

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**CrMPs(M) No. : 2206 & 2208 of 2025****Reserved on : 20.07.2026****Decided on : 21.07.2026****Uploaded on : 21.07.2026****CrMP (M) No. 2206 of 2025**

Mandeep Rana

...Applicant

Versus

Directorate of Enforcement

...Respondent

.....

CrMP (M) No. 2208 of 2025

Ashoni Kanwar

...Applicant

Versus

Directorate of Enforcement

...Respondent

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

For the applicant(s) : Mr. N.S. Chandel, Senior Advocate with Mr. Shivam Gupta and Ms. Kanika Verma, Advocates.

For the respondent(s) : Mr. Zoheb Hussain, Advocate, (through Video Conferencing), with Mr. Ajeet Singh Saklani, Advocate.

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

Virender Singh, Judge.

Both these bail applications are being decided by this common order, as, both these applications have been filed, by the applicants, under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS'), in case, registered vide **ECIR/SHSZO/05/2020**, dated **17th September, 2020**, 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'), as, they are apprehending their arrest, in the above titled case.

2. According to the applicants, they are innocent persons and have falsely been implicated, in the present case.

3. Both the applicants are permanent residents of 9/8, Sadarpura, Gali No. 1, Udaipur, Rajasthan. According to the applicants, both of them belong to respectable family and having deep roots in the society.

4. As per the applicants, three criminal cases, vide FIRs No. 22 of 2020, 26 of 2020 and 27 of 2020, have been registered with Police Station Dharampur, District Solan, H.P., regarding fake degree scam of Manav Bharti University. On the basis of those FIRs, the present ECIR has been registered. Both the applicants have been named as accused, in the above ECIR, and, as such, they are apprehending their arrest, in the said case.

5. According to them, they have no role in the admission of students of Manav Bharti University, as, the process of admission and other related affairs of the University are managed by the Vice Chancellor, who further delegates the same to the Registrar, Deputy Registrar, etc.

6. As per the further case of the applicants, the Manav Bharti University has been regularly making written complaints to the concerned officials at Police Station, Dharampur, with respect to the act of maligning the name of University, by vested interests, by issuing forged and fabricated certificates, in the name of Manav Bharti

University, however, no action has been taken by the concerned authorities.

7. It is the case of the applicants that the University itself has made a complaint to Police Station Dharampur, with regard to 800 forged degrees issued, while, misusing the name of Manav Bharti University

8. It is the further case of the applicants that nothing has been collected by the respondent-ED to connect them with the alleged transaction and nothing has to be recovered from them or at their instance.

9. Investigation of the case is stated to be complete and nothing incriminating is stated to have been found against the applicants. As per the applicants, their custodial interrogation is not required by the Investigating Agency.

10. It is also the case of the applicants that no steps have been taken by the ED for effecting the service upon the applicants and they are coming to India on emergency Travel Certificates, as, their passports have been revoked and it is very difficult for them to enter India.

11. These facts have been highlighted by the applicants to demonstrate their *bona fides* to come to India and to join the investigation. According to them, when, the applicants came to know about the emergency Travel Certificate, which is issued for travelling to India, they immediately applied for the emergency Travel Certificates.

12. According to the applicants, the learned Special Judge (PMLA), Shimla, had also issued look out circulars, as well as, the non-bailable warrants, against them, in the present ECIR, which, vide orders, dated 8th August, 2025 and 11th August, 2025, have been ordered to be kept in abeyance, in view of the applications, made by the applicants, enabling them to return to the country.

13. The applicants have also sought the relief of bail, on the ground of parity, as, according to the applicants, one of the accused in ECIR No. SHSZO/05/2020, dated 17th September, 2020 has filed similar bail application, before this Court, which has been allowed, by this Court, vide order, dated 25th November, 2020.

14. The applicants are stated to be presently residing at U 909, 36-46, Cowper Street, Parramatta, 2150, New South Wales, Australia.

15. On all these submissions, the learned counsel appearing for the applicants, has prayed that the bail applications may kindly be allowed and directions, under Section 482 of the BNSS, may be issued to the respondent-ED, to release the applicants, on bail, in the even of their arrest.

16. When put to notice, the prayer made in the bail applications has been opposed by the respondent-ED, by filing the replies, taking preliminary objections that the present applications, under Section 482 of the BNSS, are not maintainable, as, the offences, in which, the applicants have been named as accused persons, are grave in nature and pertain to large scale issuance of fake degrees by Manav Bharti University and laundering of the illegal proceeds generated therefrom. The applicants are stated to be the key conspirators in the alleged crime.

16.1. Apart from this, another preliminary objection has been taken by the ED that the economic offences

constitute a class apart, as such, the relief, as sought, in the bail applications, cannot be granted to the applicants.

16.2. It is the further case of the ED that the rigors of Section 45 of the PMLA are applicable, to the present case and before granting the relief to the applicants, assought by them, it is mandatory, for this Court, to record the findings, which should be more than *prima facie*, qua existence of twin conditions, as enumerated in Section 45 of the PMLA. In this regard, reliance has been placed by the ED, on the judgment of the Hon'ble Supreme Court, in **Vijay Madanlal Choudhary versus Union of India**, reported in **(2022) 10 Supreme Court Cases 1**.

16.3. According to the ED, the applicants have been dis-entitled from discretionary relief, under Section 482 of the BNSS, as, they remained outside India for several years, avoiding investigation of the case and only after issuance of look out circulars and non-bailable warrants, they made efforts to return on emergency Travel Certificates. The bonafides of the applicants has also been doubted by the ED.

16.4. These facts have been pleaded by the ED to demonstrate that the applicants are evading the process of law and not cooperating with the investigation. The investigation is still stated to be in progress and custodial interrogation of the applicants is stated to be necessary to trace the proceeds of crime, running into several crores.

16.5. The ground of parity, upon which, the relief of bail has been sought, has also been contested by pleading that the role attributed to the applicants is altogether different from the role, which has been alleged against accused-Raj Kumar Rana.

16.6. According to the ED, the applicants have failed to surrender in pursuance of the non-bailable warrants, in the proceedings, initiated to declare the accused persons as proclaimed offenders and vide order, dated 4th May, 2024, the learned Special Judge has initiated the proceedings, under Section 84 of the BNSS. The applicants are stated to be aware of the order, dated 4th May, 2024 and they, according to the ED, have failed to annex the orders passed by the learned Special Judge,

which, according to the ED, amounts to suppression of the material facts.

16.7. As per the stand of the ED, the applicants, instead of surrendering themselves to the jurisdiction of the Court, have chosen to abscond from the process of law and initiation of the proclamation proceedings, according to the ED, is sufficient to dis-entitle the applicants from the relief, as sought, in the present bail applications.

16.8. An objection has also been taken that the applicants should have filed the present applications, at the first instance, before the learned trial Court.

16.9. It is the further case of the ED that the applicants have deliberately evaded the process of law, as such, they cannot be permitted to play with the process of the Court.

16.10. On merits, the bail applications have been contested, by the ED, by pleading that the Director General of Police, vide DO letter, dated 11th September, 2020, informed that three criminal cases, i.e., FIRs No. 22/20, 26/20 and 27/20, under Sections 420, 467, 468 and 120B of the Indian Penal Code (hereinafter referred to as 'IPC')

have been registered with Police Station Dharampur, District Solan, in fake degree scam of Manav Bharti University.

16.11. During the course of investigation, made by the Special Investigation Team of Himachal Pradesh Police, a large number of fake degrees have been found to have been issued by the Manav Bharti University to the candidates in lieu of money. It has also been informed that besides laundering money, huge movable and immovable properties had been acquired by accused-Raj Kumar Rana, Chairman of Manav Bharti Charitable Trust in Himachal Pradesh, Rajasthan and other places with funds generated through issue of fake degrees. The family of accused-Raj Kumar Rana is stated to be residing in Australia.

16.12. As per the information received from the Superintendent of Police, Solan, vide letter, dated 15th September, 2020, by that date, a total of 104 fake degrees, each valuing to ₹ 1,00,000/- had been identified, which were issued by Manav Bharti University, Solan.

16.13. Thereafter, according to the ED, after investigation in case FIR No. 22/20, dated 3rd March, 2020,

charge sheet and supplementary charge sheet have been filed against accused-Raj Kumar Rana, Krishan Kumar Singh, Anupam Thakur and Munish Goyal, before JMFC-I, Solan and in case FIR No. 27/20, dated 8th March, 2020, charge sheet has been filed against accused-Parmod Kumar, Raj Kumar Rana, Krishan Kumar Singh and Manu Singh before JMFC-I.

16.14. As per the case of the ED, during the course of investigation, it has been found by the Investigating Agency that accused-Raj Kumar Rana, taking advantage of Himachali origin of his wife Ashoni Kanwar, purchased a piece of land, measuring 35 bigha 4 biswa, in Village Lado, Sultanpur, Solan, in the name of his wife and under well planned criminal conspiracy, got registered Manav Bharti Charitable Trust, in the year 2006, wherein, he himself acted as Chairman and his wife Ashoni Kanwar and his father in law Dharamvir Singh as Trustees. Thereafter, Ashoni Kanwar leased out 30 bigha land, out of aforesaid 35-4 bigha of land, for 30 years, at the rate of ₹ 50,000/- per month to Manav Bharti Charitable Trust. Subsequently, accused-Raj Kumar Rana constructed

Manav Bharti University, Solan, on this land. This University worked under the Manav Bharti Charitable Trust and accused-Raj Kumar Rana managed all the affairs of the Trust and University. He also operated all the bank accounts in the name of Manav Bharti Charitable Trust and Manav Bharti University, Solan.

16.15. As per the further case of ED, in terms of the Himachal Pradesh Private University Act, 2009, minimum 50 bigha land is required for establishment of any University in Himachal Pradesh, but, only 30 bigha land was available with Manav Bharti University at Laddo Sultanpur, District Solan. Accused-Raj Kumar Rana has fraudulently shown additional land in a village, which is 50-60 kms away, in District Sirmaur, as land of Manav Bharti University, Solan and established Manav Bharti University, Solan.

16.16. Thereafter, accused-Raj Kumar Rana started his business of issuance of fake degrees in the name of Manav Bharti University, Solan, in the year 2009. Subsequently, one more University, namely Madhav University, Pindwara, Abu Road, Sirohi, Rajasthan, was

established by accused-Raj Kumar Rana, under the aegis of Manav Bharti Charitable Trust in the year 2013, issued fake degrees in the name of Madhav University, also.

16.17. Accused-Raj Kumar Rana is stated to have submitted fraudulent documents to the University Grants Commission at the time of registration and had shown one Sarika and Krishan Kumar Singh as Trustees.

16.18. It has been mentioned in the reply that when, the searches were conducted by Himachal Pradesh Police at Admin Block of Manav Bharti University, Solan, on 6th March, 2020, 305 signed and unsigned Detail Marks Cards, for the period 2009-2015, were recovered and seized.

16.19. According to the ED, accused-Raj Kumar Rana had been running institute in Karnal and had issued fake degrees from there, as well. Prior to establishment of Manav Bharti University, Solan, accused-Raj Kumar Rana was running an institute in the name of Para Medical Council of India in Karnal and in the year 2009, after closure of said Para Medical Council of India, accused-Raj Kumar Rana started taking classes of Manav Bharti

University in Karnal, on the pretext that Manav Bharti University is under construction. Since the year 2009, accused-Raj Kumar Rana and his team, comprising Sarika, Kushmeet, Anjali, Ankit Gupta, Pramod, Sheeshpal and others, were operating from Karnal and running business of issuance of fake degrees in the name of Manav Bharti University.

16.20. As per the ED, in the year 2013, Sarika and others, on the instructions of accused-Raj Kumar Rana shifted to fourth floor of Admin Block in Manav Bharti University campus at Solan and continued issuance of fake degrees under instructions of accused-Raj Kumar Rana from there. Not only this, the fake degrees were also issued to the employees of Manav Bharti University and Madhav University, so that, they could be shown as faculty members, possessing the minimum standards/requirements of University Grants Commission and Education Department. The money was, thereafter, collected, on account of verification of fake degrees and issuance of migration certificates and the said amount was

handed over/deposited, as per the directions of accused-Raj Kumar Rana.

16.21. The further stand of the ED is that after registration of the FIR, accused-Raj Kumar Rana had sent his family members, i.e. applicant-Ashoni Kanwar (wife), Aina Rana (daughter) and applicant-Mandeep Rana (son), outside India in March, 2020 and refused to disclose their present whereabouts in Australia.

16.22. It is the further case of the ED that applicant-Mandeep Rana had opened various bank accounts and proceeds of crime generated from the criminal activity of sale of fake degrees, were deposited in the bank accounts of Manav Bharti Charitable Trust, Manav Bharti University and Madhav University by accused-Raj Kumar Rana. Mandeep Rana projected these proceeds of crime received in his bank accounts as salary from Manav Bharti Charitable Trust in his Income Tax Returns filed before the Income Tax Authorities. He never worked in any University or Manav Bharti Charitable Trust. Thereafter, the proceeds of crime received in his bank accounts were used for acquisition of properties. Not only this, he has also

purchased property at the lower rate than the circle rate and he has made payment of Rs.93,00,000/-, for purchasing other property from Bank account of Jagmal Singh. From this fact, it has been pleaded that the payments had only been arranged by accused Raj Kumar Rana from the proceeds of crime earned from the criminal activity of sale of fake degrees. Applicant-Mandeep Rana has knowingly assisted his father Raj Kumar Rana in the concealment of proceeds of crime and he is actually involved in the use of projection of proceeds of crime derived from the criminal activities i.e. sale of fake degrees, as such, he has committed the offence punishable under Section 3 and 4 of the PMLA.

16.23. On merits, the stand, as taken by the applicant, qua the fact that the ECIR is solely based upon FIR No. 27/2020, has also been denied and according to the ED, the subsequent investigation, which had independently been conducted, revealed that the applicants are involved in money laundering.

16.24. It is the further case of the ED that the investigation, in the present case, is going on and custodial

interrogation of the applicants is essential. Highlighting the justification for custodial interrogation, according to the ED, the same is required to unearth the full money trail and recovery of concealed assets.

16.25. As per the stand of the ED, the applicants remained absconded for years and failed to cooperate with the investigation and when, the lookout circulars and non-bailable warrants were issued, they had sought to return to India on an emergency travel certificate, however, their conduct demonstrates deliberate evasion of law. Further, it has been admitted that the learned Special Judge has ordered to put in abeyance the lookout circulars till 12th September, 2025, but, they have failed to keep their words and now, on the basis of the said interim order, the applicants cannot seek the relief, as claimed in the bail applications.

16.26. In this regard, the ED has also relied upon the order dated 8th August, 2025, passed by the learned Special Judge (PMLA), Shimla, wherein, it has been held that the order will not affect the power of the ED to arrest the accused under Section 19 of the PMLA.

16.27. The role, which has been attributed to accused-Raj Kumar Rana, is stated to be different to that of the applicants, as such, according to the ED, the applicants cannot seek the relief, on the ground of parity.

17. On 21st April, 2026, an additional affidavit has been filed by the ED. According to the ED, despite issuance of summons, under Section 50 of the PMLA, on various dates, the applicants had chosen not to put appearance. Thereafter, summons were also issued by learned Special Judge (PMLA), Shimla, when prosecution complaint was filed, however, despite service, they failed to put appearance. Those summons were stated to be served upon *Pairokar* of the accused persons, namely Raj Kumar Rana and by way of affixation, at their last known residential address. Said service is stated to be valid substituted service. When the accused persons failed to appear before the learned Special Court, non-bailable warrants are stated to have been issued. Thereafter, the proceedings to declare the applicants as proclaimed offenders were initiated. In this regard, the ED has relied

upon the proclamation, dated 10th May, 2024, issued by learned Special Judge (PMLA), Shimla.

17.1. It is the further case of the ED that the learned Special Court (PMLA) has granted multiple opportunities to the applicants to return to India by keeping the non-bailable warrants and look out circulars in abeyance, from 25th August, 2025 to 12th September, 2025, as one time measure, to enable them to return to India, but, they failed to do so. Thereafter, they have been declared Fugitive Economic Offenders, on 3rd January, 2026. According to the ED, the recourse to bring the applicants back to India, can be undertaken only upon availability of a verified and confirmed foreign address of the person and the same cannot be invoked as a roving or exploratory exercise. In the additional affidavit, a plea has also been taken by the ED that proceeds of crime have been quantified as ₹ 387 crores, as pleaded in the prosecution complaint. Out of the said amount, ED has attached a property of worth ₹ 200/- crores and further investigation for tracing the remaining proceeds of crime is stated to be going on.

17.2. The additional affidavit has been filed to counter the arguments made by the learned counsel appearing for the applicants, qua the fact, that despite knowing the address and knowing the fact that the applicants are residing in Australia, no efforts have been made by the ED to serve the notices upon them, by taking the recourse of the instructions issued in this regard.

17.3. In the additional affidavit, the arguments of the learned counsel for the applicants, have been met by pleading that the ED was not aware about the Australian address of the applicants. The ED has affixed the summons at the last known address of the applicants, in accordance with the procedure, prescribed under the law. All these facts have been pleaded to demonstrate that the affixation is valid deemed service, from which, a presumption can be drawn that the accused persons/applicants had the due knowledge of the service of such summons.

17.4. Elaborating their stand, it has been pleaded that when the summons were issued, ED was having no knowledge, with regard to the Australian address of the

accused persons/applicants. In this regard, they have relied upon the inquiry made from accused Raj Kumar Rana, on 17th November, 2022, in which, the address of the applicants was asked from him and he has refused to disclose their exact address.

17.5. Similarly, according to the ED, notices issued under Section 10(1) of Fugitive Economic Offenders Act, 2018, were likewise served by way of affixation at the last known Indian address of the applicants, upon which, the accused persons/applicants had entered appearance, through their counsel and contested the Fugitive Economic Offenders proceedings. Elaborating their stand, it has also been pleaded that the applicants, in the present case, have revealed their address, for the first time, which is materially different from the address available with the ED and the address of the applicants was intentionally suppressed by accused-Raj Kumar Rana.

17.6. It has also been pleaded that the twin conditions, as per Section 45 of PMLA, are not existing in favour of the applicants, as such, the applicants are not entitled to the relief on the ground of parity, as the role

attributed to their co-accused Raj Kumar Rana is altogether different. Moreover, according to them, accused-Raj Kumar Rana was not absconding from the investigation and he has joined the investigation.

18. On the basis of the above facts, a prayer has been made to dismiss the application.

19. In this case, the applicants, as well as, the investigating agency have relied upon certain documents, reference of the same is required to be made, before discussing the case of the applicants.

20. Applicants have relied upon the order dated 8th August, 2025, passed by the learned Special Judge (PMLA), by virtue of which, learned Special Judge (PMLA), on the basis of concession given by the ED, has ordered to keep the lookout circular notices, as well as, non-bailable warrants in abeyance, whereas, ED has placed on record the copy of order dated 4th May, 2024, passed by the Court of learned Special Judge, Shimla, by virtue of which, the proceedings, under Section 82 of the CrPC, were ordered to be initiated against the applicants, copy of summons, copy of notice, under Section 50 of the PMLA, copy of the

registered letter, by virtue of which, the summons were issued to the applicant, copy of summons, copy of order dated 31st October, 2023, passed by the learned Special Judge, Shimla, by virtue of which, open dated non-bailable warrants were issued against the applicants, copy of order dated 4th May, 2024, by virtue of which, steps have been taken to declare the applicants as proclaimed offenders, copy of order dated 3rd January, 2026, passed by the learned Special Judge (PMLA), by virtue of which, the applicants were declared as Fugitive Economic Offenders, copy of the notice under Section 10 of the FEO Act, issued against the applicants.

21. In this case, the prayer for bail has been opposed, on the ground, that the applicants have been declared as Proclaimed Offenders, as such, they are not entitled for the relief, as sought in the applications.

22. In this regard, it would be apt to make reference to 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**. 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.”

23. 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.”

24. 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: Lavesha (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.”

25. The applicants have sought the relief of anticipatory bail, on the ground, that they have not been served with the notices, as alleged, by the ED, as, even, prior to registration of the FIR, they were not in the country. However, this fact has been disputed by the ED, on the basis of the fact that accused-Raj Kumar Rana, father of applicant-Mandeep Rana and husband of applicant-Ashoni Kanwar, has been arrested and in his statement, recorded under Section 50 of the PMLA, he has not even disclosed about the whereabouts/address of the applicants.

26. The order, dated 31st October, 2023, passed by the learned Special Judge (PMLA) has been relied upon by the applicants, in which, the learned Special Judge (PMLA) has specifically recorded that the summons issued against

the respondents received back unserved, as, they are reportedly residing in Australia. Even, in the application for issuance of non-bailable warrants, against the applicants, it has been mentioned by the ED itself that the accused persons are residing in Australia. This averment has been made by the ED on the basis of the statement made, under Section 50 (2) and 50 (3) of the PMLA, by accused-Raj Kumar Rana. These facts have been pleaded by the ED, in para 5 of the application, filed under Section 70 of the CrPC.

27. In this case, it has rightly been pointed out by the learned senior counsel appearing for the applicants that despite knowing the fact that both the applicants are residing in Australia, no steps have been taken by the Investigating Agency to get the applicants deported, as, the Investigating Agency was aware about the particulars of their passports. However, according to the learned senior counsel for the applicants, the ED, knowingly, has issued the notices, under Section 50 of the PMLA, against the applicants, on the address, as mentioned in the summons.

28. In para 5 of the applications, for issuance of open ended non-bailable warrants, under Section 70 of the CrPC, it is the case of the ED that accused-Raj Kumar Rana, father of applicant-Mandeep Rana, and husband of applicant-Ashoni Kanwar, has disclosed the fact that they are in Australia. This statement, according to the ED, was recorded on 18th February, 2021. Meaning thereby, on 18th February, 2021, the Investigating Agency was aware about the fact that the applicants are not in India and despite this fact, instead of taking the steps to get them deported from Australia, the Investigating Agency had obtained the open ended non-bailable warrants against the applicants, by mentioning their address of India.

29. It has rightly been argued by the learned senior counsel for the applicants that the Investigating Agency is not interested to bring the applicants back to India, but, is interested to get them declared proclaimed offenders and thereafter, to take steps under the Fugitive Economic Offenders Act.

30. Even, after coming to know about the address of the applicants, no notice, under Section 50 of the PMLA were served upon the applicants.

31. Alongwith the additional affidavit, the ED has annexed the true copies of the summons issued against the accused persons on 16th March, 2021; 24th February, 2022; 29th October, 2022; 18th November, 2022; 4th January, 2023 and 6th March, 2023. All these notices were issued against the accused persons, at their address of Udaipur, Rajasthan.

32. In such situation, this Court has no hesitation to hold that the Investigating Agency, despite knowing the fact that the applicants are not in India, moved the applications, under Section 70 of the CrPC, in the month of July, 2023, by mentioning the wrong facts about their residence.

33. This futile attempt is liable to be seen with suspicion, in view of the statement of accused-Raj Kumar Rana, which was recorded by the Investigating Agency on 18th February, 2021, in which, he has allegedly disclosed that applicants-Mandeep Rana and Ashoni Kanwar were

residing in Australia. When, this fact was in the knowledge of the Investigating Agency since 18th February, 2021, then, what was the occasion for them to issue notices, against the applicants, on the address, as mentioned in the summons, subsequent to that statement.

34. Not only this, the Investigating Agency has made a futile attempt to serve the applicants, under Section 50 of the PMLA, by issuing summons for 24th February, 2022; 29th October, 2022; 18th November, 2022; 4th January, 2023 and 6th March, 2023. It seems that issuance of these summons, is nothing, but, an attempt to get the applicants declared as proclaimed offenders.

35. The stand, as taken in the additional affidavit, with regard to the alleged compliance of statutory process, appears to be an eye wash. When, the Investigating Agency came to know, on 18th February, 2021, about the material fact that both the applicants are not in India and are residing in Australia, on the alleged statement of accused-Raj Kumar Rana (father and husband of the applicants) then, issuance of the notices, by the Investigating Agency, on the address, as mentioned in the

summons, cannot be said to be substantial compliance of the statutory process and no presumption of due/deemed service of the accused persons/applicants can be drawn, in such circumstances.

36. At the cost of repetition, a number of summons were issued, at the address of the applicants, as mentioned in the summons, of Udaipur, Rajasthan, even after 18th February, 2021, when, the Investigating Agency came to know about the material fact of the applicants being residing in Australia.

37. In the complaint, filed by the ED, the applicants have been impleaded as accused Nos. 13 and 14. In the said complaint, the role of applicant-Mandeep Rana and applicant-Ashoni Kanwar has been mentioned in paras 12.13 and 12.14, which are reproduced, as under:

“12.13. Role of Mandeep Rana S/o Sh. Raj Kumar rana (Accused No. 13)

12.13.1. that bank accounts were opened by Mandeep Rana with several banks:

12.13.2. that proceeds of crime generated from the criminal activity of sale of fake degree were deposited in the bank accounts of MBCT, MBU and Madhav University by Raj Kumar Rana;

12.13.3. that the funds so introduced in the bank accounts were transferred by Raj Kumar Rana in the bank accounts of Mandeep Rana;

12.13.4. that Mandeep Rana projected these proceeds of crime received in his bank accounts as salary from MBCT in his Income Tax Returns filed before the Income Tax Authorities. However in reality he never worked in any University or MBCT;

12.13.5. that proceeds of crime received in his bank accounts were used by of acquisition of properties detailed in TABLE I;

12.13.6. that also one of the property was purchased at rate much lower than the circle rate and the payment of Rs. 93,00,000/- for other property was made from the bank account Jagmal Singh. Meaning thereby that the payments had only been arranged by Raj Kumar Rana from the proceeds of crime earned from the criminal activity of sale of fake degrees;

12.13.7. Therefore, Mandeep Rana has knowingly assisted his father Raj Kumar Rana in the concealment of proceeds of crime and he is actually involved in the use and projection of proceeds of crime derived from the criminal activity of sale of fake degree. Thereby committing the offence of money laundering as defined u/s 3 and punishable u/s 4 of PMLA, 2002.

12.14. Role of Ashoni Kanwar w/o Sh. Raj Kumar Rana(Accused No. 14)

12.14.1. that Ashoni Kanwar was the Trustee in the trust MBCT along with her husband Raj Kumar Rana;

12.14.2. That bank accounts opened in the name of MBCT were used by Raj Kumar Rana for introducing the proceeds of crime derived

from criminal activity of selling of fake degree into the financial system;

12.14.3. *that Ashoni Kanwar also received amount totaling to Rs. 3,00,000/- in her bank account no. 8477101002640 held with Canara Bank from M/s Gurukul Education of Pankaj Aggarwal which were the proceeds of sale of fake degrees;*

12.14.4. *that admittedly she did no work in any University and was shown as staff of the University just to withdrew money in her name from the bank account of MBCT, MBU, Solan and Madhav University, Pindwara;*

12.14.5. *that proceeds of crime received by Ashoni Kanwar from MBCT, MBU and Madhav University was reflected as income from salary and rent in her Income Tax Returns filed by her before the Income Tax Authorities;*

12.14.6. *that proceeds of crime received by Ashoni Kanwar were further used to acquire immovable property detailed in TABLE O;*

12.14.7. *that the payment of Rs. 93,00,000/- for other property at Sr. No. 3 in TABLE O was made from the bank account Jagmal Singh. Meaning thereby that the payments had only been arranged by Raj Kumar Rana from the proceeds of crime earned from the criminal activity of sale of fake degrees.*

12.14.8. *Therefore, Ashoni Kanwar has knowingly assisted her husband Raj Kumar Rana in the concealment of proceeds of crime and she is actually involved in the use and projection of proceeds of crime derived from the criminal activity of sale of fake degree. Thereby committing the offence of money laundering as defined u/s 3 and punishable u/s 4 of PMLA. 2002."*

38. Although, in para 15 of the complaint, it has been pleaded that the investigation is still going on, but, mere mention of this fact is too short to decline the relief to the applicants.

39. Even, considering the vague averments, as made in the complaint, in para 15 thereof, the learned counsel for the ED could not satisfy the judicial conscience of this Court as to how the directions issued by the Hon'ble Supreme Court in **Tarsem Lal versus Directorate of Enforcement Jalandhar Zonal Office**, reported in **(2024) 7 Supreme Court Cases 61**, are not applicable, in the present case. Relevant para-33, of the said judgment, is reproduced, as under:

“23. Now, we summarise our conclusions as under:

33.1. Once a complaint under Section 44 (1)(b) of the PMLA is filed, it will be governed by Sections 200 to 205 of the CrPC as none of the said provisions are inconsistent with any of the provisions of the PMLA;

33.2. If the accused was not arrested by the ED till filing of the complaint, while taking cognizance on a complaint under Section 44(1) (b), as a normal rule, the Court should issue a summons to the accused and not a warrant. Even in a case where the accused is on bail, a summons must be issued;

33.3. After a summons is issued under Section 204 of the CrPC on taking cognizance of the offence punishable under Section 4 of the PMLA on a complaint, if the accused appears before the Special Court pursuant to the summons, he shall not be treated as if he is in custody. Therefore, it is not necessary for him to apply for bail. However, the Special Court can direct the accused to furnish bond in terms of Section 88 of the CrPC;

33.4. In a case where the accused appears pursuant to a summons before the Special Court, on a sufficient cause being shown, the Special Court can grant exemption from personal appearance to the accused by exercising power under Section 205 of the CrPC;

33.5. If the accused does not appear after a summons is served or does not appear on a subsequent date, the Special Court will be well within its powers to issue a warrant in terms of Section 70 of the CrPC. Initially, the Special Court should issue aailable warrant. If it is not possible to effect service of theailable warrant, then the recourse can be taken to issue a non-ailable warrant;

33.6. A bond furnished according to Section 88 is only an undertaking by an accused who is not in custody to appear before the Court on the date fixed. Thus, an order accepting bonds under Section 88 from the accused does not amount to a grant of bail;

33.7. In a case where the accused has furnished bonds under Section 88 of the CrPC, if he fails to appear on subsequent dates, the Special Court has the powers under Section 89 read with Sections 70 of the CrPC to issue a warrant directing that the accused shall be arrested and produced before the Special Court; If such a warrant is issued, it will always be open for the accused to apply for cancellation of the warrant by giving an

undertaking to the Special Court to appear before the said Court on all the dates fixed by it. While cancelling the warrant, the Court can always take an undertaking from the accused to appear before the Court on every date unless appearance is specifically exempted. When the ED has not taken the custody of the accused during the investigation, usually, the Special Court will exercise the power of cancellation of the warrant without insisting on taking the accused in custody provided an undertaking is furnished by the accused to appear regularly before the Court. When the Special Court deals with an application for cancellation of a warrant, the Special Court is not dealing with an application for bail. Hence, Section 45(1) will have no application to such an application;

33.8. When an accused appears pursuant to a summons, the Special Court is empowered to take bonds under Section 88 of the CrPC in a given case. However, it is not mandatory in every case to direct furnishing of bonds. However, if a warrant of arrest has been issued on account of non-appearance or proceedings under Section 82 and/or Section 83 of the CrPC have been issued against an accused, he cannot be let off by taking a bond under Section 88 of the CrPC, and the accused will have to apply for cancellation of the warrant;

33.9. After cognizance is taken of the offence punishable under Section 4 of the PMLA based on a complaint under Section 44 (1)(b), the ED and its officers are powerless to exercise power under Section 19 to arrest a person shown as an accused in the complaint; and

33.10. If the ED wants custody of the accused who appears after service of summons for conducting further investigation in the same offence, the ED will have to seek custody of the accused by applying to the Special Court. After hearing the accused, the Special Court

must pass an order on the application by recording brief reasons. While hearing such an application, the Court may permit custody only if it is satisfied that custodial interrogation at that stage is required, even though the accused was never arrested under Section 19. However, when the ED wants to conduct a further investigation concerning the same offence, it may arrest a person not shown as an accused in the complaint already filed under Section 44(1)(b) provided the requirements of Section 19 are fulfilled.”

40. The Investigating Agency, in the present case, despite knowing the fact that the applicants are not in India, has made no efforts, to comply with Rule 19 of Chapter III, contained in Volume 3 of the Rules and Orders of High Court of Himachal Pradesh, which reads as under:

19. Service of summons/judicial processes etc. Outside India in Criminal matters.

Department of Legal Affairs, Ministry of Law and Justice, Govt. of India is the nodal agency for effecting service of summons/judicial processes etc. Outside India. The department has issued the following guidelines for issuance of summons:

1. Summons/Notices in duplicate shall be issued and three months' time in advance shall be provided to Department for effecting the service in foreign countries.

2. Full address of the party and translation of the documents in the official language of requesting country wherever necessary shall be provided.

3. The Central Authority, USA has authorized to receive the agency,

summons/notices under Hague Convention of 1965 to an Process Forward International. The Notice/summons for the USA may, therefore, be sent directly by the Courts to Process Forwarding International, 633 Yesler Way, Seattle, WA 98104, the USA along with the required fee etc. (details available at www.hcch.net).

4. Ministry of Home Affairs is the nodal ministry and Central Authority for seeking and providing the mutual legal assistance in criminal law matters Ministry of Home Affairs receives all kind of such requests, examines and takes appropriate action.

5. The Central Authorities in Canada are charging a cost of Rs. \$50.00 Canadian for the process of service under the Hague convention of Service Abroad of Judicial and Extra-Judicial Matters, 1965. The payment accompanying the documents to be served must be in the form of a traveller's cheque or a cheque, in the amount of Can \$50 per request. The travellers cheque or cheque must be drawn on a Canadian Bank. The details are available at www.hcch.net

6. Consulate General of India in Sydney has informed that the Sheriff's Office of NSW levies a fee of AUD 54 for serving summons through their office. The fee could be remitted in favour of the Consulate General of India, Sydney and the details of the Head of Account' under which such payment has to be debited be provided for making a necessary action."

41. So far as the legal proposition, qua the fact that before granting the relief, as sought in the applications, it is incumbent upon the Court to record the findings, under

Section 45 of the PMLA, is concerned, if the facts and circumstance of the present case, as discussed above, are seen in the light of the decision of the Hon'ble Supreme Court in **Vijay Madanlal Choudhary's case** (supra), then, there is no legal hesitation for this Court to grant the relief, as claimed in the applications. Relevant paras-400 and 401 of the judgment in **Vijay Madanlal Choudhary's case** (supra) are reproduced, as under:

"400. It is important to note that the twin conditions provided under Section 45 of the 2002 Act, though restrict the right of the accused to grant of bail, but it cannot be said that the conditions provided under Section 45 impose absolute restraint on the grant of bail. The discretion vests in the Court which is not arbitrary or irrational but judicial, guided by the principles of law as provided under Section 45 of the 2002 Act. While dealing with a similar provision prescribing twin conditions in MCOCA, this Court in Ranjitsing Brahmajeetsing Sharma, held as under:

"44. The wording of Section 21(4), in our opinion, does not lead to the conclusion that the court must arrive at a positive finding that the applicant for bail has not committed an offence under the Act. If such a construction is placed, the court intending to grant bail must arrive at a finding that the applicant has not committed such an offence. In such an event, it will be impossible for the prosecution to obtain a judgment of conviction of the applicant. Such cannot be the intention of the legislature. **Section 21(4) of MCOCA,**

therefore, must be construed reasonably. It must be so construed that the court is able to maintain a delicate balance between a judgment of acquittal and conviction and an order granting bail much before commencement of trial. Similarly, the Court will be required to record a finding as to the possibility of his committing a crime after grant of bail. However, such an offence in futuro must be an offence under the Act and not any other offence. Since it is difficult to predict the future conduct of an accused, the court must necessarily consider this aspect of the matter having regard to the antecedents of the accused, his propensities and the nature and manner in which he is alleged to have committed the offence.

45. It is, furthermore, trite that for the purpose of considering an application for grant of bail, although detailed reasons are not necessary to be assigned, the order granting bail must demonstrate application of mind at least in serious cases as to why the applicant has been granted or denied the privilege of bail.

46. The duty of the court at this stage is not to weigh the evidence meticulously but to arrive at a finding on the basis of broad probabilities. However, while dealing with a special statute like MCOCA having regard to the provisions contained in sub-section (4) of Section 21 of the Act, the court may have to probe into the matter deeper so as to enable it to arrive at a finding that the materials collected against the accused during the investigation may not justify a judgment of conviction. The findings recorded by the court

while granting or refusing bail undoubtedly would be tentative in nature, which may not have any bearing on the merit of the case and the trial court would, thus, be free to decide the case on the basis of evidence adduced at the trial, without in any manner being prejudiced thereby"

(emphasis supplied)

401. We are in agreement with the observation made by the Court in *Ranjitsing Brahmajeetsing Sharma*⁶³⁵ The Court while dealing with the application for grant of bail need not delve deep into the merits of the case and only a view of the Court based on available material on record is required. The Court will not weigh the evidence to find the guilt of the accused which is, of course, the work of Trial Court. The Court is only required to place its view based on probability on the basis of reasonable material collected during investigation and the said view will not be taken into consideration by the Trial Court in recording its finding of the guilt or acquittal during trial which is based on the evidence adduced during the trial. As explained by this Court in *Nimmagadda Prasad*, the words used in Section 45 of the 2002 Act are "reasonable grounds for believing" which means the Court has to see only if there is a genuine case against the accused and the prosecution is not required to prove the charge beyond reasonable doubt."

(self emphasis supplied)

42. Considering the allegations, which have been levelled against the applicants, as reproduced above, this Court is of the view that there are reasonable grounds for

believing that the twin conditions, as per Section 45 of the PMLA, are existing in favour of the applicant.

43. In the present case, as per the proceedings, which are conducted before the learned Special Judge (PMLA), Shimla, on 25th June, 2025, a request was made on behalf of applicant-Ashoni Kanwar that she will apply for the benefit of one time emergency travel document (emergency Travel Certificate) and will return back. Similar request was made on behalf of applicant-Mandeep Rana on 5th July, 2025. Consequently, in view of the relaxation given by the ED, the learned Special Judge, on 8th August, 2025, has passed the following order:

“It is stated by the ld defence counsel that his clients will come to India if look out circular notices and NBWs issued against accused-Ashoni Kanwar and Mandeep Rana are kept in abeyance in ECIR No. SHSZO/05/2200 dated 17.09.2020, in case FIR No. 22/2020, dated 03.03.2020, FIR No. 26/2020, dated 07.03.2020 and FIR No. 27/2020 dated 08.03.2020 registered at PS Dharmpur, Solan, HP from 25.08.2025 to 12.09.2025 and his clients will come to India through Emergency Travel Document. On the other hand the ld. Special Counsel of ED has stated that this relaxation be granted to the accused only for one time and if the order is passed, he will convey the order to Bureau of Immigration. The ld. Special counsel further submitted that this order will not in any way effect the power of the ED to arrest the accused under Section 19 of the PMLA Act. This offer made by the ld

defence counsel is acceptable to the ED and accordingly, the look out circular notices as well as NBWs issued against accused Ashoni Kanwar and Mandeep Rana are ordered to be kept in abeyance. This order is not passed on the merits of the application moved on behalf of the accused. The order of keeping the look out circular notices and NBWs issued against the accused Ashoni Kanwar and Mandeep Rana, in abeyance be conveyed to Bureau of immigration through the ld. Special counsel of ED. Put up for further order on 30.08.2025 as already fixed.”

44. Admittedly, it is not the case of the ED that the said relaxation was given on some misrepresentation made by the applicants. It has rightly been pointed out by the learned senior counsel for the applicants that in view of the above submissions, which were made before the learned Special Judge, the alleged apprehension of the ED, that the applicants are evading the process of law, becomes unfounded. The learned counsel for the ED could not satisfy the judicial conscience of this Court as to what is the legal hesitation for the ED to permit the applicants to return back on the basis of one time emergency travel document, as their passports have already been revoked.

45. Moreover, the process, which has been initiated by the ED to declare the applicants as Proclaimed Offenders, is a step to compel them to face the trial. The

ultimate goal for issuing the summons, notices, bailable warrants and non-bailable warrants and the process initiated to get them declared as proclaimed offenders, are the steps to compel the accused persons/applicants to put appearance before the Court/Investigating Agency and to face the trial. Moreover, no penal action can be taken against the accused persons/applicants, unless or until, they have not been found guilty by the Competent Court of Law. Once, the relaxation has been given by the ED, as per the order, dated 8th August, 2025, then, to the considered opinion of this Court, there is sufficient compliance of Section 45 of the PMLA.

46. 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."

47. So far as the further investigation of the case, as highlighted by the learned counsel appearing for the ED, is concerned, on this ground, the relief, for which the applicants are otherwise entitled to, cannot be denied to them, 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.”

48. 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.”

49. Even otherwise, the relaxation, which has been given to the applicants, vide order, dated 8th August, 2025, was given by the learned Special Judge (PMLA), on the basis of the concession given by the ED. In this background, the learned counsel appearing for the ED could not satisfy the judicial conscience of this Court as to

how, the ED can now oppose the prayer, as made in the bail applications.

50. Moreover, the relief, as sought by the applicants, in the present case, should not be subject to the sweet will of the Investigating Agency, as, at one point of time, they have given concession to the applicants to come back and now, on the basis of the proceedings, which were initiated by them, during the pendency of the applications, i.e. getting them declared as Proclaimed Offenders, the ED is legally estopped from opposing such prayer, in the bail applications.

51. In such situation, it can be said that the applicants are not guilty of such offence and while on bail, they will not commit any offence. Even, for the second condition, i.e., they will not commit any offence, reasonable conditions can be imposed, upon the applicants, in case, any direction is issued under Section 482 of the BNSS.

52. Even otherwise, it is no longer *res integra* that at the time of deciding the applications for bail, detailed discussion about the merits/de-merits of the case of the prosecution should be avoided, as, the same would cause

prejudice to the case of the prosecution (ED), as well as, to the case of the accused persons. Moreover, when the solemn undertaking, by virtue of the present applications, has been given by the applicants, to return back, then, their prayer is liable to be accepted, as, the Investigating Agency can arrest the applicants, after seeking permission of the learned Special Judge (PMLA), if need so arises, for the purpose of investigation.

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

54. In view of the above discussion, the present bail applications are liable to be allowed and are, accordingly, allowed.

55. Consequently, it is ordered that the applicants be released on bail, in the event of their arrest, in case, registered vide registered vide **ECIR/SHSZO/05/2020**, dated **17th September, 2020**, with **Sub-Zonal Office, Directorate of Enforcement, Shimla** (hereinafter referred to as 'ED'), under **Sections 3 and 4 of the PMLA**, on their

furnishing personal bonds, in the sum of ₹ 2,00,000/-, with two sureties each of the like amount, to the satisfaction of the learned trial Court/Investigating Officer. This order, however, shall be subject to the following conditions :

- a) That the applicants shall join the investigation of the case, as and when, called for, by the Investigating Officer/Court, in accordance with law;*
- b) That the applicants shall not leave India, without prior permission of the Court;*
- c) That the applicants 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 applicants 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.*
- e) That the applicants shall furnish an affidavit by tenth day of every month, before the learned trial Court, disclosing therein that they have not been named, as accused, in any other case, during that period.*

56. 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 bail applications.

57. It is made clear that the respondent-ED is at liberty to move an appropriate application(s), in case, any of the bail conditions, is found violated by the applicants.

58. Record be returned to the quarter concerned.

(Virender Singh)
Judge

July 21, 2026
(rajni)