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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-765-2018 [O&M]

Date of Decision : April 26 2018

Maninder Singh Aulakh alias Bittoo Aulakh

..... Petitioner

Vs.

Gurnam Singh, Deputy Director,
Directorate of Enforcement, Government of India

..... Respondent

**CORAM : HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SHEKHER DHAWAN**

Argued by Mr. P.S.Ahluwalia, Advocate,
for the Petitioner.

Ms. Ranjana Shahi, Advocate,
for respondent No.1 – Enforcement Directorate.

Ms. Manjri Nehru, Addl. A.G., Punjab.

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SHEKHER DHAWAN, J.

Present petition is the 4th bail application by the petitioner filed under Section 439 of Code of Criminal Procedure for grant of regular bail in the case No. ECIR 02/JLZO/2013 under Sections 3 & 4 of the Prevention of Money Laundering (PML) Act, 2002 (for short, the “PML Act, 2002”), which was filed as Complaint Case No.COMA-1/2015 dated 02.03.2015 titled as '**Gurnam Singh, Deputy Director, Directorate of Enforcement,**

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Jalandhar versus Anup Singh Kahlon and others', by the Directorate of Enforcement alleging offence of money laundering.

2. Petitioner is allegedly a member of Drug Racket, being run in the State of Punjab. The drug racket was busted, which led to registration of number of FIRs under the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "**the NDPS Act**"), read with different provisions of Indian Penal Code and Arms Act etc., during the period from 2013-2014. As huge contraband, currency notes, arms and ammunition and vehicles were recovered, the Enforcement Directorate investigated the matter under the provisions of the PML Act, 2002 and resultantly, 8 FIRs were registered. Petitioner, Maninder Singh Aulakh alias Bittoo Aulakh was in custody in those cases and the Enforcement Directorate could collect sufficient material for involvement of the petitioner in the PML case and, as such, he was taken into custody.

3. The petitioner has filed the present petition for bail mainly in view of the changed circumstances stating that the petitioner is in custody since 12.01.2015 and he has already been released on regular bail by this Court vide order dated 24.02.2016 (Annexure P/10) passed in CRM-M-1579-2016. In another case bearing F.I.R. No.109 dated 24.12.2013 registered under the NDPS Act, he was acquitted by learned Judge, Special Court, Jalandhar, vide judgment dated 11.08.2016. All the material and vulnerable witnesses in the present case have already been examined as per report dated 31.03.2018 of Special Judge, C.B.I., Punjab, SAS Nagar, Mohali. More so, there has been change in law as Hon'ble Supreme Court in **Nikesh Tarach and Shah v. Union of India, A.I.R.**

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2017 (SC) 5500 has held the rigors of bail imposed under Section 45 of PML Act, 2002 to be unconstitutional. The petitioner prayed that in view of changed circumstances of the case, he be released on regular bail in this case.

4. Learned counsel for respondent-Enforcement Directorate opposed the bail application on the ground that the petitioner alongwith other co-accused, is involved in a chain of offences including the offences under the NDPS Act, I.P.C. and PML Act, 2002. The petitioner was allegedly found to be in possession of 3 Kgs. of Pseudoephedrine and 500 grams of intoxicant powder, besides two motorcycles which were allegedly used for carrying-out drug trafficking in the State. As regard to the offences under the PML Act, 2002, the petitioner is running a hotel in the name & style of "Sanjog International, Amritsar" in which he has 50% partnership. In the year 2012-2013, several other immovable properties were purchased by him, his wife and other family members and the explanation furnished by the petitioner in this regard is not acceptable. As such, there are reasonable grounds for believing that the petitioner is guilty of the offences under the P.M.L. Act, 2002. Moreso, there is no delay on the part of Enforcement Directorate in concluding the proceedings and the Directorate shall make every endeavour to complete the trial expeditiously, but at any rate, there is no new ground for release of the petitioner on regular bail at this stage and the present petition be dismissed.

5. We have considered the submissions made by learned counsel for the parties and perused the record. We have also perused the report dated 31.03.2018 submitted by Special Judge, CBI, Punjab, SAS

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Nagar whereby the status of trial of the case against the petitioner has been depicted. As per the said report, there are 46 witnesses in the case and out of them, 15 witnesses are relevant for examination qua the present petitioner. Now, the documents which are most relevant for the purpose of decision of offence under the PML Act, 2002 are to be examined so as to prove the sale deeds and other account statements. The report also indicates that the Enforcement Directorate is making every endeavor to expedite the trial. Though, the Court is conscious of the fact that the petitioner in the present case, is in custody since 12.1.2015 and has been released on regular bail by this Court in CRM-M-1579-2016 vide order (Annexure P/10) in another case, but looking at the totality of the allegations and nature of offence, as also the fact that the petitioner is a member of the gang of drug trafficking, which operated in the State of Punjab and huge quantity of drugs and arms & ammunition were recovered and the Enforcement Directorate has collected sufficient material *at least* to make out a *prima facie* case that the petitioner accumulated a lot of wealth and is unable to explain the resources for the same, we do not consider it appropriate to order release of the petitioner on bail at this stage. However, taking into consideration the fact that the petitioner is in custody since 12.01.2015, we direct learned trial Judge to make every endeavour to complete the trial expeditiously, preferably within four months even by giving short dates. The Enforcement Directorate shall also make all efforts so that the witnesses remain in attendance on the date fixed by learned trial Judge and in turn petitioner shall not create any hindrance in disposal of the case within stipulated period.

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6. The petition stands disposed of in the above terms.

(SURYA KANT)
JUDGE

(SHEKHER DHAWAN)
JUDGE

April 26, 2018.
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Whether speaking/reasoned? :	Yes
Whether reportable? :	Yes