

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM No.M-14509 of 2017 (O&M)
Date of Decision: May 22, 2017**

Parminder Kumar @ Sushil Mishra @ Sandeep Mishra @ Parminder Singh
Bihal

...Petitioner

VERSUS

Assistant Director Enforcement, U.T. Govt.

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Preetinder Singh Ahluwalia, Advocate
for the petitioner.

Mr.S.S.Sandhu, Standing Counsel
for the respondent.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail in criminal complaint No.1 of 2016 dated 26.07.2016 under Section 44 read with Section 45 of the Prevention of Money Laundering Act 2002 (for brevity 'the Act') for the offence committed under Section 3 and punishable under Section 4 of the Act.

Notice of motion was issued. Learned Standing counsel for the respondent appeared and contested the petition.

I have heard learned counsel for the parties and have gone through the record.

The perusal of the record shows that criminal complaint has

been filed by the Assistant Director, Directorate of Enforcement, U.T. Govt. against the present petitioner along with other co-accused. Learned Special Judge, CBI, Punjab vide order dated 26.07.2016, summoned all the accused for 05.09.2016. The present petitioner surrendered before the Court and filed application for grant of regular bail. Learned Special Judge, CBI, Punjab vide order dated 09.01.2017, dismissed the bail application in view the provisions of Section 45 of the Act.

Learned counsel for the petitioner relied upon the judgment passed by Hon'ble Division Bench of this Court in ***CRM No.M-28490 of 2015 titled as Dalip Singh Mann and another vs. Niranjan Singh, Assistant Director, Directorate of Enforcement, Govt. of India, decided on 01.10.2015***, in which this Court granted bail by holding that during investigation of the money laundering case, the petitioners were never arrested by the Enforcement Directorate in exercise of its powers under Section 19 of the Act. It is also held in that judgment that rigors of Section 45(1)(ii) of the Act would be attracted only while considering the bail plea of an accused who has been arrested by the E.D. under Section 19 of the Act. In that case, the complaint was at initial stage, therefore, the Hon'ble Division Bench granted the bail.

Learned counsel for the petitioner further cited judgment passed by the Hon'ble Division Bench of this Court in ***Arun Sharma vs. Union of India and others, 2016(3) RCR (Criminal) 883***, in which also, it is held by the Hon'ble Division Bench that if any person was neither arrested during investigation under PMLA nor produced in custody as envisaged in Section 170 Cr.P.C., upon issuance of process either by summons or warrant, if he appears before Court on his own volition, he

would be entitled to forthwith furnish his bonds with or without sureties for further appearances without any incarceration in custody. It is held in that case that rigors of Section 45(1)(ii) of PMLA would be attracted only while considering the application of an accused for release on bail or his own bond, if he has been arrested by the authorised officer under Section 19 of the PMLA before taking cognizance.

Learned counsel for the also placed reliance upon the judgment passed by the Hon'ble Division Bench of this Court in ***CRM No.M-42455 of 2016 titled as Harmesh Kumar Gaba vs. Assistant Director, Directorate of Enforcement, decided on 28.02.2017***, in which, the Hon'ble Division Bench of this Court granted the bail by holding that it is seriously doubtful whether rigors of Section 45 of PMLA would be attracted in this case as the petitioner is not accused of an offence punishable for a term of imprisonment of more than three years in Part 'A' of the Schedule attached to PMLA, 2002 and the petitioner was not subjected to custodial interrogation regardless of express powers given to E.D. under Section 19 of the Act.

Keeping in view the law laid by the Hon'ble Division Benches of this Court, I find that these cited judgments fully apply to the facts of the present case as in the case in hand, admittedly, the accused has surrendered on the basis of the summons issued against him and he was never arrested by the E.D. Under Section 19 of the Act. Furthermore, in the main case, which was got registered by the CBI, the present petitioner is already on bail.

In view of the above facts and circumstances, I find merit in the

present petition and the same is allowed. The petitioner is ordered to be

released on bail subject to his furnishing personal/surety bonds in the sum of ₹50,000/- with one surety in the like amount to the satisfaction of the trial Court.

May 22, 2017	(INDERJIT SINGH)
Vgulati	JUDGE
Whether speaking/reasoned	Yes
Whether reportable	No