by the applicant, in the instant bail application, on the ground that the applicant, instead of surrendering himself to the jurisdiction of the learned Special Judge (PMLA), has chosen to abscond from the process of law, as such, proceedings, in terms of Section 84 of the BNSS, for



declaring the applicant, as proclaimed offender, have been initiated.

42. Another objection has also been taken that a person, who is evading the process of law, cannot claim relief, under Section 482 of the BNSS.

43. According to the ED, the considerations for deciding the anticipatory bail, under the PMLA, i.e., in economic offences, are different from the other laws.

44. The ED has also re-iterated the factual position, leading to filing of the charge-sheet, in the present case, by pleading that on 20th March, 2019, the investigation of FIR No. 133 of 2018, dated 16th November, 2018, was entrusted by the Government of Himachal Pradesh, from Police Station Shimla East to CBI, Shimla, upon which, CBI has registered RC096201950002, dated 7th May, 2019, under Sections 409, 419, 465, 466 and 471 IPC, against unknown persons.

45. It has been mentioned in the reply that FIR No. 133 of 2018 was registered, on the basis of the complaint made by one Shakti Bhushan, the then State Project Officer, wherein, he has alleged that on receiving a number



of complaints regarding non-receipt of scholarship, the Secretary (Education) to the Government of Himachal Pradesh, vide its letter, dated 7th August, 2018, appointed him to conduct inquiry into the distribution of scholarship to the students of the State of Himachal Pradesh. During the course of inquiry, conducted by said Shakti Bhushan and on the statement of students, it was revealed that the scholarships, which had been disbursed into the bank accounts opened in the names of the students, were not received by them. Irregularities were found in the H.P. e-Pass portal, developed by the Directorate of Higher Education, Shimla, for disbursement of Post Matric Scholarship for SC/ST/OBC students. Thereafter, CBI conducted the search and seizures at 22 private institutions, including, the Himalayan Group of Professional Institutions, Kala Amb (HGPI) and Apex Group of Professional Institutions, Indri, Karnal (AGPI). Applicant-Rajnish Bansal, being Chairman of HGPI and AGPI and Vikas Bansal, being Vice Chairman of HGPI and AGPI, were arrested by the CBI, in the predicate offence, on



8th April, 2022 and both of them were released on bail, by this Court, on 9th May 2022.

46. Thereafter, charge sheet No. 4, in case of AGPI was filed by the CBI, in the aforesaid FIR, under Sections 120-B read with Sections 409, 420, 467, 468 and 471 IPC and Sections 13 (1) (c), 13 (1) (d) read with Section 13 (2) of PC Act, against Arvind Rajta, Mala Mehta, Shriram Sharma, Surender Mohan Kanwar, Ashok Kumar, Rajnish Bansal (applicant) and Shivender Singh.

47. Subsequently, charge sheet No. 5, in the case of HGPI, was filed by the CBI, in the aforesaid FIR, under Sections 120-B read with Sections 409, 420, 467, 468 and 471 IPC and Sections 13 (1) (c), 13 (1) (d) read with Section 13 (2) of PC Act, against Arvind Rajta, Mala Mehta, Shriram Sharma, Surender Mohan Kanwar, Virender Kumar, Rajnish Bansal (applicant), Vikas Bansal, Panna Lal and Shivender Singh, before the Court of learned Special Judge (CBI), Shimla.

48. Highlighting the role alleged against the applicant, it has been pleaded that applicant-Rajnish Bansal became Trustee in Maa Saraswati Educational



Trust in the year 2010 and in People Welfare Education Trust in the year 2014. Not only this, he was authorized signatory in all the bank accounts of Maa Saraswati Educational Trust and People Welfare Education Trust. He was also looking after the day-to-day affairs of both these institutions, being Chairman of HGPI and AGPI.

49. According to the ED, applicant-Rajnish Bansal, alongwith his brother Vikas Bansal and his employees, had signed claim letters and forwarded the said claim letters, alongwith the verified details of students of HGPI and AGPI to Directorate of Higher Education, Shimla, for disbursal of scholarship, under PMS in the name of bogus SC/ST/OBC students.

50. It is the further case of the ED that Himalayan Group of Professional Institutions (HGPI) had fraudulently submitted the claim letters to Directorate of Higher Education, through his staff, by projecting one Panna Lal, who was working as Superintendent at HGPI, as Director General (Academics) at HGPI, Director at Himalayan Institute of Engineering and Technology, Principal at HP College of Law and Chief Administrator at HGPI.



51. As per the stand of the ED, those claim letters were signed by Panna Lal and Shivender Singh, both, the then Registrars at HGPI, for claiming scholarship under PMS and the same were then forwarded to Directorate of Higher Education, however, both of them never remained employed with AGPI. As such, according to the ED, the claim letters signed by them, on behalf of HGPI and AGPI, were bogus and ineligible for claiming scholarship under PMS scheme.

52. According to the ED, the mobile numbers issued in the name of Maa Saraswati Educational Trust, wherein, applicant-Rajnish Bansal is Trustee, were knowingly and fraudulently used as contact numbers of students of institutes for claiming scholarship in their names.

53. Re-iterating their *modus operandi*, it is the case of the ED that both, HGPI and AGPI, were involved in the fraudulent activity, by taking the signatures of students without their knowledge, on the affidavit-cum-authority letters, at the time of admission, for not issuing ATM cards or cheque books, to the students.



54. During the investigation by the ED, it has been found that Maa Saraswati Education Trust, wherein applicant-Rajnish Bansal is Trustee, had received scholarship amounts, under PMS from SC/ST/OBC students, in various bank accounts.

55. Not only this, applicant-Rajnish Bansal is stated to have admitted, in his statement, dated 13th December, 2024, recorded under Sections 50 (2) and 3 of the PMLA that the lists of verified students, submitted to the Directorate of Higher Education, were prepared by HGPI, under his supervision, and, when his statement was being recorded, the applicant was shown a copy of HP e-Pass Form of few students, however, during investigation, under PMLA, it was revealed that such students were never enrolled in their respective courses as per records, submitted by the Board/University.

56. According to the ED, both, applicant-Rajnish Bansal and his brother Vikas Bansal, were fully aware about the PMS Scheme.

57. It is the further case of the ED that the applicant, in his statement, recorded under Section 50 of



the PMLA, had admitted that HGPI had claimed and received the total scholarship of ₹ 39,33,54,428/-, under PMS from Directorate of Higher Education, from the years 2013-14 to 2017-18.

58. It is their further case that applicant-Rajnish Bansal, through HGPI, had generated proceeds of crime worth ₹ 14,49,03,665/-, by submitting 1729 false and bogus claims and through AGPI, had generated proceeds of crime worth ₹ 3,80,28,270/-, by submitting 636 false and bogus claims to Directorate of Higher Education, for the students, who were not officially registered or enrolled in the courses, for HGPI and AGPI.

59. According to the ED, not only this, the applicant has influenced the person, who was found acquainted with the crucial evidences and facts of the criminal conspiracy and deliberately attempted to hamper and frustrate the investigation, under PMLA.

60. The factual position, with regard to the registration of the FIR, as pleaded in the bail application, has not been disputed by the ED.



61. On merits, the averments made in the bail application have been contested, on the ground, that ECIR No. SHSZO/04/2019, dated 19th July, 2019, was registered, after due satisfaction and on the basis of credible information regarding laundering of public funds released under the SC/ST/OBC Post Matric Scholarship Scheme. It has further been pleaded by the ED that the ECIR was recorded on the basis of FIR No. 133 of 2018 and subsequent transfer of the investigation to the CBI, where RC 0962019S0002 has been registered. The scheduled offences, under Sections 419 and 471 IPC are stated to have been involved, in this case, as such, according to the ED, the proceedings under the PMLA were initiated.

62. According to the ED, the applicant, being Chairman of the institutions, cannot absolve himself from the fraudulent claim of the scholarship. It has been admitted that the CBI arrested the applicant in FIR No. 133 of 2018 and later on, was released on bail, however, grant of bail in the predicate offence does not entitle the applicant to anticipatory bail in the proceedings, under



PMLA, since, the rigors of Section 45 of PMLA apply independently.

63. As per the further stand of the ED, the ED had conducted searches, under Section 17 of the PMLA, on 29th August, 2023; 30th January, 2025 and 6th March, 2025 and incriminating documents and material, relevant to the investigation, were found.

64. The ED has further pleaded that the applicant was summoned, under Section 50 of the PMLA and his statements were recorded on various dates. On 19th December, 2024, he has undertaken to appear on 1st January, 2025, for continuing his statement, but, he did not appear for recording his further statement. The responses of the applicant are stated to be evasive, contradictory and he was not able to satisfactorily explain the diversion of funds.

65. It has specifically been denied that the applicant has fully co-operated with the investigation, rather, according to the ED, despite issuance of several summons to the applicant, after his last appearance, on



19th December, 2024, he has not co-operated with the investigation.

66. The allegations, which have been levelled against Vishal Deep, the then Investigating Officer, are stated to be irrelevant, for the adjudication of the present case, and, according to the ED, on the above ground, the applicant cannot be exonerated, in the present case.

67. Elaborating their stand, it has been pleaded on behalf of the ED that even, if the individual officer is alleged to have indulged in misconduct, the investigation against the applicant for laundering of proceeds of crime stands on independent footing and is supported by the documentary evidence. The allegations against Vishal Deep are stated to be a futile attempt to divert the focus of the crime to Vishal Deep.

68. It has further been pleaded that after the alleged involvement of Vishal Deep, he, alongwith his two level superiors and two subordinates, was immediately transferred and repatriated to the parent cadre and the present set of officers have no relation with the alleged demand of illegal money.



69. The prayer for bail has also been opposed on the ground that the attempt of the applicant to attribute motives to ED, merely on the basis of the fact that one of the officers of the ED, was arrested by CBI, is wholly misconceived, as, recovery of money from third person, in the trap case, has no nexus with the applicant's liability for the offences under PMLA.

70. The ED has further taken a stand that the summons, dated 13th January, 2025, were issued via e-mail, directing the applicant to appear on 14th January, 2025 and, thereafter, the reply sent by the applicant, on 20th January, 2025, seeking more time, was duly considered. The service of summons through electronic means is stated to be legally permissible. The failure of the applicant to appear on 29th January, 2025, by citing his pre-occupation with CBI summons, is stated to be too short to absolve him from his obligation, under Section 50 of the PMLA. The applicant failed to put appearance before the ED, despite opportunities given to him and his act, according to the ED, demonstrates deliberate non-cooperation.



71. In order to buttress their contention, the ED has relied upon the observations made by the learned Special Judge (PMLA), Shimla, in its order, passed on 16th July, 2025. The copy of the said order has been annexed with the reply as Annexure R-3.

72. The arrest of the brother of the applicant, as per the ED, was made, in accordance with law and the petition, laying challenge to his arrest, being CWP No. 3600 of 2025, is stated to have been dismissed by this Court.

73. The attempt of the applicant to take shelter of *Santinder Kumar Antil's case (supra)*, is stated to be misplaced. According to the ED, in the said judgment, service through electronic mode has not been held to be invalid. According to the ED, the application of the applicant, filed under Section 50 read with Section 65 of the PMLA, being CrMP No. 406 of 2025, has been dismissed by the learned Special Judge (PMLA) on 30th April, 2025.

74. It has been pleaded by the ED that with the dismissal of the said application of the applicant, by the learned Special Judge (PMLA), the service of summons



upon the applicant, by the ED, has been held to be proper and valid.

75. The factual position, with regard to the interim protection granted to the applicant, in Bail Application No. 66 of 2025, has not been disputed, however, according to the ED, the said application, for anticipatory bail, has been dismissed on merits, vide order, dated 6th March, 2025, by the learned Special Judge (PMLA).

76. As per the stand of the ED, the applicant has intentionally not put appearance before the ED and has put forward one excuse or the other to avoid his appearance before the Investigating Agency.

77. It has been admitted that supplementary complaint has been filed against Vikas Bansal and other individuals and Trusts and cognizance has been taken by the learned Special Judge (PMLA) on 28th July, 2025.

78. The attempt of the applicant to justify his non-appearance in pursuance of the summons issued against him, under the garb of technical circular issued by the ED, is also stated to be without any legal justification.



79. The prayer for bail has also been opposed on the ground that merely because the complaint has not been filed against the applicant personally, does not absolve him from his responsibility as the institutions, controlled by the applicant, are involved in money laundering.

80. According to the ED, the role of the applicant is under active investigation and his custodial interrogation is required for tracing the money trail.

81. As per the stand taken by the ED, the complaint filed before the learned Special Court is based on cogent evidence, including verification from Universities, statements of students and financial record. The attempt of the applicant to label the complaint as distortion is stated to be not sustainable in the eyes of law.

82. The attempt of the applicant to shift liability on ex-trustees is stated to be a diversionary tactic. The undertakings given by the applicant to co-operate in the investigation are also stated to be non-substitute of the requirement of custodial interrogation.



83. Lastly, in view of the law laid down by the Hon'ble Supreme Court in *P. Chidambaram versus Directorate of Enforcement* and *Y.S. Jagan Mohan Reddy versus CBI*, it has been pleaded that the economic offences are a class apart, affecting the economy and society at large. As such, a prayer has been made to dismiss the present bail application.

84. Alongwith the reply, order, dated 11th March, 2025 passed by the learned Special Judge has been annexed, by virtue of which, the learned Special Judge has issued open ended non-bailable warrants against applicant-Rajnish Bansal. The copy of order, dated 1st September, 2025, passed by the learned Special Judge, has also been annexed with the reply, by virtue of which, the proceedings under Section 84 of the BNSS were ordered to be initiated. The order, dated 16th July, 2025, has also been annexed, by virtue of which application, under Section 72(2) of the BNSS, for cancellation of non-bailable warrants, has been dismissed by the learned Special Judge.



85. The learned senior counsel appearing for the applicant has pointed out the fact that the applicant was fully cooperating with the investigation of the case and after the arrest of Vishal Deep, Assistant Director of ED, the then Investigating Officer of the case, the investigating agency, i.e., ED, has woken up from slumber, and with an unholy haste, issued the summons, under Section 50 of the PMLA, directing the applicant to appear before the investigating agency, within a short span of two-three days. The said act of the investigating agency is stated to be soiled with malafide intention, just to harass the applicant, for his act of lodging the FIR against the then IO of the case, who was Assistant Director of the ED, at the relevant time.

86. The following case law has been relied upon by the learned senior counsel, appearing for the applicant, to contend that the present is a fit case, where, the relief, as sought, could be granted to the applicant:

(i) Anup Majee versus Directorate of Enforcement, Bail Application No. 2070/2025 & CrI.MA No. 16931/2025, decided on 13.06.2025 (Delhi High Court);

(ii) Gurpreet Singh Sabharwal versus Directorate of Enforcement, CRM-M-41138-



2024, decided on 28.01.2025 (Punjab and Haryana High Court);

(iii) Dr. Lakhwinder Singh versus Directorate of Enforcement, Criminal Misc. Petition (Main) No. 2288 of 2022, decided on 10.11.2022 (H.P. High Court);

(iv) Suraj Seth versus Assistant Director, Directorate Enforcement Jalandhar, reported in 2022 Supreme (P&H) 1766;

(v) Ashok Pipada versus Assistant Director Directorate of Enforcement, Misc. Criminal Case No. 56523 of 2023, decided on 25.01.2024 (High Court of Madhya Pradesh at Indore);

(vi) Ramji Singh versus Directorate of Enforcement Allahabad Sub Zonal Office, reported in 2023 Supreme (All) 1404;

(vii) Pankaj Bansal versus Union of India and others, reported in (2024) 7 Supreme Court Cases 576;

(viii) Gurbaksh Singh Sibbia Etc versus State of Punjab, reported in (1980) 2 SCC 565;

(ix) Arvind Kejriwal versus Central Bureau of Investigation, Criminal Appeal No. 3816/2024, decided on 13.09.2024 (Supreme Court).

87. Per contra, the learned counsel appearing for the ED has argued that the present bail application is not maintainable, as, a person, who is absconding or escaping the process of law, is not entitled to anticipatory bail.



88. In order to buttress his contention, learned counsel for the respondent-ED, has relied upon, the following decisions:

(i) Srikant Upadhyay versus State of Bihar, 2024 SCC OnLine SC 282;

(ii) Subhash Papatlal Dave versus Union of India & Anr., (2014) 1 SCC 280;

(iii) Wave Hospitality Private Limited versus Union of India, 2019 SCC OnLine Del 8855;

(iv) Monu Kapoor versus Directorate of Revenue, 2019 SCC OnLine Del 11829;

(v) Bail Application No. 795 of 2024, titled as Amanatullah Khan versus Directorate of Enforcement (Delhi High Court); and

(vi) Order, dated 15th April, 2024, passed by the Hon'ble Supreme Court, in SLP (Crl) No. 4837 of 2024, titled as Amanatullah Khan versus Directorate of Enforcement.

89. In addition to this, the learned counsel for the respondent-ED has further argued that the anticipatory bail can only be granted in exceptional circumstances, that too, after satisfying the mandatory twin conditions, as envisaged under Section 45 of the PMLA.

90. In support of his arguments, the learned counsel for the respondent-ED has placed reliance on the following judgments:



(i) *P. Chidambaram versus Directorate of Enforcement*, (2019) 9 SCC 24;

(ii) *Vijay Madanlal Chaudhary versus Unio of India*, 2022 SCC OnLine 929;

(iii) *SFIO versus Aditya Sarda*, 2025 INSC 477;

(iv) *State versus Anil Sharma*, (1997) 7 SCC 187;

(v) *Directorate of Enforcement versus V.C. Mohan*, 2022 SCC OnLine SC 452;

(vi) *Directorate of Enforcement versus M. Gopal Reddy*, 2022 SCC OnLine SC1862; and

(vii) *Union of India versus Varinder Singh*, (2018) 15 SCC 248.

91. In addition to this, the learned counsel representing the respondent-ED has also argued that the offence of money laundering is a standalone and an independent offence. In this regard, he has relied upon the decision of the Hon'ble Supreme Court in *Vijay Madanlal Choudhary's* case (supra) and *Pavana Dibbur versus Enforcement Directorate*, 2023 SCC OnLine SC 1586.

92. It has also been argued on behalf of the respondent-ED that the fact that the applicant has been granted bail in a predicate offence, has no bearing upon the present case, as, the offence, of money laundering is an independent offence. In this regard, reliance has been



placed upon the decision of the Hon'ble Supreme Court in *Dr. Manik Bhattacharaya versus Ramesh Malik & others*, 2022 SCC OnLine SC 1465; and the decision of the High Court of Punjab and Haryana, in *Surjeet Kumar Bansal versus Central Bureau of Investigation and another*, Neutral Citation No. 2024 PHHC 045226.

93. Lastly, it has been argued that the malafides or animus of complainant or prosecution is not relevant, if, on the basis of the allegations, a *prima facie* case is made out. In this regard, the judgment of the Hon'ble Supreme Court in *State of Maharashtra versus Ishwar Piraji Kalpatri*, (1996) 1 SCC 542, has been relied upon.

94. The applicant, in this case, has earlier tried his luck by moving similar application, before the learned trial Court, i.e. Special Judge, PMLA Court, Shimla, however, his application has been dismissed on 6th March, 2025. Thereafter, the proceedings to declare him as proclaimed offender have been initiated.

95. In such situation, the first and foremost question, which arises for determination, before this Court, is about the fact as to whether the person, against whom,



the proceedings, to declare him as proclaimed offender have been initiated, at the time of filing of the bail application, is entitled for the relief or not.

96. In this regard, the decision of the Hon'ble Supreme Court, in **Criminal Appeal No. 4564 of 2024**, titled as **Asha Dubey versus The State of Madhya Pradesh**, has been relied upon, by the learned senior counsel appearing for the applicant. Relevant paras-8 and 9 of the said judgment, are reproduced, as under:

"8. Coming to the consideration of anticipatory bail, in the event of the declaration under Section 82 of the Cr.P.C., it is not as if in all cases that there will be a total embargo on considering the application for the grant of anticipatory bail.

9. When the liberty of the appellant is pitted against, this Court will have to see the circumstances of the case, nature of the offence and the background based on which such a proclamation was issued. Suffice it is to state that it is a fit case for grant of anticipatory bail, on the condition that the appellant shall cooperate with the further investigation. However, liberty is also given to the respondents to seek cancellation of bail that has been granted, in the event of a violation of the conditions which are to be imposed by the Trial Court or if there are any perceived threats against the witnesses."

97. It would also be profitable, for this Court, to rely upon the decision of the Hon'ble Supreme Court in

**Siddharth versus State of Uttar Pradesh & Anr.,**

reported in **(2022) 1 SCC 676**. Relevant para-10 to 12, of

the said judgment, are reproduced, as under:

“10. We may note that personal liberty is an important aspect of our constitutional mandate. The occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful does not mandate that arrest must be made. A distinction must be made between the existence of the power to arrest and the justification for exercise of it. If arrest is made routine, it can cause incalculable harm to the reputation and self-esteem of a person. If the investigating officer has no reason to believe that the accused will abscond or disobey summons and has, in fact, throughout cooperated with the investigation we fail to appreciate why there should be a compulsion on the officer to arrest the accused.

11. We are, in fact, faced with a situation where contrary to the observations in Joginder Kumar versus State of U.P., (1994) 4 SCC 260, how a police officer has to deal with a scenario of arrest, the trial courts are stated to be insisting on the arrest of an accused as a prerequisite formality to take the charge-sheet on record in view of the provisions of Section 170 CrPC. We consider such a course misplaced and contrary to the very intent of Section 170 CrPC.

12. In the present case when the appellant has joined the investigation, investigation has completed and he has been roped in after seven years of registration of the FIR we can think of no reason why at this stage he must



be arrested before the charge-sheet is taken on record. We may note that the learned counsel for the appellant has already stated before us that on summons being issued the appellant will put the appearance before the trial Court.”

98. The High Court of Judicature at Allahabad, in **Suresh Babu versus State of U.P. and another**, reported in **2022 Supreme (All) 653**, has also taken the similar view. Relevant paras-6 to 9, of the said judgment, are reproduced, as under:

“6. As per section 438 Cr.P.C. the anticipatory bail application may be filed either before sessions court or before High Court inasmuch as both the aforesaid courts are having a concurrent jurisdiction. Section 438 (1) Cr.P.C. clearly mandates that if any anticipatory bail application is filed, either it may be rejected forthwith or any interim order may be passed. In other words if the court wants to know some information from the other side, the case may be posted for another date and if the applicant has got prima facie case and his apprehension of arrest appears to be bonafide in a case where the allegations prima facie do not corroborate with material available on record may grant interim anticipatory bail. However, in the present case the proclamation u/s 82 Cr.P.C. has been issued during the pendency of the application. Apex Court in re: Lavesb vs. State (NCT of Delhi) (2012) 8 SCC 730, State of Madhya Pradesh vs. Pradeep Sharma reported in (2014) 2 SCC 171 and Prem Shanker Prasad vs. State of Bihar (Criminal Appeal No. 1209 of 2021) has imposed bar to entertain such application if filed by the proclaimed offender. In the present case at the time of filing anticipatory bail



application the applicant was not proclaimed offender.

7. Learned AGA has also informed that on 13.5.2022 the further proclamation of section 83 Cr.P.C. has been issued against the present applicant.

8. Be that as it may, at the time of filing anticipatory bail application on 16.3.2022 the present applicant was not proclaimed offender, therefore, the bar so imposed by the Apex Court would be considered in the light of intent and purport of said judgments wherein the proclaimed offender has been restrained to get any relief in the application of anticipatory bail. In the present case the applicant was not declared as a proclaimed offender on 16.3.2021, the date of filing anticipatory bail, therefore, to me such bar could not restrain the present applicant to file his anticipatory bail application before this Court under same section i.e. section 438 Cr.P.C. and, therefore, his anticipatory bail application may be heard and disposed of finally on merits.

9. Notably, sub-section 6 of section 438 Cr.P.C. provides as under :

438(6)Cr.P.C.: Provisions of this section shall not be applicable.-

(a) to the offences arising out of .-

(i) the Unlawful Activities (Prevention) Act, 1967;

(ii) the Narcotic Drugs and Psychotropic Substances Act, 1985;

(iii) the Official Secret Act, 1923;

(iv) the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986.



(b) in the offences, in which death sentence can be awarded.

Besides, section 82 Cr.P.C. neither creates any rider nor imposes any restrictions in filing anticipatory bail application by the proclaimed offender inasmuch as the Hon'ble Apex Court has used the word 'Normally' in re: Lavesb (supra), meaning thereby normally the anticipatory bail application of the proclaimed offender should not be entertained. Therefore, only in the aforesaid case/cases the provisions of anticipatory bail application would not be applicable. It has nowhere been indicated u/s 438 Cr.P.C. that the proclaimed offender would be barred to file such application. As to whether such proclaimed offender would be granted anticipatory bail or not would depend upon the facts and circumstances of the particular issue and also on the basis of bar, so imposed by the Apex Court in re: Lavesb (supra), Pradeep Sharma (supra) and Prem Shankar Prasad (supra). Therefore, in view of the facts and circumstances of the issue in question, I do not accept the objection, so raised by the learned counsel for the opposite parties regarding maintainability of the present application for the reason that the proclamation u/s 82/83 Cr.P.C. has been issued against the applicant."

99. In view of the above proposition of law, this Court is of the view that the application for anticipatory bail is perfectly maintainable before this Court, as, on the date of filing of the application, the applicant has not been declared as proclaimed offender. In other words, it can be



said that on the date of filing of the application, those proceedings were pending.

100. In view of the above, there is no legal hesitation for any person, against whom, the proceedings for declaring him proclaimed offender, have been initiated, to seek the benefit of bail, under Section 482 of the BNSS.

101. In this case, the main thrust of the applicant is that till the registration of the FIR, against Vishal Deep, Assistant Director of the ED, who was the Investigating Officer of the case, the investigating agency has not taken any steps to arrest him and after the registration of FIR, all of a sudden, the ED became super active.

102. Perusal of the record shows that the applicant has moved the application against Vishal Deep, Assistant Director of ED, Neeraj and Sunil, Enforcement Officers of ED Office, Shimla, on 22nd December, 2024. On the basis of the above facts, the CBI has registered FIR No. 33 of 2024, in Police Station CBI (ACB), Chandigarh, under Section 7A of the PC Act. Prior to this, the applicant was summoned by issuing the notice, under Section 50 of the PMLA on 27th June, 2024; 6th December, 2024. In



pursuance of those notices, his statements were recorded, on 3rd July, 2024; 9th July, 2024; 29th August, 2024, 13th December, 2024 and 19th December, 2025.

103. These facts have been pleaded by the ED, in the application, filed under Section 73 of the CrPC read with Section 65 of the PMLA, for issuance of NBWs against applicant-Rajnish Bansal. As per the stand taken by the ED, in the said application, in pursuance of the summons issued on 24th January, 2025, the applicant was directed to put appearance, on 29th January, 2025, and he has failed to put appearance. Again, a notice, under Section 50 of the PMLA was issued on 1st February, 2025, directing him to put appearance on 2nd February, 2025. He again did not appear and thereafter, summons, under Section 50 of the PMLA were issued on 4th February, 2025, by directing him, to put appearance on 6th February, 2025. In pursuance of this notice, he has not put appearance.

104. As per Annexure P-3, which is the final report, submitted under Section 193 of the BNSS, before the learned Special Judge (CBI), Chandigarh, Vishal Deep was arrested on 7th January, 2025. Relevant para 16.1 of the



report, under Section 193 of the BNSS, is reproduced, as under:

“16.1. Allegations in Brief as mentioned in FIR:

In the FIR, it is alleged that complainant Sh. Rajnish Kumar @ Rajnish Bansal is chairman of Himalayan Group of Professional Institutions, Kale Aamb, District Sirmour. The complainant stated in his complaint that a case has been registered at Enforcement Directorate (ED) office, Shimla (HP) against his institution and the case is being investigated by Sh. Vishal Deep (Assistant Director), ED, Shimla (HP), Neeraj & Sunil (both Enforcement Officer) at ED, Shimla. The complainant further alleged that he was called at ED Office, Shimla on 10.12.2024 & 19.12.2024 for examination in the case.

It is further alleged in the complaint that during examination, Sh. Neeraj and Sh. Sunil, both EO (Enforcement Officer) in ED Office, Shimla demanded a bribe of Rs. 20.00 lacs and then they took the complainant before Sh. Vishal Deep. Initially, Sh. Vishal Deep demanded Rs. 1.10 Cr. from the complainant and on further negotiation when the complainant showed inability to pay Rs. 1.10 Cr, then Vishal Deep (AD) settled at Rs. 80.00 lacs. It is also alleged in the complaint that Sh. Vishal Deep further threatened the complainant if the bribe amount was not paid up to Sunday he will arrest him. Sh. Vishal Deep took the mobile number of the complainant and further said he will call on Sunday and collect the bribe amount from him at Chandigarh.

As the complainant did not want to give bribe amount, hence he submitted his handwritten complaint dated 22.12.2024 to CBI ACB Chandigarh requesting therein for taking appropriate legal action against Sh. Vishal



Deep, AD, ED, Shimla, Neeraj & Sunil (both EO, ED, Shimla)."

105. Even, in the application, moved under Section 73 of the CrPC (Annexure P-14), these dates have been mentioned by the ED that the statement of the applicant was recorded in pursuance of the summons issued under Section 50 of the PMLA for 6th December, 2024. The statement of the accused (applicant) was recorded on 13th and 19th December, 2024.

106. The applicant has alleged, in this case, that after the arrest of the Investigating Officer in a case, lodged by him, under Section 7A of the PC Act, the investigating agency became super active and issued the notices, against him, which have been recorded above. Thus, the notices, according to the applicant, themselves demonstrate the unholy haste on the part of the investigating agency. In this regard, the learned senior counsel for the applicant has relied upon the Circular of the ED.

107. As per the documents annexed with the bail application, on 13th January, 2025, ED has issued a notice, under Section 50 of the PMLA, to Chairman/President/Director of Himalayan Group of



Professional Institutions, directing them to supply the information as per Annexure-A. This letter was also forwarded through e-mail.

108. This notice has duly been replied by Director, Apex Group of Institutions, mentioning the factual position, with regard to the alleged demand of Vishal Deep and registration of the case against him, under Section 7A of the PC Act. In this letter, it has been requested by the Director, Apex Group of Institutions, to provide approximately 45 days for the collection of other information and the balance sheet of the Apex Group was annexed with the said reply.

109. This reply was submitted on 20th January, 2025 and on 24th January, 2024, a notice, through e-mail, was sent to applicant-Rajnish Bansal, directing him to appear on 29th January, 2025. On 29th January, 2025, as per the stand taken by the applicant, he has submitted the copies of the summons, which, he had received from CBI, regarding the investigation of the case, which was registered, on his complaint, against Vishal Deep and other persons, for allegedly demanding bribe.



110. In this case, learned senior counsel for the applicant has rightly pointed out that in the application, under Section 73 of the CrPC, in para-7 of the application, the investigating agency (ED) has given the details of the summons, which were issued against applicant-Rajnish Bansal, under Section 50 of the PMLA. Interestingly, in these details, qua issuance of the summons for appearance on 27th June, 2024 and 6th December, 2024, ED has not mentioned the date(s), when the said summons were issued, whereas, qua the summons, which were issued for 29th January, 2025; 2nd February, 2025 and 6th February, 2025, the ED has specifically mentioned the dates of issuance of the same.

111. As per the stand taken by the applicant, in this case, the investigation of the case has been started from the year 2019 and till January 2025, no coercive action has been taken, by the ED, against the applicant or his family. It is his specific case that the investigating agency has woken up from slumber after the arrest of its Assistant Director-Vishal Deep and his brother.



112. Another stand has also been taken that the ED, after the completion of the investigation, has submitted the complaint, against the brother of the applicant, namely Vikas Bansal, Shivender Singh, Panna Lal, Preeti Bansal, People Welfare Education Trust and Maa Saraswati Educational Trust, in which, the applicant was the Chairman and Vikas Bansal was Vice Chairman. In the said complaint, cognizance is stated to have been taken. All these material facts have been pleaded in para 14 of the bail application.

113. While replying to para-14 of the bail application, this factual position is not disputed by the respondent-ED, but, it has been pleaded that as Chairman of Maa Saraswati Education Trust and Apex Group of Institutions, the applicant has exercised control and supervision and as such, his involvement in generation and laundering of proceeds of crime is under active investigation.

114. Similarly, while replying to the contents of para 13 of the bail application, a vague stand has been taken by the ED, that the investigation is continuous and dynamic. However, neither, the stand taken in the reply, nor, the



learned counsel appearing for the ED, could satisfy the judicial conscience of this Court as to when the investigating agency has not taken any coercive action right from 2019, from the date of inception of the investigation till January, 2025, especially, till the arrest of Vishal Deep, Assistant Director of ED, the then Investigating Officer of the case, then, what were the circumstances, under which, repeated notices for a shorter period were issued against the applicant.

115. Investigation is the sole prerogative of the respondent-ED, but, when, a specific stand has been taken by the applicant, qua the fact that out of the vengeance, due to arrest of the then Investigating Officer of the case, Assistant Director of the ED, the repeated notices of short duration were issued by the ED. In such situation, the onus shifts upon the respondent-ED to justify the issuance of the three notices, in the short span of ten days, as, the first notice was issued on 24th January, 2025, directing the applicant to appear on 29th January, 2025. When, he fails to put appearance, then, another notice was issued on 1st February, 2025, directing him to put appearance on 2nd



February, 2025. On account of his alleged failure to appear, third notice was issued on 4th February, 2025, directing him to put appearance on 6th February, 2025.

116. In such situation, the arguments of the learned senior counsel appearing for the applicant, qua the fact, that the unholy haste is writ large, hold water, as, it seems that after the arrest of Vishal Deep, the ED was hellbound to arrest the applicant, by issuing these notices. Thereafter, they had immediately moved the application, before the learned trial Court, for issuance of non-bailable warrants, on 7th February, 2025. In such situation, the apprehension of the applicant, qua his arrest, cannot be said to be unfounded.

117. Even, in the application, simply, it has been mentioned that Rajnish Bansal is not co-operating with the investigation and his absence is unnecessarily delaying the proceedings. In addition to this, it has also been apprehended that there is a reasonable apprehension that the applicant is trying to alienate the proceeds of crime and to tamper with the crucial evidence. All these



apprehensions have been expressed by the ED, after the arrest of their officer, Vishal Deep.

118. Thereafter, the applicant has moved the application, under Section 72 (2) of the BNSS, before the learned trial Court, for cancellation of NBWs, which were issued against him, vide order, dated 11th March, 2025. In this application, he has made the efforts to explain each and every circumstance, due to which, he could not appear before the ED.

119. In para-22 of the said application, a specific stand has been taken by the applicant that he has never been afforded an opportunity of being heard and no notice was ever issued against him. Not only this, he has also explained that the presence of his counsel has wrongly been marked, as, the counsel named therein, neither filed any power of attorney nor appeared in the said application. According to the applicant, it seems that their presence has been marked in the order sheets, as the connecting bail applications and the application preferred by the applicant for issuance of proper and legal summons, were also taken up on the said dates.



120. Even, as per the prayer clause of the said application, the applicant has prayed that the investigating agency be directed to issue appropriate and legal summons with reasonable time to appear before it. Meaning thereby, he has nowhere taken a stand that he will not appear before the investigating agency for investigation, as, the investigation is the prerogative of the respondent-ED. However, instead of directing the applicant to join the investigation, the learned trial Court has dismissed the application, by holding that despite issuance of notices by ED, on several occasions, the applicant had failed to appear before the ED.

121. It is the case of the ED itself that the applicant was regularly appearing before the ED and his statements, under Section 50 of the PMLA were recorded on five earlier occasions, as mentioned in the application, under Section 73 CrPC.

122. As per the stand taken by the ED, raids on the premises of the applicant and his associates were conducted on 29th August, 2023; 30th January, 2025; and



6th March, 2025, in which, incriminating documents and material relevant to the investigation, were found. When, after the search, which was conducted on 29th August, 2023, no efforts/steps have been made/taken by the ED, to arrest the applicant, then, conducting the search, immediately after the arrest of their officer, in a case, registered under Section 7A of the PC Act at Panchkula, of the premises on 30th January, 2025 and 6th March, 2025, also supports the arguments of the learned senior counsel appearing for the applicant, qua the fact that after the arrest of Vishal Deep, the investigating agency became super active.

123. Now, the next material question, which arises for determination, before this Court is as to whether the applicant, who, even, as per the stand taken by the ED, was joining and remaining associated with the investigation of the case, right from the registration of the ECIR, in the year 2019, till January, 2025, can now be arrested, only for the alleged involvement in generation and laundering of proceeds of crime.



124. In this regard, it is apt to rely upon the decision of the Hon'ble Supreme Court, in **Arvind Kejriwal versus Directorate of Enforcement, Neutral Citation No. 2024**

INSC 512. Relevant para-41 of the said judgment, is reproduced, as under:

"41. DoE has drawn our attention to the use of the expression 'material in possession' in Section 19 (1) of the PML Act instead of 'evidence in possession'. Though etymologically correct, this argument overlooks the requirement that the designated officer should and must, based on the material, reach and form an opinion that the arrestee is guilty of the offence under the PML Act. Guilt can only be established on admissible evidence to be led before the court, and cannot be based on inadmissible evidence. While there is an element of hypothesis, as oral evidence has not been led and the documents are to be proven, the decision to arrest should be rational, fair and as per law. Power to arrest under Section 19 (1) is not for the purpose of investigation. Arrest can and should wait, and the power in terms of Section 19 (1) of the PML Act can be exercised only when the material with the designated officer enables them to form an opinion, by recording reasons in writing that the arrestee is guilty."

125. If the stand of the ED is considered, in view of the above decision of the Hon'ble Supreme Court, except the vague allegations, which have been levelled in the reply, no specific role has been attributed to the applicant, in the reply. In this regard, the stand taken by the ED, in



reply to para-14 of the application, is relevant, which is reproduced, as under:

“64. The contents of Paragraph 14 are denied for being wrong and incorrect. It is submitted that a supplementary complaint has been filed before the Special Court, PMLA, Shimla against Vikas Bansal, and other individuals and trusts, and cognizance has been taken by the Court on 28.07.2025. However, it is denied that the petitioner’s role is insulated. As Chairman of Maa Saraswati Educational Trust and Apex Group of Institutions, the petitioner exercised control and supervision, and hi involvement in generation and laundering of proceeds of crime is under active investigation.”

126. The applicant has annexed the application, moved by the investigating agency, which was filed, under Section 73 CrPC (Section 75 of the BNSS) read with Section 65 of the PMLA, for issuance of non-bailable warrants, against the accused (applicant). In this application, except reiterating the contents of the charge sheet filed by the CBI, against the Himalayan Group of Professional Institutions, nothing has been mentioned, as to what was the material, which is in possession of the ED.

127. In this application, simply, it has been asserted that the applicant has blatantly abused the law, by not



appearing before the Investigating Officer and not joining the investigation, on three continuous occasions.

128. If the contents of the said application, as well as, the prayer is seen, in the light of the decision of the Hon'ble Supreme Court in **Radhika Agarwal versus Union of India and others**, reported in **(2025) 6 Supreme Court Cases 545**, then, the arguments of the learned senior counsel appearing on behalf of the applicant, qua his apprehension that the investigating agency is hellbound to arrest the applicant, cannot be discarded, at this stage. Relevant para-33 of the judgment, is reproduced, as under:

“33. In Arvind Kejriwal v. Enforcement Directorate, (2025) 2 SCC 248, a combined reading of Pankaj Bansal v. Union of India, (2024) 7 SCC 576, Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254, and Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1, was adopted by this Court. It was held that the power to arrest a person without a warrant and without instituting a criminal case is a drastic and extreme power. Therefore, the legislature had prescribed safeguards in the language of Section 19 itself which act as exacting conditions as to how and when the power is exercisable. These safeguards include the requirement to have “material” in the possession of DoE, and on the basis of such “material”, the authorised officer must form an opinion and record in writing their “reasons to believe” that the person arrested was “guilty” of an offence punishable under the PML Act. The “grounds



of arrest” are also required to be informed forthwith to the person arrested.”

129. Although, the requirement, to record in writing, the reasons to believe, arises, at the time of arrest of the applicant, without warrant, but, when, the investigating agency is approaching the learned Special Judge under PMLA, for issuance of open ended non-bailable warrants, then, considering the said prayer, alongwith the circumstances, as highlighted above, ED is required to produce the material before this Court to justify the opposition to the prayer, as made in the application.

130. Now, this Court would proceed further to determine as to whether, in view of the above position, the applicant is able to make out a case, in his favour, for exercising powers under Section 482 of the BNSS.

131. As stated above, reply of the investigating agency is totally evasive, as to how, the applicant is not cooperating with the investigation and how the applicant falls within the definition of ‘habitual offender’, as submitted in para 11 of the application, moved before the learned Special Judge (PMLA), for issuance of warrants, under Section 73 of the CrPC.



132. If the facts and circumstances of the present case are seen in the light of the decision of the Hon'ble Supreme Court in **Pankaj Bansal versus Union of India**, reported in **(2024) 7 Supreme Court Cases 576**, then, in the considered opinion of this Court, the applicant is able to make out a case, in his favour. Relevant paras-26 to 35 of the said judgment, are reproduced, as under:

26. This chronology of events speaks volumes and reflects rather poorly, if not negatively, on the ED's style of functioning. Being a premier investigating agency, charged with the onerous responsibility of curbing the debilitating economic offence of money laundering in our country, every action of the ED in the course of such exercise is expected to be transparent, above board and conforming to pristine standards of fair play in action. The ED, mantled with far-reaching powers under the stringent Act of 2002, is not expected to be vindictive in its conduct and must be seen to be acting with utmost probity and with the highest degree of dispassion and fairness. In the case on hand, the facts demonstrate that the ED failed to discharge its functions and exercise its powers as per these parameters.

27. In this regard, we may note that, though the appellants did not allege colourable exercise of power or malafides or malice on the part of the ED officials, they did assert in categorical terms that their arrests were a wanton abuse of power, authority and process by the ED, which would tantamount to the same thing. On that subject, we may refer to the observations of this Court in State of Punjab vs. Gurdial Singh: (SCC p. 475, para 9)



"9. The question, then, is what is malafides in the jurisprudence of power? Legal malice is gibberish unless juristic clarity keeps it separate from the popular concept of personal vice. Pithily put, bad faith which invalidates the exercise of power — sometimes called colourable exercise or fraud on power and oftentimes overlaps motives, passions and satisfactions — is the attainment of ends beyond the sanctioned purposes of power by simulation or pretension of gaining a legitimate goal. If the use of the power is for the fulfilment of a legitimate object the actuation or catalysation by malice is not legicidal. The action is bad where the true object is to reach an end different from the one for which the power is entrusted, goaded by extraneous considerations, good or bad, but 4 (1980) 2 SCC 471 20 irrelevant to the entrustment. When the custodian of power is influenced in its exercise by considerations outside those for promotion of which the power is vested the court calls it a colourable exercise and is undeceived by illusion. In a broad, blurred sense, Benjamin Disraeli was not off the mark even in law when he stated: "I repeat . . . that all power is a trust — that we are accountable for its exercise — that, from the people, and for the people, all springs, and all must exist". Fraud on power voids the order if it is not exercised bona fide for the end designed. Fraud in this context is not equal to moral turpitude and embraces all cases in which the action impugned is to effect some object which is beyond the purpose and intent of the power, whether this be malice-laden or even benign. If the purpose is corrupt the resultant act is bad. If considerations, foreign to the scope of the power or extraneous to the statute, enter the



verdict or impel the action, mala fides or fraud on power vitiates the acquisition or other official act.”

28. A few years later, in *Collector (District Magistrate), Allahabad and another vs. Raja Ram Jaiswal*, this Court held as under: (SCC pp.20-21, para 26)

‘26. Where power is conferred to achieve a purpose, it has been repeatedly reiterated that the power must be exercised reasonably and in good faith to effectuate the purpose. And in this context “in good faith” means “for legitimate reasons”. Where power is exercised for extraneous or irrelevant considerations or reasons, it is unquestionably a colourable exercise of power or fraud on power and the exercise of power is vitiated.’

29. Again, in *Ravi Yashwant Bhoir vs. Collector*, it was held thus: (SCC p. 431, para 48)

‘48. Mala fide exercise of power does not imply any moral turpitude. It means exercise of statutory power for “purposes foreign to those for which it is in law intended”. It means conscious violation of the law to the prejudice of another, a depraved inclination on the part of the authority to disregard the rights of others, where intent is manifested by its injurious acts. Passing an order for unauthorized purpose constitutes malice in law.’

30. The way in which the ED recorded the second ECIR immediately after the appellants secured anticipatory bail in relation to the first ECIR, though the foundational FIR dated back to 17.04.2023, and then went about



summoning them on one pretext and arresting them on another, within a short span of 24 hours or so, manifests complete and utter lack of bonafides. Significantly, when the appellants were before the Delhi High Court seeking anticipatory bail in connection with the first ECIR, the ED did not even bring it to the notice of the High Court that there was another FIR in relation to which there was an ongoing investigation, wherein the appellants stood implicated. The second ECIR was recorded 4 days after the grant of bail and it is not possible that the ED would have been unaware of the existence of FIR No. 0006 dated 17.04.2023 at that time.

31. Surprisingly, in its 'Written Submissions', the ED stated that it started its inquiries in respect of this FIR in May, 2023, itself, but strangely, the replies filed by the ED do not state so! It is in this background that this suppression before the Delhi High Court demonstrates complete lack of probity on the part of the ED. Its prompt retaliatory move, upon grant of interim protection to the appellants, by recording the second ECIR and acting upon it, all within the span of a day, so as to arrest the appellants, speaks for itself and we need elaborate no more on that aspect.

32. Further, when the second ECIR was recorded on 13.06.2023 'after preliminary investigations', as stated in the ED's replies, it is not clear as to when the ED's Investigating Officer had the time to properly inquire into the matter so as to form a clear opinion about the appellants' involvement in an offence under the Act of 2002, warranting their arrest within 24 hours. This is a sine qua non in terms of Section 19(1) of the Act of 2002. Needless to state, authorities must act within the four corners of the statute, as pointed out by this Court in *Devinder Singh v. State of Punjab*, and a statutory authority is bound by the procedure laid down in the statute and must act within the four corners thereof.



33. We may also note that the failure of the appellants to respond to the questions put to them by the ED would not be sufficient in itself for the Investigating Officer to opine that they were liable to be arrested under Section 19, as that provision specifically requires him to find reason to believe that they were guilty of an offence under the Act of 2002. Mere non-cooperation of a witness in response to the summons issued under Section 50 of the Act of 2002 would not be enough to render him/her liable to be arrested under Section 19. As per its replies, it is the claim of the ED that Pankaj Bansal was evasive in providing relevant information. It was however not brought out as to why Pankaj Bansal's replies were categorized as 'evasive' and that record is not placed before us for verification. In any event, it is not open to the ED to expect an admission of guilt from the person summoned for interrogation and assert that anything short of such admission would be an 'evasive reply'. In *Santosh S/o Dwarkadas Fafat vs. State of Maharashtra*, this Court noted that custodial interrogation is not for the purpose of 'confession' as the right against self-incrimination is provided by Article 20(3) of the Constitution. It was held that merely because an accused did not confess, it cannot be said that he was not co-operating with the investigation. Similarly, the absence of either or both of the appellants during the search operations, when their presence was not insisted upon, cannot be held against them.

34. The more important issue presently is as to how the ED is required to 'inform' the arrested person of the grounds for his/her arrest. Prayer (iii) in the writ petitions filed by the appellants pertained to this.

35. Section 19 does not specify in clear terms as to how the arrested person is to be 'informed' of the grounds of arrest and this aspect has not been dealt with or delineated in



Vijay Madanlal Choudhary (supra). Similarly, in V. Senthil Balaji (supra), this Court merely noted that the information of the grounds of arrest should be 'served' on the arrestee, but did not elaborate on that issue. Pertinent to note, the grounds of arrest were furnished in writing to the arrested person in that case. Surprisingly, no consistent and uniform practice seems to be followed by the ED in this regard, as written copies of the grounds of arrest are furnished to arrested persons in certain parts of the country but in other areas, that practice is not followed and the grounds of arrest are either read out to them or allowed to be read by them."

(self emphasis supplied)

133. The object of the bail has elaborately been discussed by the Hon'ble Supreme Court, in **Sanjay Chandra versus Central Bureau of Investigation**, reported in **(2012) 1 Supreme Court Cases 49**. Relevant para of the judgment, is reproduced, as under:

"The object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The Courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. Detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, "necessity" is the operative test.



In India, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson."

134. Even if, the arguments of the learned counsel appearing for the ED, qua the fact that the custodial interrogation of the applicant is required, are considered, then also, the applicant is able to make out a case in his favour as, at present, there is nothing on the file to demonstrate that the applicant is a habitual offender or he may not be available for the investigation, as well as, the trial, in case, any direction is issued, under Section 482 of the BNSS.

135. If the stand of the ED is considered, in view of the decision of the Constitution Bench of the Hon'ble Supreme Court in **Gurbaksh Singh Sibbia & Others**



versus State of Punjab, reported in **(1980) 2 Supreme Court Cases 565**, wherein, it has been held that a person, having the protection under Section 438 CrPC (482 of the BNSS) is deemed to have surrendered himself, if, a discovery is to be made; merely, the protection, not to take any coercive action, does not preclude the investigating agency to get the recovery effected from the applicant.

Relevant para-43 of the judgment, is reproduced, as under:

“43. During the last couple of years this Court, while dealing with appeals against orders passed by various High Courts, has granted anticipatory bail to many a person by imposing conditions set out in Section 438(2)(i), (ii) and (iii). The Court has, in addition, directed in most of those cases that (a) the applicant should surrender himself to the police for a brief period if a discovery is to be made under Section 27 of the Evidence Act or that he should be deemed to have surrendered himself if such a discovery is to be made. In certain exceptional cases, the Court has, in view of the material placed before it, directed that the order of anticipatory bail will remain in operation only for a week or so until after the filing of the F.I.R. in respect of matters covered by the order. These orders, on the whole, have worked satisfactorily, causing the least inconvenience to the individuals concerned and least interference with the investigational rights of the police. The Court has attempted through those orders to strike a balance between the individual's right to personal freedom and the investigational rights of the police. The appellants who were refused anticipatory bail by various courts have long since been released by this Court under Section 438(1) of the Code.”



136. Similar view has again been reiterated by Hon'ble Supreme Court in **Sushila Aggarwal and others versus State (NCT of Delhi) and another**, reported in **(2020) 5 Supreme Court Cases 1**. Relevant para-92.8, of the judgment, is reproduced as under:

"92.8. The observations in Sibbia regarding "limited custody" or "deemed custody" to facilitate the requirements of the investigative authority, would be sufficient for the purpose of fulfilling the provisions of Section 27, in the event of recovery of an article, or discovery of a fact, which is relatable to a statement made during such event (i.e. deemed custody). In such event, there is no question (or necessity) of asking the accused to separately surrender and seek regular bail. Sibbia (supra) had observed that

"19...if and when the occasion arises, it may be possible for the prosecution to claim the benefit of Section 27 of the Evidence Act in regard to a discovery of facts made in pursuance of information supplied by a person released on bail by invoking the principle stated by this Court in State of H.P. v. Deoman Upadhyaya."

137. The alleged refusal or non-cooperation of the applicant, to the considered opinion of this Court, cannot be a ground for the dismissal of the bail application, as, no one can be compelled to be the witness against himself,



since, the same is violative of Article 23 (3) of the Constitution of India.

138. If the facts and circumstances of the present case are seen in the light of the decision of the Hon'ble Supreme Court in **Tusharbai Rajnikantbhai Shah versus Kamal Dayani & others, reported in (2025) 1 Supreme Court Cases 753**, the applicant is entitled to the relief, as claimed in the application. Relevant para-43 of the said judgment, is reproduced, as under:

"43. We are of the firm opinion that non-cooperation by the accused is one matter and the accused refusing to confess to the crime is another. There would be no obligation upon the accused that on being interrogated, he must confess to the crime and only thereafter, would the Investigating Officer be satisfied that the accused has cooperated with the investigation. As a matter of fact, any confession made by the accused before a police officer is inadmissible in evidence and cannot even form a part of the record."

139. In this case, the attempt of the ED to obtain the open-ended non-bailable warrants also assumes significance, as, prior to the arrest of Vishal Deep, Assistant Director of ED, neither, there was any complaint against the applicant, qua his alleged non-cooperation, nor, the searches were conducted, after 2023. After arrest



of the Assistant Director of the ED, who was the Investigating Officer, of the present case, both the actions were taken swiftly.

140. In this regard, it would be apt, for this Court, to rely upon the decision of the Hon'ble Supreme Court in **Arvind Kejriwal versus Central Bureau of Investigation**, Neutral Citation No. 2024 INSC 687. Relevant paras-22 and 23 of the concurring judgment by J. Ujjal Bhuyan, are reproduced, as under:

"22. In so far arrest of the appellant by the CBI is concerned, it raises more questions than it seeks to answer. As already noted above, CBI case was registered on 17.08.2022. Till the arrest of the appellant by the ED on 21.03.2024, CBI did not feel the necessity to arrest the appellant though it had interrogated him about a year back on 16.04.2023. It appears that only after the learned Special Judge granted regular bail to the appellant in the ED case on 20.06.2024 (which was stayed by the High court on 21.06.2024 on oral mentioning) that CBI became active and sought for custody of the appellant which was granted by the learned Special Judge on 26.06.2024. Even on the date of his arrest by the CBI on 26.06.2024, appellant was not named as an accused by the CBI. Only in the last chargesheet filed by the CBI on 29.07.2024, appellant has been named as an accused.

23. Thus, it is evident that CBI did not feel the need and necessity to arrest the appellant from 17.08.2022 till 26.06.2024 i.e. for over 22 months. It was only after the learned Special



Judge granted regular bail to the appellant in the ED case that the CBI activated its machinery and took the appellant into custody. Such action on the part of the CBI raises a serious question mark on the timing of the arrest; rather on the arrest itself. For 22 months, CBI does not arrest the appellant but after the learned Special Judge grants regular bail to the appellant in the ED case, CBI seeks his custody. In the circumstances, a view may be taken that such an arrest by the CBI was perhaps only to frustrate the bail granted to the appellant in the ED case.”

141. As stated above, the ED, when, given the opportunity to file reply to the bail application, has simply re-iterated the contents of the ECIR and no specific role has been attributed to the applicant, except, alleging that being Chairman of Maa Saraswati Educational Trust and Apex Group of Institutions, he exercised control and supervision, as such, his involvement in generation and laundering of proceeds of crime is under active investigation.

142. The reply is totally silent about the fact as to how the custodial interrogation of the applicant is required, in the present case, except filing reply to para-54 of the bail application, in which, merely, it has been asserted that



mere undertaking of the co-operation cannot substitute the requirement of custodial interrogation in PMLA.

143. When, the specific stand has been taken by the applicant that after the arrest of its Assistant Director-Vishal Deep, the investigating agency became super active. In such situation, being the premier investigating agency, it was expected from the ED, to specify the steps taken towards the investigation of the case, prior to the arrest of Vishal Deep, Assistant Director of the ED. Except conducting the raid over the premises of the applicant and other accused persons, in the year 2023, or issuing notices under Section 50 of the PMLA, nothing appears to have been done by the investigating agency from the year 2019 till January, 2025.

144. In this case, the learned counsel appearing for the ED has apprehended that in case, the relief, as claimed in the application, is granted to the applicant, then, the applicant may be in a position to transfer the proceeds of crime to defeat the very purpose of the investigation. The said argument, of the learned counsel appearing for the ED, is devoid of any merit, as, the Appellate Tribunal,



under SAFEMA at Delhi, has passed an order, on 19th August, 2025, directing both the parties to maintain status quo, with regard to the attached property.

145. As held in the earlier part of this order, and also argued by the learned counsel appearing for the ED, while relying upon the decisions of the Hon'ble Supreme Court, before granting any relief, under Sections 482 or 483 of the BNSS, it is mandatory for the Court to record the satisfaction, which should be more than *prima facie* satisfaction, qua existence of twin conditions, as enumerated in Section 45 of the PMLA, which are akin to the provisions contained in Section 37 (b) (ii) of the NDPS Act.

146. The provisions of Section 45 of the PMLA, are reproduced, as under:

45. Offences to be cognizable and non-bailable.-(1) *Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no person accused of an offence under this Act shall be released on bail or on his own bond unless-*

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



- (ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:

Provided that a person, who, is under the age of sixteen years, or is a woman or is sick or infirm, or is accused either on his own or along with other co-accused of money-laundering a sum of less than one crore rupees may be released on bail, if the Special Court so directs:

Provided further that the Special Court shall not take cognizance of any offence punishable under section 4 except upon a complaint in writing made by-

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

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

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



Explanation.--For the removal of doubts, it is clarified that the expression "Offences to be cognizable and non-bailable" shall mean and shall be deemed to have always meant that all offences under this Act shall be cognizable offences and non-bailable offences notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973 (2 of 1974), and accordingly the officers authorised under this Act are empowered to arrest an accused without warrant, subject to the fulfillment of conditions under section 19 and subject to the conditions enshrined under this section.

147. Merely, the registration of the ECIR, against the applicant, by the ED, cannot be construed as evidence against the applicant, at this stage. As stated above, right from the registration of ECIR in the year 2019, till January, 2025, the investigation was going on smoothly and no efforts have been made or steps have been taken by the ED to get the applicant arrested.

148. Moreover, the reply is also totally silent about the evidence, which has been collected so far, by the ED, against the applicant, as, a stand has been taken that investigation is still going on, against the applicant.

149. Although, in reply to para 6 of the bail application, it has been vaguely mentioned that the incriminating documents and material relevant to the



investigation were found in the searches, conducted under Section 17 of the PMLA, on 29th August, 2023; 30th January, 2025 and 6th March, 2025, but, details of the same have not been given in the reply. When, the investigation is still going on, then, without producing the said material before this Court, prayer cannot be made, by the ED, to dismiss the bail application, merely, on the ground that the similar relief has been declined by the learned Special Judge.

150. The investigation, in the present case, is going on from the year 2019 till 2025; supplementary complaint has already been filed and till the arrest of Vishal Deep, Assistant Director of the ED, the investigating agency has not sought the custodial interrogation of the applicant. When the supplementary complaint has been filed, without pressing for the arrest the applicant, for custodial interrogation, then, the existence of the twin conditions, as enumerated under Section 45 of the PMLA, can be said to be in favour of the applicant.

151. Even otherwise, the reply is totally silent about the fact as to whether, after the registration of the ECIR,



any other offence has been committed by the applicant. The applicant remained on interim bail, granted by the learned Special Judge (PMLA), which application, although was dismissed later on, but, during the period when liberty was granted to the applicant, no offence is stated to have been committed by him.

152. As per the correspondence/e-mail, submitted by the applicant, he has assured the investigating agency to join the proceedings and has simply sought time to join the proceedings. He has also made statements, under Section 50 of the PMLA, on various occasions, as discussed above. Hence, a conclusion of the ED that he is not co-operating with the investigation, can be said to be unfounded, at this stage.

153. When, the liberty of a person is involved, then, it is expected from the investigating agency to produce the material, which has been collected so far, against the applicant, for the perusal of this Court, justifying the denial of the relief, to the applicant.

154. In such situation, when, no specific role has been attributed to the applicant, which is substantiated by



evidence, at this stage, and no material has been collected by the investigating agency, against the applicant, then, it can be said that he is not guilty of such offence and while on bail, he will not commit any offence. Even, for the second condition, i.e., he will not commit any offence, reasonable conditions can be imposed, upon the applicant, in case, any direction is issued under Section 482 of the BNSS.

155. The role allegedly played by the applicant, in the commission of the alleged crime, would be proved during the trial and the chances of the commencement and conclusion of the trial, against the applicant, in near future, are not so bright.

156. Considering the totality of circumstances, this Court is of the view that the applicant is able to make out a case, for issuing direction to the investigating agency, under Section 482 of the BNSS.

157. In view of the above discussion, the present bail application is liable to be allowed and is, accordingly, allowed.



158. Consequently, it is ordered that the applicant be released on bail, in the event of his arrest, in case, registered vide **ECIR No. SHSZO/04/2019**, dated **19th July, 2019**, with **Sub-Zonal Office, Directorate of Enforcement, Shimla**, under **Sections 3 and 4 of the PMLA**, on his furnishing personal bonds, in the sum of ₹ 2,00,000/-, with two sureties of the like amount, to the satisfaction of the Investigating Officer. This order, however, shall be subject to the following conditions :

- a) That the applicant shall join the investigation of the case, as and when, called for, by the Investigating Officer, in accordance with law;*
- b) That the applicant shall not leave India, without prior permission of the Court;*
- c) That the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person, acquainted with the facts of the case, so as to dissuade him/her from disclosing such facts to the Investigating Officer or the Court; and*
- d) That the applicant shall regularly attend the trial Court on each and every date of hearing and if prevented by any reason to do so, seek exemption from appearance by filing appropriate application.*

159. Any of the observations, made hereinabove, shall not be taken as an expression of opinion, on the



merits of the case, as these observations, are confined, only, to the disposal of the present applications.

160. It is made clear that the respondent-ED is at liberty to move an appropriate application, in case, any of the bail conditions, is found violated by the applicant.

(Virender Singh)
Judge

November 25, 2025
(rajni)