



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. _____/2025
[ARISING OUT OF SPECIAL LEAVE PETITION (CRIMINAL)
NO.3148/2025]

ANIL TUTEJA

APPELLANT(S)

VERSUS

DIRECTORATE OF ENFORCEMENT

RESPONDENT(S)

O R D E R

1. Leave granted.
2. Heard learned senior counsel appearing for the appellant. The appellant was arrested in connection with offence punishable under Section 3 of the Prevention of Money Laundering Act, 2002 (for short, 'the PMLA') on 21st April, 2024. On a complaint filed by the respondent under Section 44 (1)(b) of the PMLA, cognizance was taken on 5th October, 2024 by the Special Court. Our attention is invited to the order dated 2nd April, 2025 passed by the High Court of Chhatisgarh, Bilaspur

in CRR No.246/2025 by which the order of cognizance passed by the Special Court under the PMLA has been set aside as against the appellant on the ground that a sanction under Section 197 of the Code of Criminal Procedure, 1973 - (Section 218 of the Bharatiya Nagarik Suraksha Sanhita, 2002) was not granted before the order taking cognizance. The order dated 17th April, 2025 has not been challenged.

3. Thus, the factual position which emerges is that (a) as of today, cognizance of the offense under the PMLA has not been taken as far as the appellant is concerned; (b) the appellant has undergone incarceration for about 1 year; (c) there are 20 accused who will have to be heard on charge and (d) more than 30 prosecution witnesses have been cited.

4. The maximum sentence which can be imposed in this case is for imprisonment for 7 years. Looking to aforesaid factual aspects noted in paragraph 3,

there is no possibility of commencement of trial in near future. Therefore, the principles laid down by this Court in the case of *V. Senthil Balaji vs. The Deputy Director, Directorate of Enforcement*¹, will apply. Moreover, in similar fact situation, this Court by order dated 12th February, 2025 in Criminal Appeal No.725 of 2025 has granted bail to a co-accused. Hence, the appellant is entitled to be enlarged on bail.

5. Learned Additional Solicitor General submitted that the appellant - a retired civil servant, is a very influential person and therefore, he has potential to tamper with the prosecution evidence. If that be so, appropriate stringent conditions will have to be imposed.

6. We direct the respondent to produce the appellant before the Court of learned Principal District and Sessions Judge of the concerned district for completing bail formalities. We are

issuing this direction as we are informed by learned ASG that the Special Court constituted under Section 43(1) of the PMLA is lying vacant as there is no judicial officer appointed.

7. The Sessions Court shall enlarge the appellant on bail pending the complaint subject to stringent terms and conditions as may be fixed after hearing the respondent. The conditions will include (a) surrender of passport, if any (b) furnishing an undertaking on oath to the Special Court that in case cognizance of the complaint is taken, he will regularly and punctually attend the Trial Court and shall cooperate with the Trial Court for early disposal of the case.

8. In the event it is found that the appellant is not cooperating with the Special Court for early disposal of the case or commits a breach of any of the conditions of bail, it will be open for the respondent to apply for cancellation of bail before the Special Court.

9. Under Section 43(1) of the PMLA, the Central Government in consultation with the Chief Justice of the High Court, has a power to designate one or more courts of Sessions as Special Court for a particular area. We direct the Central Government to immediately exercise powers under sub-Section 1 of Section 43 and designate a Sessions Judge to preside over the Special Court so that the complaint can be taken up for considering the prayer of the respondent for taking cognizance. All issues concerning the said prayer are kept open.

10. The appeal is accordingly allowed.

11. Pending application(s), if any, shall stand disposed of.

.....J.
(ABHAY S.OKA)

.....J.
(UJJAL BHUYAN)

NEW DELHI;
APRIL 15, 2025.

Mr. Sidak Singh Anand, Adv.
Ms. Arshiya Ghose, Adv.
Mr. Prashanth Prakash, Adv.
Mr. Vismita Diwan, Adv.
Ms. Samridhi, Adv.
Mr. Chetan Nagpal, Adv.

For Respondent(s) : Mr. Suryaprakash V. Raju, A.S.G.
Ms. Kanu Agrawal, Adv.
Mr. Padmesh Mishra, Adv.
Mr. Arkaj Kumar, Adv.
Mr. Animesh Upadhyay, Adv.
Mr. Arvind Kumar Sharma, AOR
Ms. Divya S. Rao, Adv.
Ms. Nidhi Saini, Adv.
Mr. Prakhar Bharadwaj, Adv.
Ms. Deepika Gahlot, Adv.

**UPON hearing the counsel the Court made the
following O R D E R**

The appeal is allowed in terms of the signed order which is placed on the file.

The operative portion of the signed order reads thus:

"7. The Sessions Court shall enlarge the appellant on bail pending the complaint subject to stringent terms and conditions as may be fixed after hearing the respondent. The conditions will include (a) surrender of passport, if any (b) furnishing an undertaking on oath to the Special Court that in case cognizance of the complaint is taken, he will regularly and punctually attend the Trial Court and shall cooperate with the Trial Court for early disposal of the case.

Pending application(s), if any, shall stand disposed of.

(KAVITA PAHUJA)
ASTT. REGISTRAR-cum-PS

(AVGV RAMU)
COURT MASTER (NSH)