**IN THE HIGH COURT OF JHARKHAND AT RANCHI**
**B.A. No.8888 of 2025**

Bhanu Pratap Prasad, aged about 57 years, son of Late Ram Lal Prasad, resident of Jhoolan Singh Chowk, Simdega, P.O. & P.S.-Simdega, Dist.-Simdega. ..... .... **Petitioner**

Versus

The Directorate of Enforcement ... ...**Opposite Party**

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**CORAM: HON'BLEMR. JUSTICE SUJIT NARAYAN PRASAD**

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For the Petitioner : Mr.Jitendra Shankar Singh, Advocate
Mrs. Shabina Parween, Advocate
For Opp. Party-E.D. : Mr.Amit Kumar Das, Advocate
Mr. Saurav Kumar, Advocate
Mr. Varun Girdhar, Advocate
Mr. Manmohit Bhalla, Advocate

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**C.A.V. on:12.11.2025** **Pronounced on: 26/11/2025**

**Prayer**

**1.** The instant application has been filed under Sections 483 and 484 of the B.N.S.S., 2023 praying for grant of bail in connection with ECIR Case No.06 of 2023, arising out of ECIR/RNZO/25/2023, dated 26.06.2023 registered for the alleged offence under Sections 3 and 4 of the Prevention of Money Laundering Act, 2002, now pending in the Court of learned A.J.C.-I-cum-Special Judge, P.M.L.A. at Ranchi.

**Prosecution case/Facts**

**2.** The brief facts of the case are that an ECIR bearing No. 06/2023 was recorded on 26.06.2023, on the basis of Sadar P.S. case No. 272 of 2023 dated 01.06.2023, for the offence registered under Sections 465, 467, 466, 469, 471, 379, 420 and 474 of the Indian Penal Code against the petitioner.

**3.** The complainant Mr. Manoj Kumar has stated that the petitioner (Ex Revenue Sub Inspector) was having illegal possession of 17 original registers (Panji-II) out of which several were tampered, along with several property deeds which were the official documents.

**4.** It is further alleged that the registers seized from the possession of the petitioner is a property as per the definition provided u/s 2 (1)(v) of PMLA, 2002 as it is involved/used in the commission of Scheduled offence and the said registers contained references to several properties which have been acquired in illegal manner including the reference of properties admeasuring 8.86 acres at Shanti Nagar, Bargain, Bariyatu Road, (near Lalu Khatal), illegally acquired and possessed by the co-accused Hemant Soren.

**5.** It is further alleged that on 21.10.2022, searches were conducted U/s 17 of PMLA Act, 2002 and on 13.04.2023 at several premises including two premises under use and occupation of Bhanu Pratap Prasad (the Petitioner), at Road No.7, Hill View Road, Bariyatu, Ranchi, Jharkhand and at Jhulan Singh Chowk, Simdega, Jharkhand. In course of searches 11 trunks of voluminous property documents including following 17 original registers (Panji 2) were seized from the possession of Bhanu Pratap Prasad which were concealed and secreted by him at his home.

**6.** It is further stated that documents/registers volume was examined and explanation U/s 50 of PML Act, 2002 was sought from the accused Bhanu Pratap Prasad, which further led to the identification of tampering in the said original registers aimed at extending illegal benefits to other persons. It is further stated and alleged that during searches dated 13.04.2023 in ECIR/RNZO/18/2022, handwritten diaries were also seized from the possession of other persons namely Md. Saddam Hussain, Imtiaz Ahmed and others, who were his associates. In the said diaries, cash payments to the petitioner were also mentioned by his associates.

**7.** It is further alleged that there are the cash transaction details in respect of a property admeasuring 4.83 acres, situated at Plot No. 31, 32, 33, 35, 36, 38, 72 and 73, Khata No. 53, Mauja- Gari, Bargain Anchal, Ranchi for which 2 fake deeds, one of year 1940 and other of year 1974 was prepared by the associates of Bhanu Pratap Prasad (Petitioner). It is further stated that Rs.20 Lakhs has been accounted on the Page which has been shown in the Prosecution Complaint on Page No. 11. It is further also stated that cash payments of Rs.2 Lakhs to the petitioner have also been made. It is further stated that the accused petitioner was a member of syndicate which was involved in acquiring lands by fraudulent means which included tampering with original government registers, falsification of government records and manufacturing fake documents. It is further stated that Bhanu Pratap was directly involved in hatching conspiracy with other persons to acquire and dispose properties in illegal manner and accomplice to several persons including the accused namely Hemant Soren. This very fact is corroborated from the seizure of an image recovered from his mobile phone which contains the details of a cluster of landed properties, situated adjacently on 12 plots at Bargain Anchal, total area of which is around 8.86 acres. The property was acquired in an illegal and unauthorized manner by the accused person Hemant Soren and he has been in continuous possession of this property since 2010-11.

**8.** It is further alleged that the accused Bhanu Pratap Prasad had physically inspected the above land on two occasions, that is first in the month of December 2020 (evident from WhatsApp chat between Bhanu Pratap Prasad and Sailesh Kumar, Circle Officer posted in 2020 at Bargain Anchal), and second in the month of January, 2023 (evident from the imaged dated 21.01.2023 recovered from the mobile phone of Bhanu Pratap Prasad) and after inspecting it he had also made certain noting in the said list in his own handwriting. That image of the Simdega and another search was conducted at rental residential places situated at Road No.7, Hill View Road, Bariatu, Ranchi.

**9.** After investigation the Enforcement Directorate has filed prosecution complaint No. 06 of 2023 against the petitioner and others under sections 45 r/w 44 Prevention of Money Laundering Act, 2002, for alleged offence under sections 3 and 4 of Prevention of Money Laundering Act, 2002.

**10.** The Petitioner was initially arrested on 14.04.2023 in a connected matter arising out of ECIR/RNZO/18/2022 and was subsequently produced and arrested in the present ECIR on 03.02.2024.

**11.** Thereafter the petitioner had preferred a Misc. Cri. Application being MCA 1069 of 2025 before Spl. Judge PML Cases, Ranchi for his bail but the same was rejected vide order dated 15.07.2025, hence the present application has been filed.

**Arguments advanced by the learned counsel for the petitioner:**

**12.** Learned counsel appearing for the petitioner has taken the following grounds that: -

(i) The petitioner is quite innocent and has been falsely implicated in the instant case without any cogent and reliable evidence as against him.

**(ii)** The petitioner joined his services as a Rajaswa Karamchari in the year 1990 in the District of Gumla and time-to-time he has been transferred from one Circle Office to another Circle Office in the different districts and lastly in the month of February 2019 petitioner joined as a Revenue Sub-Inspector in Circle Office, Bargain, Ranchi and only because he was posted in the Bargain Circle office he has been made accused in the instant case, however he has committed no offence as alleged in the instant case.

**(iii)** It is stated that in the month of May 2020 there was an incident of theft which took place in the office of Circle Officer, Bargain, Ranchi and in this regard one F.I.R. bearing No. Sadar P.S. Case No.185/2020 corresponding to G.R. case no-1533/2020 was registered under Section 461 and 379 of the Indian Penal Code and which is pending before the court of Additional Chief Judicial Magistrate, Ranchi. In that theft incident many articles including documents were stolen and later on by the order of the Ld. Court those items were released in favour of the Circle Officer, Bargain, Ranchi.

**(iv)** It is stated that a search was conducted on 13.04.2023 at the residential premises of the petitioner at Jhoolan Singh Chowk, Simdega and another search was conducted at rental residential places situated at Road No.7, Hill View Road, Bariatu, Ranchi.

**(v)** It is further stated that during search of the residential premises of the petitioner at Jhoolan Singh Chowk, Simdega an amount to the tune of Rs. 3,97,800/-and one gold chain worth of Rs. 77,000/- as per bill dated 03.04.2023, two mobile sets with Sim No.8084164626 and Sim No.8789563290, 6 Pass Books and 4 cheque books were seized and apart from that no any other incriminating documents and articles were seized and same seizure is also subject matter of ECIR case No. 01 of 2023 arising out of ECIR/RNZO/18/2022, dated 21.10.2022.

**(vi)** It is stated that during search of rental residential places situated at Road No.7, Hill View Road, Bariatu, Ranchi some registers in total number 17, some loose papers, stuffed in 11 trunks and one H.P. Laptop has been seized, however no any incriminating documents has been recovered from the rental house. and the documents which was seized from the petitioner's house had been kept due to security reason not for any other malicious act and the said seizure is the subject matter of ECIR case

No. 01 of 2023 arising out of ECIR/RNZO/18/2022, dated 21.10.2022 also.

**(vii)** When the on-line mutation process and issuance of rent receipt process were started in the Session 2015-16, the sale deeds were used to be uploaded by the petitioner on the website of revenue department. When the Revenue Karamchari, Revenue Sub Inspector and Circle Inspector used to visit on the land for which the applicant applies for mutation then a copy of the sale deed used to be procured from the petitioner for the conveniences and also at the same time it is down loaded by the petitioner and the hard copies of the those sale deeds were seized which were kept in the rental premises in a general mode. These documents do not have any legal importance. When the searches were conducted then the Enforcement Department seized those documents and kept those documents in 11 trunks which were brought by the officials of Enforcement Department.

**(viii)** It is stated that the articles and documents seized during search at rental premises of the petitioner at Ranchi are not incriminating in nature. The petitioner's laptop which was seized during search on 13.04.2023 does not contain any incriminating data.

**(ix)** It is stated that the petitioner's mother namely Smt.

Gaumati Devi aged about 87 years resides with the family of the petitioner at Simdega. The mother of the petitioner is suffering from various old aged diseases and she needs expertized treatment and it is always presumed that any un-to-do happenings may happen with regard to her health and for the purpose of her treatment a handsome amount was used to be kept in the house for the urgent medical aid to her. Due to this reason an amount to the tune of Rs.3,97,800/- were kept in the ancestral house at Simdega for the treatment of the mother of the petitioner and for other house hold expenses.

**(x)** It is further stated that wife of the petitioner namely Smt. Nutan Kumari is a trained teacher and employed in S.S. Girls High School, Simdega since 2019 prior to joining as a trained teacher in this school, she was a teacher in Kasturba Gandhi Balika Awasiya Vidyalaya, Thethaitangar, Simdega. The wife of the petitioner has got independent source of income from her salary and hence recovery of gold chain worth of Rs. 77,000/- is normal in nature.

**(xi)** The passbooks, cheque books which have been recovered either from the parental house of the petitioner or from his rental house are belonging either to the petitioner or his wife or his other family members, however from perusal of the said accounts no suspicious transaction has been found.

**(xii)** The petitioner has been arrested by the Enforcement Directorate on 13.04.2023 in connection with ECIR No. 01/2023 though the recovery of the alleged incriminating articles in the said case is identical as seized in the instant case.

**(xiii)** The petitioner has not acquired any movable or immovable property from the proceeds of crime under Prevention of Money Laundering Act 2002 which is evident from the documents and the circumstances of the instant case.

**(xiv)** In the instant case, even if the allegations levelled against the petitioner in the Prosecution Complaint are accepted at its face value and in their entirety; prima facie, the same do not make out a case under Section 3, punishable under Section 4 of the Prevention of Money Laundering Act, 2002, in as much as, such allegations fall short of the essential ingredients for offence of money-laundering under Section 3 of the Prevention of Money Laundering Act, 2002.

**(xv)** The prosecution case is totally based on statements recorded u/s 50 Prevention of Money Laundering Act, 2002 which is not supported by any corroborative admissible evidence on record.

**(xvi)** The petitioner has committed no offence and no proceeds of crime as defined under PMLA has either been generated by him or has been received by him at any point of time. The entire case of the prosecution is based on presumption and assumption without any evidence and hence it can safely be said that the petitioner is an innocent. A close examination of the working and financial background of the petitioner will clearly demonstrate that the story manufactured by the prosecution pertaining to "proceeds of crime" is false, legally unsustainable and cannot be relied upon.

**(xvii)** That it is stated that the Hon'ble Apex court held that the "proceeds of crime" being the core of the ingredients constituting the offence of money laundering, that expression needs to be construed strictly. In that, all properties recovered or attached by the investigating agency in connection with the criminal activity relating to a scheduled offence under the general law cannot be regarded as proceeds of crime. There may be cases where the property involved in the commission of scheduled offence attached by the investigating agency dealing with that offence cannot be wholly or partly regarded as proceeds of crime within the meaning of Section 2(1)(w) of Act 2002.

**(xviii)** It is contended that it is only such property which is derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence can be regarded as proceeds of crime. The authorities under the Prevention of Money Laundering Act, 2002 cannot resort to action against any person for money-laundering on an assumption that the property recovered by them must be proceeds of crime and that a scheduled offence has been committed, unless the same is registered with the jurisdictional police or pending inquiry by way of complaint before the competent forum.

**(xix)** The petitioner has been made victim of circumstances and has falsely been implicated in the instant case without any cogent and reliable evidences as against him.

**(xx)** It is stated that the petitioner has been remanded in the instant case on 03.02.2024 and since then he is languishing in jail custody i.e., for about more than 1 year 09 months.

**(xxi)** It is stated that other several co-accused persons have been granted bail either by this Hon'ble court or by the Hon'ble Supreme Court the details are as follows:

(i)Md. Irshad in SLP (Crl.) No. 6705 of 2025 vide order dated 29.05.2025.

(ii)Bipin Kumar Singh in B.A. no. 151 of 2025 vide order dated 17.07.2025.

(iii)Priya Ranjan Sahay in B.A. no. 612 of 2025 vide order dated 17.07.2025.

**13.** Learned counsel for the petitioner, based upon the aforesaid grounds, has submitted that the learned Spl. Judge considering the prayer for bail ought to have taken into consideration all these aspects of the matter both legal and factual but having not done so, serious error has been committed.

**14.** Further submission has been made in the aforesaid view of the matter as per the ground agitated that it is a fit case where the petitioner is to be given the privilege of bail.

**Argument advanced by the learned counsel for the respondent/Directorate of Enforcement**

**15.** *Per contra*, Mr. Amit Kumar Das, learned counsel for the Enforcement Directorate, has vehemently opposed the prayer for bail by taking the following grounds:

**(i)** It has been submitted that the present bail application is devoid of merit and is liable to be dismissed. The petitioner, a public servant, is a key conspirator in an organized land-grabbing syndicate and actively facilitated the generation of proceeds of crime worth crores of rupees by misusing his official position.

**(ii)** The investigation has unearthed cogent and overwhelming evidence establishing his pivotal role in the commission of the offence of money laundering. The petitioner fails to satisfy the mandatory twin conditions for bail stipulated under Section 45 of the Prevention of Money Laundering Act, 2002 (PMLA), and granting him bail would severely prejudice the ongoing investigation and the cause of justice.

**(iii)** It has been contended that the investigation has conclusively established that the petitioner was not a passive bystander but an active and pivotal conspirator in a large-scale, organized land-grabbing syndicate.

**(iv)** The act of illegally removing and concealing these crucial government documents at his private residence is prima facie evidence of his criminal intent to tamper with, manipulate, and conceal evidence. The investigation has confirmed that these very registers, seized from his illegal custody, were indeed falsified and tampered with to create fraudulent land titles.

**(v)** It has been contended that the present petitioner, has misused his position and worked together with the members of the land mafia. His illegal actions include hiding official land records at his private residence changing land entries to benefit others.

**(vi)** The explanations given by the petitioner about the seized materials are false. Handwritten diaries seized from the co-accused shows entries of cash payments made to the petitioner in connection with fraudulent acquisition of a 4.83-acre property and also payment of Rs. 2,00,000/ to the petitioner.

**(vii)** WhatsApp chats recovered from another co-accused shows transaction of Rs. 5 Lakhs to the petitioner for his role in the same 4.83-acre land fraud. Also cash amounting to Rs. 3,97,800/- and a gold chain seized from his premises which shows his established role as a beneficiary of illicit cash payments from the syndicate.

**(viii)** Thus, the petitioner was knowingly a party and actually involved with the other accomplices in activity connected with the proceeds of crime. Thus, the petitioner is guilty of the offence of money laundering as defined under section 3 of PMLA, 2002, punishable under section 4 of PMLA, 2002.

**(ix)** The instant prosecution complaint is backed by documentary evidences and incriminating seizure which are further corroborated from other accused or witnesses during their statements under Section 50 of PMLA, 2002.

**(x)** The petitioner's claims are merely an attempt to conceal his involvement in illegal activities related to assisting his accomplices in fraudulently acquiring properties.

**16.** Learned counsel for the Opp. Party-ED, based upon the aforesaid grounds, has submitted that it is not a fit case for grant of regular bail in favour of the petitioner.

**Analysis**

**17.** Heard the learned counsel for the parties and perused the documents available on record.

**18.** This Court before appreciating the argument advanced on behalf of the parties, deems it fit and proper to discuss herein some of the provision of law as contained under the PML Act, 2002 (Act 2002) with its object and intent as also the legal proposition as settled by the Hon'ble Apex Court in various judgments.

**19.** The Act 2002 was enacted to address the urgent need to have a comprehensive legislation *inter alia* for preventing money-laundering, attachment of proceeds of crime, adjudication and confiscation thereof including vesting of it in the Central Government, setting up of agencies and mechanisms for coordinating measures for combating money-laundering and also to prosecute the persons indulging in the process or activity connected with the proceeds of crime.

**20.** It is evident that the Act 2002 was enacted in order to answer the urgent requirement to have a comprehensive legislation *inter alia* for preventing money-laundering, attachment of proceeds of crime, adjudication and confiscation thereof for combating money-laundering and also to prosecute the persons indulging in the process or activity connected with the proceeds of crime.

**21.** The objective of the PMLA is to prevent money laundering which has posed a serious threat not only to the financial systems of the country but also to its integrity and sovereignty. The offence of money laundering is a very serious offence which is committed by an individual with a deliberate desire and the motive to enhance his gains, disregarding the interest of the nation and the society as a whole, and such offence by no stretch of imagination can be regarded as an offence of trivial nature. The stringent provisions have been made in the Act to combat the menace of money laundering.

**22.** It needs to refer herein the definition of "proceeds of crime" as provided under Section 2(1)(u) of the Act, 2002 which reads as under: -

> "2(u) "proceeds of crime" means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled

> offence or the value of any such property [or where such property is taken or held outside the country, then the property equivalent in value held within the country] [or abroad]; [Explanation.—For the removal of doubts, it is hereby clarified that "proceeds of crime" include property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence;]"

**23.** It is evident from the aforesaid provision by which the "proceeds of crime" means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property or where such property is taken or held outside the country, then the property equivalent in value held within the country or abroad.

**24.** In the explanation, it has been referred that for the removal of doubts, it is hereby clarified that "proceeds of crime" include property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence.

**25.** It is, thus, evident that the reason for giving explanation under Section 2(1)(u) is by way of clarification to the effect that whether as per the substantive provision of Section 2(1)(u), the property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property or where such property is taken or held outside the country then the property equivalent in value held within the country but by way of explanation the proceeds of crime has been given broader implication by including property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence.

**26.** Further, the "property" has been defined under Section 2(1)(v) which means any property or assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and includes deeds and instruments evidencing title to, or interest in, such property or assets, wherever located.

**27.** The schedule has been defined under Section 2(1)(x) which means schedule to the Prevention of Money Laundering Act, 2002.

**28.** It is evident that the "scheduled offence" means the offences specified under Part A of the Schedule; or the offences specified under Part B of the Schedule if the total value involved in such offences is [one crore rupees] or more; or the offences specified under Part C of the Schedule.

**29.** The offence of money laundering has been defined under Section 3 of the Act, 2002 which reads as under: -

> "**3. Offence of money-laundering.**—Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the [proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming] it as untainted property shall be guilty of offence of money-laundering.
>
> [**Explanation**.— For the removal of doubts, it is hereby clarified that,—
>
> (i) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following processes or activities connected with proceeds of crime, namely:—
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> (a) concealment; or
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> (b) possession; or
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> (c) acquisition; or
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> (d) use; or
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> (e) projecting as untainted property; or
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> (f) claiming as untainted property, in any manner whatsoever;
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> (ii) the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever.]"

**30.** It is evident from the aforesaid provision that "offence of money-laundering" means whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property shall be guilty of offence of money-laundering.

**31.** It is further evident that the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever.

**32.** The punishment for money laundering has been provided under Section 4 of the Act, 2002.

**33.** Section 50 of the Act, 2002 confers power upon the authorities regarding summons, production of documents and to give evidence.

**34.** The various provisions of the Act, 2002 along with interpretation of the definition of "proceeds of crime" has been dealt with by the Hon'ble Apex Court in the case of ***Vijay Madanlal Choudhary and Ors. Vs. Union of India and Ors.***, reported in ***(2022) SCC OnLine SC 929*** wherein the Bench comprising of three Hon'ble Judges of the Hon'ble Supreme Court have decided the issue by taking into consideration the object and intent of the Act, 2002.

**35.** The predicate offence has been considered in the aforesaid judgment wherein by taking into consideration the explanation as inserted by way of Act 23 of 2019 under the definition of the "proceeds of crime" as contained under Section 2(1)(u), whereby and whereunder, it has been clarified for the purpose of removal of doubts that, the "proceeds of crime" include property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence, meaning thereby, the words "any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence" will come under the fold of the proceeds of crime.

**36.** So far as the purport of Section 45(1)(i)&(ii) is concerned, the aforesaid provision starts from the non-obstante clause that notwithstanding anything contained in the Code of Criminal Procedure, 1973, 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 an opportunity to oppose the application for such release; and

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

**37.** Sub-section (2) thereof puts limitation on granting bail specific in sub-section (1) in addition to the limitations under the Code of Criminal Procedure, 1973 or any other law for the time being in force on granting of bail.

**38.** The explanation is also there as under sub-section (2) thereof which is for the purpose of removal of doubts, a clarification has been inserted 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, 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

**39.** The fact about the implication of Section 45 has been interpreted by the Hon'ble Apex Court in ***Vijay Madanlal Choudhary and Ors. Vs. Union of India and Ors.***(supra) at paragraphs-285,286 and 316. For ready reference, the said paragraphs are being referred as under:-

> *"**285**............<u>The provision post the 2018 Amendment, is in the nature of no bail in relation to the offence of money laundering unless the twin conditions are fulfilled.</u> The twin*

*conditions are that there are reasonable grounds for believing that the accused is not guilty of offence of money laundering and that he is not likely to commit any offence while on bail.*

***286.****Considering the purposes and objects of the legislation in the form of the 2002 Act and the background in which it had been enacted owing to the commitment made to the international bodies and on their recommendations, it is plainly clear that it is a special legislation to deal with the subject of money laundering activities having transnational impact on the financial systems including sovereignty and integrity of the countries. This is not an ordinary offence. To deal with such serious offence, stringent measures are provided in the 2002 Act for prevention of money laundering and combating menace of money laundering, including for attachment and confiscation of proceeds of crime and to prosecute persons involved in the process or activity connected with the proceeds of crime. In view of the gravity of the fallout of money laundering activities having transnational impact, a special procedural law for prevention and regulation, including to prosecute the person involved, has been enacted, grouping the offenders involved in the process or activity connected with the proceeds of crime as a separate class from ordinary criminals. The offence of money laundering has been regarded as an aggravated form of crime "world over". It is, therefore, a separate class of offence requiring effective and stringent measures to combat the menace of money laundering.*

***316.*** *As a result, we have no hesitation in observing that in whatever form the relief is couched including the nature of proceedings, be it under Section 438 of the 1973 Code or for that matter, by invoking the jurisdiction of the constitutional court, the underlying principles and rigours of Section 45 of the 2002 Act must come into play and without exception ought to be reckoned to uphold the objectives of the 2002 Act, which is a special legislation providing for stringent regulatory measures for combating the menace of money laundering."*

**40.** Subsequently, the Hon'ble Apex Court in the case of ***Tarun Kumar vs. Assistant Director Directorate of Enforcement, (2023) SCC OnLine SC 1486*** by taking into consideration the law laid down by the Larger Bench of the Hon'ble Apex Court in ***Vijay Madanlal Choudhary and Ors. Vs. Union of India and Ors. (supra)***, it has been laid down that since the conditions specified under Section 45 are mandatory, they need to be complied with. The Court is required to be satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and he is not likely to commit any offence while on bail.

**41.** It has further been observed that as per the statutory presumption permitted under Section 24 of the Act, the Court or the Authority is entitled to presume unless the contrary is proved, that in any proceedings relating to proceeds of crime under the Act, in the case of a person charged with the offence of money laundering under Section 3, such proceeds of crime are involved in money laundering. Such conditions enumerated in Section 45 of PML Act will have to be complied with even in respect of an application for bail made under Section 439 Cr. P.C. in view of the overriding effect given to the PML Act over the other law for the time being in force, under Section 71 of the PML Act. For ready reference, paragraph-17 of the said judgment reads as under:-

> "17. As well settled by now, the conditions specified under Section 45 are mandatory. They need to be complied with. The Court is required to be satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and he is not likely to commit any offence while on bail. It is needless to say that as per the statutory presumption permitted under Section 24 of the Act, the Court or the Authority is entitled to presume unless the contrary is proved, that in any proceedings relating to proceeds of crime under the Act, in the case of a person charged with the offence of money laundering under Section 3, such proceeds of crime are involved in money laundering. Such conditions enumerated in Section 45 of PML Act will have to be complied with even in respect of an application for bail made under Section 439 Cr. P.C. in view of the overriding effect given to the PML Act over the other law for the time being in force, under Section 71 of the PML Act."

**42.** The Hon'ble Apex Court in the said judgment has further laid down that the twin conditions as to fulfill the requirement of Section 45 of the Act, 2002 before granting the benefit of bail is to be adhered to which has been dealt with by the Hon'ble Apex Court in ***Vijay Madanlal Choudhary and Ors. Vs. Union of India and Ors.(supra)***wherein it has been observed that the accused is not guilty of the offence and is not likely to commit any offence while on bail.

**43.** In the judgment rendered by the Hon'ble Apex Court in ***Vijay Madanlal Choudhary and Ors. Vs. Union of India and Ors.(supra)*** as under paragraph-284, it has been held that the Authority under the 2002 Act, is to prosecute a person for offence of money-laundering only if it has reason to believe, which is required to be recorded in writing that the person is in possession of "proceeds of crime". Only if that belief is further supported by tangible and credible evidence indicative of involvement of the person concerned in any process or activity connected with the proceeds of crime, action under the Act can be taken forward for attachment and confiscation of proceeds of crime and until vesting thereof in the Central Government, such process initiated would be a standalone process.

**44.** The Hon'ble Apex Court in the case of ***Gautam Kundu vs. Directorate of Enforcement (Prevention of Money-Laundering Act), Government of India through Manoj Kumar, Assistant Director, Eastern Region***, reported in ***(2015) 16 SCC 1*** has been pleased to hold at paragraph -30 that the conditions specified under Section 45 of PMLA are mandatory and need to be complied with, which is further strengthened by the provisions of Section 65 and also Section 71 of PMLA.

**45.** Section 65 requires that the provisions of Cr.P.C. shall apply insofar as they are not inconsistent with the provisions of this Act and Section 71 provides that the provisions of PMLA shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. PMLA has an overriding effect and the provisions of Cr.P.C. would apply only if they are not inconsistent with the provisions of this Act.

**46.** Therefore, the conditions enumerated in Section 45 of PMLA will have to be complied with even in respect of an application for bail made under Section 439 Cr.P.C. That coupled with the provisions of Section 24 provides that unless the contrary is proved, the authority or the Court shall presume that proceeds of crime are involved in money-laundering and the burden to prove that the proceeds of crime are not involved, lies on the petitioner.

**47.** It needs to refer herein that while dealing with bail applications under UAP Act 1967, the Hon'ble Apex Court recently in the case of ***Gurwinder Singh Vs. State of Punjab and Anr.,*** reported in ***(2024) SCC OnLine SC 109***, has observed that the conventional idea in bail jurisprudence vis-à-vis ordinary penal offences that the discretion of Courts must tilt in favour of the oft-quoted phrase - 'bail is the rule, jail is the exception' - unless circumstances justify otherwise - does not find any place while dealing with bail applications under UAP Act and the 'exercise' of the general power to grant bail under the UAP Act is severely restrictive in scope. For ready reference, relevant paragraph of the said judgment is being referred as under:

> "28. The conventional idea in bail jurisprudence vis-à-vis ordinary penal offences that the discretion of Courts must tilt in favour of the oft-quoted phrase - 'bail is the rule, jail is the exception' - unless circumstances justify otherwise - does not find any place while dealing with bail applications under UAP Act. The 'exercise' of the general power to grant bail under the UAP Act is severely restrictive in scope. The form of the words used in proviso to Section 43D (5)- 'shall not be released' in contrast with the form of the words as found in Section 437(1) CrPC - 'may be released' - suggests the intention of the Legislature to make bail, the exception and jail, the rule."

**48.** The reason for making reference of this judgment is that in the case of ***Satender Kumar Antil vs. CBI and Anr***., ***(2022) 10 SCC 51,*** the UAPA has also been brought under the purview of category 'c' which also includes offence under PML Act 2002, the Hon'ble Supreme Court the bail has been directed to be granted if the investigation is complete but the Hon'ble Apex Court in ***Gurwinder Singh vs. State of Punjab and Anr. (supra)*** has taken the view by making note that the penal offences as enshrined under the provision of UAPA are also under category 'c' making reference that jail is the rule and bail is the exception.

**49.** Adverting to the factual aspect of the case it is evident that the investigation in the instant case was initiated based on FIR No. 272/23 dated 01.06 2023, registered at P.S. Sadar, Ranchi, against the petitioner and others for scheduled offences under Sections 420, 467, and 476 of the IPC. This FIR was a direct consequence of information shared by the Directorate of Enforcement (ED) with the State Government under Section 66(2) of the PMLA, after the syndicate's operations were first unearthed during a separate PMLA investigation (ECIR/RNZO/18/2022) into the fraudulent acquisition of Army land in Morabadi.

**50.** It has been alleged that a multi-layered syndicate involving government officials, private individuals, and intermediaries. The key members include the petitioner Bhanu Pratap Prasad (ex-Revenue Sub-Inspector), Manoj Kumar Yadav (Clerk, LRDC Office); Afshar Ali, Md. Saddam Hussain, Shekhar Prasad Mahto Shekhar Kushwaha, Bipin Kumar Singh, and Priya Ranjan Sahay.

**51.** It has been alleged that the syndicate employed a sophisticated modus operandi. They would identify prime properties, especially restricted tribal (Bhuinhari) lands, and then manufacture antedated fake deeds to create a fraudulent ownership trail. This was achieved by procuring original blank pages stolen from old registers at the Registrar of Assurances, Kolkata, and these forged deeds were then planted back into the official volumes. Subsequently, with the active connivance of the petitioner Bhanu Pratap Prasad (petitioner), corresponding fraudulent entries were made in the local land records in Ranchi, including the original revenue registers (पंजीII), to reflect the forged ownership and illegally change the land's character, making it saleable.

**52.** The Petitioner was initially arrested on 14.04.2023 in a connected matter arising out of ECIR/RNZO/18/2022 and was subsequently produced and arrested in the present ECIR on 03.02.2024. Pursuant to the investigation, one main Prosecution Complaint and two Supplementary Prosecution Complaints have been filed before the Learned Special Court (PMLA), Kanchi, detailing the layered roles and interlinkages of members of the land-grabbing syndicate. The Learned Special Court has duly taken cognizance of the offence under Section 3 read with Section 4 of the PMLA against all accused persons named therein.

**53.** Now coming to the grounds as has been raised on behalf of the learned counsel for the petitioner that even if the entire ECIR will be taken into consideration, no offence will be said to be committed so as to attract the ingredients of Sections 3 & 4 of the P.M.L. Act, 2002. Further ground has been taken that the allegation against the petitioner pertains to his purported assistance to other accused individuals. Further, the prolonged custody of petitioner since 03.02.2024 has also been raised.

**54.** While on the other hand, Mr. Amit Kumar Das, learned counsel appearing for the respondent-E.D. has submitted that there are ample materials surfaced in course of inquiry, based upon which, the prosecution complaint was submitted and, hence, it cannot be said that there is no legal evidence. It has further been contended that it is settled proposition of law which has been settled by the Hon'ble Apex Court that the long incarceration (1 year 9 months) or delay in trial alone cannot be ground to release the petitioner on bail, rather in case of scheduled offences/special offences the seriousness of the matter and the societal impact should be taken into consideration by the Court concerned while enlarging the petitioner on bail.

**55.** This Court, in order to appreciate the rival submissions, is of the view that material available on record upon which the reliance has been placed on behalf of both the parties, needs to be referred herein so as to come to the conclusion as to whether the parameter as fixed under Section 45 of the PML Act 2002 is being fulfilled in order to reach to the conclusion that it is a fit case where regular bail is to be granted or not.

**56.** The relevant paragraphs of supplementary prosecution complaint dated 07.06.2024 which has been submitted against the other co-accused persons and appended as Annexure -2 to this petition are being referred as under: -

> **3. BRIEF FACTS OF THE OFFENCE/ALLEGATION/CHARGE/AMOUNT INVOLVED UNDER PMLA:**
>
> **3.1**Brief facts of the offence- That, the information shared under section 66(2) of the Prevention of Money Laundering Act, 2002 by the Directorate of Enforcement is an integral part of the FIR 272/23 dated 01/06/23 (RUD No- 2 of PC dated 30.03.2024) registered by the Ranchi Police. This FIR was registered on the written complaint of Manoj Kumar, Circle Officer, Bargai Anchal and the information shared under section 66 (2) of PMLA, 2002 was part of the said complaint. As per the information shared by the Directorate of Enforcement, seventeen registers and 11 trunks of property documents were seized from the premises under use and control of Bhanu Pratap Prasad on 13.04.2023 by the Directorate of Enforcement. It was mentioned in the complaint that the accused Bhanu Pratap Prasad (Ex Revenue Sub-Inspector, Bargai, Ranchi) was having illegal possession of seventeen original registers (पंजी II) (out of which several were tampered) along with several property deeds which were the official documents. The registers seized from the possession of Bhanu Pratap Prasad are properties as per the definition provided under section 2(1)(v) of PMLA, 2002 as it is involved/used in the commission of scheduled offence. The above registers contain references to several properties which have been acquired in illegal manner including the reference of properties admeasuring 8.86 acres at Shanti Nagar, Baragain, Bariyatu Road (near Lalu Khatal) illegally acquired and possessed by the accused Hemant Soren and a property

admeasuring 4.83 acres at Muza Gari, khata No 53, Plot Nos 31, 32, 33,35, 36 and 37.

3.3 The above stated documents/register volume were examined and an explanation under section 50 of PMLA was sought from the accused Bhanu Pratap Prasad which further led to the identification of tampering and concealment of the original registers aimed at extending illegal benefits to other persons to acquire properties in illegal manner. As mentioned above, during searches dated 13.04.2023 in ECIR/RNZO/18/2022, handwritten diaries were also seized from the possession of other persons namely Md. Saddam Hussain, Imtiyaz Ahmed, and others, who were his associates. In the said diaries, cash payments to the said Bhanu Pratap Prasad were also mentioned by his associates in reference to certain properties.

The above image shows the account of cash maintained by the accused persons namely Md. Saddam Hussain, Afshar Ali and others in respect of the property admeasuring 4.83 acres, situated at Plot No. 31, 32, 33, 35, 36, 38, 72 and 73, Khata 53, Mauja Gari, Baragain Anchal, Ranchi for which two fake deeds, 3954 of the year 1974 and other of the year 2376 of the year 1940 were prepared by accused persons namely Md. Saddam Hussain, Afshar Ali and others who are the associates of Bhanu Pratap Prasad. It is evident from the accounts (highlighted in red box) that Rs. 20,00,000/- has been accounted for something which has been written as 'Two pieces'. In addition to this, 1974 and 1940 has been written on the paper. Two pieces represent two fake deeds and 1974 and 1940 represent the year of which, fake deeds were made by the accused persons. In addition to this, a cash payment of Rs. 2 lacs to Bhanu Pratap Prasad has also been highlighted. On the top of the note, Khata 53, Mauja Gari 4.83 Cheshire Home Road is written which represents the area and the location of the land.

3.6The above-stated facts were confronted with Bhanu Pratap Prasad initially on 23.04.2023. and again on 10.02.2024 (RUD No-34 of PC dated 30.03.2024). during his statement under section 50 of the PMLA, 2002 wherein he admitted about his involvement with other accused persons namely Afshar Ali, Saddam Hussain, Md. Irshad, Bipin Singh.

**3.8**During investigation, it was also revealed that the accused Bhanu Pratap Prasad was also party with Hemant Soren in activities of acquiring and possessing a piece of land in a concealed manner, having an area of around 8.86 acres. An image of a report was recovered from the mobile phone of Bhanu Pratap Prasad regarding verification of the said 8.86 acres of land in which certain hand written notes in respect of a cluster of landed properties, situated adjacently on 12 plots at Baragain Anchal, the total area of which is around 8.86 acres were written by him. It revealed that the said property was acquired in illegal and concealed possession of the accused Hemant Soren since.

**Background of the information shared under section 66(2) of the PMLA, 2002 to the Chief Secretary, Govt. of Jharkhand**

In one of the investigation under ECIR/RNZO/18/2022, conducted by the Directorate of Enforcement, searches were conducted at several premises including the premises of accused person namely Bhanu Pratap Prasad, Md. Saddam Hussain, Afshar Ali and others on 13.04.2023. The search was conducted in a matter of fraudulent acquisition of a defence possessed land by a group of persons on the basis of fake deed. During searches, several incriminating documents and original government records were recovered and seized from the premises of Bhanu Pratap Prasad, which were found falsified and tampered in order to acquire as well as assist other persons to acquire landed properties in illegal manner. Bhanu Pratap Prasad and six other members of the above stated syndicate including Afshar Ali and Md. Saddam Hussain were arrested on 14.04.2023 under section 19 of PMLA for being involved in the above forgeries which have resulted in the generation of proceeds of crime.

Bhanu Pratap Prasad being a government servant (Revenue Sub-Inspector, Baragain) was part of a syndicate that was habitually involved in illegal activities pertaining to forgeries and tampering with government records aimed at acquiring landed properties. As such, the information with respect to Bhanu Pratap Prasad and the documents seized from his possession was shared with the Chief Secretary, Govt. of Jharkhand under section 66(2) of the PMLA, 2002. On the basis of said information, the FIR was lodged by the Sadar P.S. The information shared under section 66(2) of PMLA, 2002 is an integral part of the FIR 272/2023 On the basis of the FIR no. 272/2023, the ECIRRNZO/25/2023 was recorded for further investigation under PMLA, 2002.

**<u>Investigation under PMLA, 2002 in ECIR: RNZO/25/2023-</u>**

The register seized from the possession of Bhanu Pratap Prasad are properties as per the definition provided under section 2(1)(v) of PMLA 2002 as it is involved/used in the commission of scheduled offence. Any forgery/criminality/tampering relatable to these properties (registers) come within the ambit of the investigation under the Prevention of Money Laundering Act, 2002.

**9.5** During investigation, the accused person Bhanu Pratap Prasad was taken into remand in ECIR: RNZO/18/2022 and the seized documents and his digital devices were scrutinized. The scrutiny of the mobile phone of Bhanu Pratap Prasad further led to the identification of one 8.86 acres property situated at Shanti Nagar, Behind DAV School, Bariatu, Ranchi, acquired and possessed by Hemant Soren. Another property admeasuring 4.83 acres which were acquired by the above stated syndicate of Bharu Pratap Prasad, Afshar Ali and others was also identified.

**9.6** Two surveys were conducted on 20.04.2023 as well as on 10.02.2024 at the above stated 8.86 acres land in the presence of the Circle Officer, Circle Inspector, Anchal Ameens and others. Both surveys confirmed the possession of Hemant Soren over the said 8.86 acres property. It was also revealed subsequently that the said 8.86 acres of property was acquired in an illegal and unauthorized manner with the assistance of Bhanu Pratap Prasad, thereby, being the proceeds of crime in hands of the accused person Hemant Soren. Several incriminating evidences including transfer of construction plans on the said property in between the accused persons were also recovered from the seized mobile phone of the associate Binod Kumar Singh which further corroborated direct links of the accused person Hemant Soren with the said property.

**9.9**As stated above, during investigation, another 4.83 acres property, situated at Cheshire Home Road, Mauja Gari, Ranchi was also identified to be acquired by the accused persons including Afshar Ali, Md. Saddam Hussain and others in connivance with Bhanu Pratap Prasad. Fake deeds, diaries having hand written cash details were also seized from possession of Md. Saddam Hussain, Imtiyaz

Ahmed (an accomplice of Afhsar Ali and Saddam Hussain). These entries contained huge cash payments including compensatory payment to Bhanu Pratap Prasad in relation of the above stated 4.83-acre property. ---

**9.10** Investigation revealed that the above stated 8.86 acres property was in concealed possession and use of Hemant Soren and the said Bhanu Pratap Prasad was assisting him in acquisition of the said property. ----

9.21 From the various documents gathered during the course of investigation, it has been established that Bhanu Pratap Prasad was member of the syndicate comprising of the accused persons namely Afshar Ali, Md. Saddam Hussain, Md. Irshad, Bipin Singh and others who were involved in acquiring landed properties by creating fake deeds. Bhanu Pratap Prasad also assisted several persons including Hemant Soren in acquiring properties in concealed and fraudulent manner. The recovery of the verification report of the said 8.86 acres property for benefit of the accused person Hemant Soren, the recovery of the brown-coloured file containing 44 pages exclusively related to said 8.86 acres property in possession of Hemant Soren (on which CMO Urgent Pintu was written) establish the assistance provided by Bhanu Pratap Prasad to Hemant Soren in fraudulently acquiring the said 8.86 acres property.

Involvement of the accused persons in acquiring property admeasuring 4.83 acres at Mouza Gari, Chesire Home Road, Ranchi, illegally by way of manufacturing fake deeds, in connivance with the accused Bhanu Pratap Prasad.

Investigation reveals that the syndicate used to identify vacant land parcels in Ranchi, where no activity was done. In addition to this the accused

> persons namely Afshar Ali, Priya Ranjan Sahay and others largely targeted tribal lands whose sale purchase were restricted under CNT Act. Then, they used to make antedated fake deeds either to change the nature of the property (making them general lands) or to create fictitious owners. Later with the assistance of officials of Cicle offices, the original records were falsified so that the land could be acquired by them. In addition, the above 8.86 acres of property as discussed above, the accused persons namely Md. Saddam Hussain, Afshar Ali, Priya Ranjan Sahay and others are also involved with Bhanu Pratap Prasad in forgery with respect to property admeasuring 4.83 acres situated at Mauja Gari, Khata no. 53, at Plot No. 31. 32, 33, 35, 36, 38, 72 and 73, Baragain Anchal, Ranchi. The land was identified by Priya Ranjan Sahay, Md. Saddam Hussain, Shekhar Kushwaha and Bipin Singh. For this property, two fake deeds, deed no. 2376 of the year 1940 and other 3954 of the year 1974 were prepared by Saddam Hussain, Md. Afshar Ali and others. Deed no. 2376 of 1940 was written by Makbul Ansari and the deed no. 3954 of 1974 was written by Md. Alauddin, by the involvement of the accused Md. Irshad, who used to work with Makbul Ansari and Md. Alauddin. The said Mabul Ansari and Md. Alauddin are now deceased. This fact has been admitted by the accused person Md. Irsad in his statement dated 24.04.2024 recorded u/s 50 of PMLA, 2002.

**57.** From the material available on record and also from counter affidavit *prima facie* it appears that the petitioner alleged to misused his official position as a Revenue Sub-Inspector and custodian of sensitive government records to facilitate a massive land scam and he provided the syndicate with illegal access to original land records and personally carried out or facilitated their forgery and manipulation, thereby enabling the fraudulent acquisition of high-value properties.

**58.** It has come on record that petitioner's had kept 17 original government registers (पंजी II) and 11 trunks of official documents at his private rented residence for security reasons, however, as a public servant, the petitioner was legally and duty-bound to maintain the custody and sanctity of these records within the designated government office.

**59.** It has been revealed in the investigation that the primary role of the petitioner was to facilitate the generation of massive proceeds of crime for the main beneficiaries like Hemant Soren and other syndicate members, and further there is direct and corroborative evidence of him receiving illicit payments for his illegal acts.

**60.** Further it has come in the investigation that handwritten diaries seized from co-accused Md. Saddam Hussain, which contain explicit entries of cash payments made to "Bhanu" in connection with the fraudulent acquisition of a 4.83-acre property. One entry specifically notes a payment to "Bhanu Rsiad" (Bhanu Prasad the present petitioner). Further, WhatsApp chats recovered from another co-accused, which show a transaction list where an entry "Bhanu 5" represents a payment of 25 Lakhs to the petitioner for his role in the same 4.83-acre land fraud.

**61.** Thus, admittedly the 17 original tampered registers and 11 trunks of documents seized from personal custody of the petitioner. Further, Forged Sale Deeds (eg. Deed No. 3954 of 1974, Deed No. 3985 of 1940) created and used by the syndicate of which petitioner was a pivotal member. Handwritten diaries and WhatsApp chats of co-accused persons evidencing cash payments to the petitioner.

**62.** Thus, during searches conducted on April 13, 2023, at the petitioner's rented residence, a huge cache of official documents was seized, including 11 trunks of voluminous property documents and 17 original government land revenue registers (पंजी II). The petitioner had illegally removed these critical records from the Circle Office and kept them at his private residence, an act indicative of a intent of the petitioner to tamper with evidence. Examination of these seized registers revealed widespread tampering, falsification, and forgery, where names of original landowners were erased or overwritten to illegally insert new names, thereby unlawfully changing the nature of lands to extend undue benefits to members of the syndicate and other influential individuals.

**63.** Thus, prima facie the petitioner's argument that no offence under Section 3 of the PMLA is made out is legally flawed. Further, the offence of money laundering explicitly includes any person who "knowingly assists or knowingly is a party or is actually involved in any process or activity connected with proceeds of crime including its concealment, possession, acquisition or use, therefore, the contention of the learned counsel for the petitioner is not tenable herein.

**64.** The learned counsel for the petitioner has further contended that case rests solely on the confessional statements under Section 50 of the PMLA and as such it is not admissible as evidence against the petitioner.

**65.** In the aforesaid context it needs to refer herein that the three Judges Bench of the Hon'ble Apex Court in the case of ***Rohit Tandon vs. Directorate of Enforcement, (2018) 11 SCC 46*** has held that the statements of witnesses recorded by Prosecution-ED are admissible in evidence, in view of Section 50. Such statements may make out a formidable case about the involvement of the accused in the commission of the offence of money laundering.

**66.** It is evident that the instant case, is supported by a wealth of independent and corroborative evidence, including Physical Evidence as the 17 original tampered registers and 11 trunks of documents seized from the personal custody of the petitioner and further Forged Sale Deeds created and used by the syndicate of which he was alleged to be a pivotal member. Further Handwritten diaries and WhatsApp chats of co-accused persons evidencing cash payments to the petitioner.

**67.** The investigation revealed that the petitioner, a public servant, was a key member of this land-grabbing syndicate. During searches conducted on April 13, 2023, at the petitioner's rented residence, a huge cache of official documents was seized, including 11 trunks of voluminous property documents and 17 original government land revenue registers (पंजी II). The petitioner had illegally removed these critical records from the Circle Office and concealed them at his private residence, an act indicative of a clear intent to tamper with evidence. Examination of these seized registers revealed widespread tampering, falsification, and forgery, where names of original landowners were erased or overwritten to illegally insert new names, thereby unlawfully changing the nature of lands to extend undue benefits to members of the syndicate and other influential individuals.

**68.** Thus, the contention of learned counsel for the petitioner that the instant case rests solely on the statements recorded under Section 50 of the PMLA is not tenable rather the instant case is supported by a strong and coherent body of evidence drawn from multiple independent sources, which together establish the petitioner's active and knowing involvement in the offence of money laundering.

**69.** Thus, from aforesaid imputation and discussion prima-facie it appears that the involvement of present petitioner in alleged crime cannot be denied.

**70.** Further, it requires to refer herein that the burden of proof is on the petitioner until the contrary is proved, the same is observed in various judicial pronouncements and upheld in the case of ***Vijay Madanlal Choudhary (supra)***. Further in ***Rohit Tandon v. Directorate of Enforcement, (2018) 11 SCC 46***, the Hon'ble Supreme Court has also observed that the provisions of section 24 of the PMLA provide that unless the contrary is proved, the authority or the Court shall presume that proceeds of crime are involved in money laundering and the burden to prove that the proceeds of crime are not involved, lies on the appellant.

**71.** Further, the offence of money laundering as contemplated in Section 3 of the PMLA has been elaborately dealt with by the three Judge Bench in ***Vijay Madanlal Choudhary (supra)***, in which it has been observed that Section 3 has a wider reach. The offence as defined captures every process and activity in dealing with the proceeds of crime, directly or indirectly, and is not limited to the happening of the final act of integration of tainted property in the formal economy to constitute an act of money laundering. Of course, the authority of the Authorised Officer under the Act to prosecute any person for the offence of money laundering gets triggered only if there exist proceeds of crime within the meaning of Section 2(1)(u) of the Act and further it is involved in any process or activity.

**72.** Further, it is settled proposition of law that if a person who is unconnected with the scheduled offence, knowingly assists the concealment of the proceeds of crime or knowingly assists the use of proceeds of crime, in that case, he can be held guilty of committing an offence under Section 3 of the PMLA. Therefore, it is not necessary that a person against whom the offence under Section 3 of the PMLA is alleged must have been shown as the accused in the scheduled offence.

**73.** Herein the 17 seized original government registers are the primary incriminating evidence in this case, as the investigation has established that these records were illegally removed from the government office, concealed by the petitioner, and were subsequently tampered with to create fraudulent land titles. The explanation that these crucial government records were kept at his rental house for a security reason is a self-serving afterthought, unsubstantiated by any official order or logical reasoning. The very act of illegally removing and concealing these registers proves the petitioner's malicious intent and his active role in the criminal conspiracy.

**74.** Thus, this Court, after taking note of the settled legal proposition, is of view that the contention of the learned counsel for the petitioner is not tenable in the eye of law.

**75.** Thus, from the aforesaid deduction, the involvement of the present petitioner in the alleged crime, prima-facie appears to be true.

**76.** So far as the issue of grant of bail under Section 45 of the Act, 2002 is concerned, as has been referred hereinabove, the judgment rendered in ***Vijay Madanlal Choudhary and Ors. Vs. Union of India and Ors.(supra),*** it has been held therein by making observation that whatever form the relief is couched including the nature of proceedings, be it under Section 438 of the 1973 Code or 439 for that matter, by invoking the jurisdiction of the Constitutional Court, the underlying principles and rigors of Section 45 of the 2002 must come into play and without exception ought to be reckoned to uphold the objectives of the 2002 Act, which is a special legislation providing for stringent regulatory measures for combating the menace of money-laundering.

**77.** Therefore, the conditions enumerated in Section 45 of P.M.L.A. will have to be complied with even in respect of an application for bail made under Section 439 Cr.P.C. That coupled with the provisions of Section 24 provides that unless the contrary is proved, the authority or the Court shall presume that proceeds of crime are involved in money laundering and the burden to prove that the proceeds of crime are not involved, lies on the appellant.

**78.** Further, it is evident from the judicial pronouncement as discussed above that in order to constitute any property as proceeds of crime, it must be derived or obtained directly or indirectly by any person as a result of criminal activity relating to a scheduled offence. The explanation clarifies that the proceeds of crime include property, not only derived or obtained from scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence. Section 2(1)(u) also clarifies that even the value of any such property will also be the proceeds of crime and in the instant case from perusal of paragraph of the prosecution complaint it is evident that the petitioner is not only involved rather his involvement is direct in procuring the proceeds of crime by way of connivance with the other accused persons.

**79.** In the instant case the investigation under PMLA was initiated only after the registration of a predicate offence, ie, FIR No. 272/23, which includes offences of cheating and forgery under Sections 420 and 467 of the IPC. Therefore, it cannot be stated that action was taken on an "assumption" rather the 'proceeds of crime in the instant case have been clearly identified as the high-value properties illegally acquired through forgery and further from record it is evident that the illicit cash payments (bribes) received by the petitioner for his role in "knowingly assisting in the criminal activities that generated these proceeds, therefore the aforesaid properties and illicit gains are thus squarely covered by the definition under Section 2(1)(u) of the PMLA.

**80.** Thus, on the basis of the discussion made hereinabove the contention of the learned counsel for the petitioner that even if the entire ECIR will be taken into consideration, no offence will be said to be committed so as to attract the ingredients of Sections 3 & 4 of the P.M.L. Act, 2002, is totally misplaced in the light of accusation as mention in prosecution complaint.

**81.** So far as the issue of period of custody as agitated by learned counsel for the petitioner is concerned, it is settled proposition of law which has been settled by the Hon’ble Apex Court that the long incarceration (herein about 21 month) or delay in trial alone cannot be ground to release the petitioner on bail, rather in case of scheduled offences/special offences the seriousness of the matter and the societal impact should be taken in to consideration by the Court concerned while enlarging the petitioner on bail.

**82.** At this juncture, the learned counsel for ED has submitted at Bar that all endeavour will be taken to expedite the trial and now the ED has taken his all endeavour to examine the further witnesses and there is likelihood that witnesses will be examined and they will try to examine remaining witnesses expeditiously.

**83.** This Court is conscious with the fact that personal liberty is utmost requirement to maintain the individuality of the person concerned but at the same time it is equally settled that the balance between personal liberty and societal impact of the alleged offence should be taken care of by the Court concerned.

**84.** Further, the Hon'ble Apex Court while dealing with the offences under UAP Act 1967, in the case of ***Gurwinder Singh v. State of Punjab(supra)*** and taking in to consideration the ratio of judgment of ***Union of India vs. K.A. Najeeb, (2021) 3 SCC 713*** has observed that mere delay in trial pertaining to grave offences as one involved in the instant case cannot be used as a ground to grant bail, for ready reference the relevant paragraph is being quoted as under:

> *"46. As already discussed, the material available on record indicates the involvement of the appellant in furtherance of terrorist activities backed by members of banned terrorist organisation involving exchange of large quantum of money through different channels which needs to be deciphered and therefore in such a scenario if the appellant is released on bail there is every likelihood that he will influence the key witnesses of the case which might hamper the process of justice. Therefore, mere delay in trial pertaining to grave offences as one involved in the instant case cannot be used as a ground to grant bail. Hence, the aforesaid argument on behalf of the appellant cannot be accepted."*

**85.** Thus, on the basis of the aforesaid settled position of law it is evident that mere delay in trial pertaining to grave offences as one involved in the instant case cannot be used as a ground to grant bail.

**86.** Admittedly, the petitioner has been in judicial custody since February, 2024 but the said incarceration, under the aforesaid circumstances, does not entitle the petitioner to bail. The Hon'ble Supreme Court in ***Tarun Kumar v. Directorate of Enforcement,2023 SCC OnLine SC 1486***, has authoritatively held that while the period of custody may be a relevant factor, it cannot by itself override the gravity of the offence, the seriousness of allegations or the statutory twin conditions under Section 45 of the Act 2002.

**87.** In ***Kalyan Chandra Sarkar v. Rajesh Ranjan, (2004) 7 SCC 528,*** the Hon'ble Supreme Court held that the mere period of incarceration is not a sufficient ground for bail when the gravity of the offence is severe and there are allegations of tampering.

**88.** Similarly, in ***Satyendar Kumar Jain v. Directorate of Enforcement, 2024 SCC OnLine SC 317***, the Hon'ble Apex Court refused bail despite protracted proceedings.

**89.** It requires to refer herein that respondent ED has specifically express serious apprehension in the Counter affidavit at para 50 that, if petitioner enlarged on bail, he may misuse his liberty to derail the ongoing trial averred, for ready reference the aforesaid paragraph is being quoted as under:

> "50. ----The primary considerations must remain the gravity of the offence, the strength of the material collected during investigation, and the likelihood of the petitioner interfering with the fair administration of justice. It is submitted that the investigation has revealed that the petitioner, by virtue of his official position and domain expertise in land revenue matters, actively facilitated the concealment and manipulation of vital government records. Such conduct clearly establishes a deliberate attempt to frustrate the process of law. It is further submitted that there exists a credible and serious apprehension that, if enlarged on bail, the petitioner may again misuse his liberty to derail the ongoing trial. Accordingly, the petitioner does not satisfy the stringent

> twin conditions prescribed under Section 45 of the Prevention of Money Laundering Act, 2002."

**90.** Thus, given the grave nature of the allegations and the strict statutory framework governing bail under the PMLA, no ground exists for the petitioner to claim the benefit of bail either on merits or on account of delay. The gravity of the offence, misuse of a high public office, and the serious allegations of facilitating the laundering of proceeds of crime continue to justify the petitioner's custody under the strict rigours of Section 45 of the Act 2002.

**Issue of parity**

**91.** It has been contended that other several co-accused persons namely Md. Irshad, Bipin Kumar Singh and Priya Ranjan Sahayhave been granted bail either by this Court or by the Hon'ble Supreme Court, therefore the present petitioner is also eligible for such liberty.

**92.** Per contra the learned counsel for ED has stated that the petitioner's plea for bail on the grounds of parity is wholly misplaced and untenable because the role of the petitioner is entirely distinct and far more egregious than that of the other co-accused who have been granted bail.

**93.** Now coming to the ground of parity as raised by the learned counsel for the petitioner, the law is well settled that the principle of parity is to be applied if the case on fact is exactly similar then only the principle of parity in the matter of passing order is to be passed but if there is difference in between the facts then the principle of parity is not to be applied.

**94.** It is further settled connotation of law that Court cannot exercise its powers in a capricious manner and has to consider the totality of circumstances before granting bail and by only simple saying that another accused has been granted bail is not sufficient to determine whether a case for grant of bail on the basis of parity has been established. Reference in this regard may be made to the judgment rendered by the Hon'ble Apex Court in ***Ramesh Bhavan Rathod vs. Vishanbhai Hirabhai Makwana &Anr., (2021) 6 SCC 230***, wherein, it has been held as under:

> *"**25.** We are constrained to observe that the orders passed by the High Court granting bail fail to pass muster under the law. They are oblivious to, and innocent of, the nature and gravity of the alleged offences and to the severity of the punishment in the event of conviction. In Neeru Yadav v. State of U.P. [Neeru Yadav v. State of U.P., (2014) 16 SCC 508 :] , this Court has held that while applying the principle of parity, the High Court cannot exercise its powers in a capricious manner and has to consider the totality of circumstances before granting bail. This Court observed : (SCC p. 515, para 17)*
>
> *"17. Coming to the case at hand, it is found that when a stand was taken that the second respondent was a history-sheeter, it was imperative on the part of the High Court to scrutinise every aspect and not capriciously record that the second respondent is entitled to be admitted to bail on the ground of parity. It can be stated*

*with absolute certitude that it was not a case of parity and, therefore, the impugned order [Mitthan Yadav v. State of U.P., 2014 SCC OnLine All 16031] clearly exposes the non-application of mind. That apart, as a matter of fact it has been brought on record that the second respondent has been charge-sheeted in respect of number of other heinous offences. The High Court has failed to take note of the same. Therefore, the order has to pave the path of extinction, for its approval by this Court would tantamount to travesty of justice, and accordingly we set it aside.*

***26.*** *Another aspect of the case which needs emphasis is the manner in which the High Court has applied the principle of parity. By its two orders both dated 21-12-2020 [PravinbhaiHirabhai Koli v. State of Gujarat, 2020 SCC OnLine Guj 2986] , [KhetabhaiParbatbhai Makwana v. State of Gujarat, 2020 SCC OnLine Guj 2988] , the High Court granted bail to Pravin Koli (A-10) and Kheta Parbat Koli (A-15). Parity was sought with SidhdhrajsinhBhagubha Vaghela (A-13) to whom bail was granted on 22-10-2020 [SiddhrajsinhBhagubha Vaghela v. State of Gujarat, 2020 SCC OnLine Guj 2985] on the ground (as the High Court recorded) that he was "assigned similar role of armed with stick (sic)". Again, bail was granted to Vanraj Koli (A-16) on the ground that he was armed with a wooden stick and on the ground that Pravin (A-10), Kheta (A-15) and Sidhdhrajsinh (A-13) who were armed with sticks had been granted bail. The High Court has evidently misunderstood the central aspect of what is meant by parity. Parity while granting bail must focus upon the role of the accused. Merely observing that another accused who was granted bail was armed with a similar weapon is not sufficient to determine whether a case for the grant of bail on the basis of parity has been established. In deciding the aspect of parity, the role attached to the accused, their position in relation to the incident and to the victims is of utmost importance. The High Court has proceeded on the basis of parity on a* *simplistic assessment as noted above, which again cannot pass muster under the law."*

**95.** The Hon'ble Apex Court in ***Tarun Kumar Vs. Assistant Director Directorate of Enforcement (supra)*** wherein at paragraph-18, it has been held that parity is not the law and while applying the principle of parity, the Court is required to focus upon the role attached to the accused whose application is under consideration.

**96.** Now, this Court is adverting to the facts of instant case to decide the issue of parity in the backdrop of aforesaid settled legal ratio and as such thinks it fit to discuss herein distinguishable facts in the case of present petitioner to that of the case of co-accused persons who have been granted bail.

**97.** This Court, in order to verify the issue of principle of parity, has gone through the order by which, co-accused have been enlarged on the bail and found that the distinguishing factors are:

(i). The petitioner was a public servant who gravely breached the trust reposed in him by the State.

(ii) He had played active assistance providing illegal access to original records and personally carrying out the forgeries and without his assistance the land fraud of this magnitude would not have been possible.

(iii) The gravity of an offence committed by a custodian of public records is of a significantly higher degree, therefore, he cannot claim parity with private individuals who were part of the syndicate.

**98.** Thus, from the aforesaid, the role of present petitioner/ accused is comparable to that of the co-accused who has been granted bail. In the present case, the petitioner's role is fundamentally different and far more serious. Unlike the co-accused individuals such as Md. Irshad, Bipin Kumar Singh, and Priya Ranjan Sahay who are private persons, the petitioner was a public servant holding the post of Revenue Sub-Inspector, entrusted with the custody of sensitive land records. He grossly misused his official position and violated the public trust. It has been alleged that he was the central figure in the conspiracy, playing a key role in providing illegal access to official land records (Register-II), which enabled the syndicate to carry out large-scale land fraud, including the illegal acquisition of the 8.86-acre and 4.83-acre parcels of land. Prima facie it appears that he knowingly facilitated the alteration of Register-II to change the classification of a restricted property and accepted bribes for doing so. His actions were not incidental; therefore, his role cannot be equated with that of the other co-accused, and the claim of parity is without any merit.

**99.** Herein the petitioner systematically misused his official position as a Revenue Sub-Inspector and custodian of sensitive government records to facilitate a massive land scam and *prima facie* it appears that he provided the syndicate with illegal access to original land records and personally carried out or facilitated their forgery and manipulation, thereby enabling the fraudulent acquisition of high-value properties.

**100.** Further, it requires to refer herein that the Money Laundering is an economic offence and economic offences come under the grave offences, as has been held by the Hon'ble Apex Court in the case of ***Y. S Jagan Mohan Reddy Vs. C. B. I.,*** reported in ***(2013) 7 SCC 439***. For ready reference, the relevant paragraph of the aforesaid judgment is being quoted as under:

> "**34.** Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deeprooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country."

**101.** Similarly, the Hon'ble Apex Court in case of ***Nimgadda Prasad Vs. C.B.I.***, reported in ***(2013) 7 SCC 466*** has reiterated the same view in paragraph-23 to 25, which reads as under:

"**23.** Unfortunately, in the last few years, the country has been seeing an alarming rise in white-collar crimes, which has affected the fibre of the country's economic structure. Incontrovertibly, economic offences have serious repercussions on the development of the country as a whole. In State of Gujarat v. Mohanlal Jitamalji Porwal [(1987) 2 SCC 364 : 1987 SCC (Cri) 364] this Court, while considering a request of the prosecution for adducing additional evidence, inter alia, observed as under: (SCC p. 371, para 5)

"5. … The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white-collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest."

**24.** While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests ofthe public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the court dealing with the

> grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.
>
> **25.** Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offence having deeprooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as a grave offence affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country."

**102.** It is, thus, evident from the discussion made hereinabove that so far as the case of the present petitioner is concerned, the twin condition as provided under Section 45(1) of the Act, 2002 is not being fulfilled so as to grant the privilege of bail to the present petitioner.

**103.** For the foregoing reasons, having regard to the facts and circumstances, as have been analyzed hereinabove and further taking into consideration that the petitioner systematically misused his official position as a Revenue Sub-Inspector and custodian of sensitive government records to facilitate a massive land scam and further the cash payments (bribes) received by the petitioner for his role in knowingly assisting in the criminal activities that generated these proceeds, the applicant/petitioner failed to make out a case for exercise of power to grant bail and considering the facts and parameters, this Court therefore does not find any exceptional ground to exercise its discretionary jurisdiction to grant bail.

**104.** Therefore, this Court is of the view that the bail application is liable to be rejected.

**105.** Accordingly, based upon the aforesaid discussion, this Court is of the view that the instant application is fit to be dismissed and as such, stands dismissed.

**106.** The observation/finding, as recorded hereinabove, is only for the purpose of consideration of issue of bail. The same will not prejudice the issue on merit in course of trial.

**107.** Pending interlocutory application(s), if any, also stands disposed of.

**(Sujit Narayan Prasad J.)**

**26/11/2025**

Nibha/A.F.R.

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