IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

<u>CRL. MISC. NO.M-35517 OF 2017 (O&M)</u>
<u>DATE OF DECISION : *31* OCTOBER, 2017</u>

Mahabir Singh

…. Petitioner

Versus

Assistant Director, Directorate of Enforcement (Prevention of Money Laundering Act), Government of India, Jalandhar.

…. Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : Mr. Ashish Gupta, Advocate for the petitioner.

Mr. Lokesh Narang, Sr. Panel Counsel, Union of India and Special public prosecutor for ED.

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<u>A. B. CHAUDHARI, J.</u>

The petitioner has filed this petition under Section 439 Cr.P.C. seeking regular bail in complaint No.1 of 2017 dated 04.01.2017 and CNR No. PBJL01-000181 of 2017, (Annexure P-1) filed under Section 45(1) of the Prevention of Money Laundering Act, 2002 (in short, Act of 2002) of the alleged offence of Money Laundering under Section 3 punishable under Section 4 of the Prevention of Money Laundering Act, 2002 pending before the learned Sessions Court, Jalandhar.

The petitioner is in jail for the last nine months in the aforesaid complaint.

Heard learned counsel for the rival parties.

Learned counsel for the petitioner submitted that admittedly the complaint filed by the Enforcement Directorate was taken cognizance of by the trial Court. It is a private complaint and thereafter the petitioner was arrested and is in jail for the last nine months. He further submitted that at any rate the admitted allegation against the petitioner is that the

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petitioner had purchased property worth ₹1.5 lakhs from the money received as a result of money laundering. He submits that he has been in jail for a long time and looking to the quantum of money allegedly involved and the fact that the trial will take its own time, the liberty of the petitioner cannot be jeopardized ad infinitum. At any rate according to him he has only 1/6th share in the property which is subject matter of the case.

Per contra, learned counsel for the complainant vehemently opposed the petition for bail and relied on the disclosure statement of the petitioner in which there was admission about the money-laundering and utilization thereof for the said purchase. He then submitted that the refusal of bail is a rule in such cases as held by the Apex Court in the case of ***Gautam Kundu versus Manoj Kumar, Assistant Director, Eastern Region, Directorate of Enforcement,2016 (1) RCR (Criminal) 398*** in view of bar under Section 45 of the Prevention of Money Laundering Act 2002. He therefore prayed for dismissal of the petition for grant of regular bail.

Per contra, learned counsel for the petitioner cited the decisions of this Court made in the cases of ***Ajay Jain versus Directorate of Enforcement, 2017(347) ELT 598; Shiv Raj Puri versus State of Haryana and another, 2015(3) RCR (Criminal) 385; Dalip Singh Mann and another versus Niranjan Singh, Assistant Director, Director of Enforcement, Govt. of India,*** passed in ***CRM No.M-28490-2015 on 01.10.2015*** and ***Chunni Lal Gaba versus Assistant Directorate, Directorate of Enforcement, Govt. of India, 2016(2) RCR (Criminal) 1049*** and argued that regular bail can be granted to the petitioner.

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At the outset, I find that the petitioner is in jail for the last nine months. It is true that the Apex Court held in the case of ***Gautam Kundu (supra)*** that the provision regarding bail under Act of 2002 would apply rather than provisions under Sections 439 Cr.P.C.. The present petition is treated as the one under Section 482 Cr.P.C. for considering the question of grant regular bail. It is seen from the record that the petitioner has 1/6th share in the property described in paragraph 8 of the chargesheet. The value thereof qua the petitioner is said to be not more than 1.5 lakhs. The property was purchased in the year 2012. The reliance is placed by the department only on the disclosure statement of the petitioner which even if is admissible, would not justify the indefinite detention of the petitioner as under trial. The petitioner has already undergone the imprisonment for a period of more than 9 months. The property being jointly purchased by brothers of the petitioner and the money applied being only ₹1.5 lacs, there is a prima-facie case to release him on regular bail.

In that view of the matter, I am inclined to grant bail to the petitioner. Hence, I make the following order:

ORDER

(i) CRL. MISC. NO.M-35517 OF 2017 is allowed.

(ii) Bail to the satisfaction of the concerned CJM/Duty Magistrate.

***31* OCTOBER, 2017** **(A. B. CHAUDHARI)**
'raj' **JUDGE**

Whether speaking/reasoned : Yes No

Whether Reportable : Yes No

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