IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

FRIDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE DR. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION NO: 11007 OF 2022

Between:

Sh. Ashish Malik, S/o Satyanarayana Malik, Aged about 37 years, Occ. Business, R/o. RZE 672-22, Sadh Nagar, Palam Colony, South West Delhi.

...PETITIONER/ACCUSED

AND

The State of Telangana, Rep. by Spl. Public Prosecutor, Directorate of Enforcement Assistant director, Hyderabad Zonal Office, 5-10-174, 3rd floor, Shakar Bhavan, Basheerbagh, Hyderabad-500004.

...RESPONDENT

Petition under Section 437 & 439 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to enlarge the Petitioner / Accused on Regular Bail in Crime F.No. ECIR/HYZO/15/2020 on the file of Directorate of Enforcement, Hyderabad Zonal Office.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri RETTALA BALRAJ GOUD, Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent.

The Court made the following: ORDER

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.11007 of 2022

ORDER:

1. This Criminal Petition, under Section 439 Cr.P.C., is filed on behalf of the petitioner, who is arrayed as Accused No.5 in ECIR.No.15/HYZO/2020 of Hyderabad zone, seeking for post-arrest bail.

2. Heard the submission of the learned counsel for the petitioner as well as the learned Standing Counsel for Enforcement Directorate who represented the Respondent.

3. The matrix of the case as could be perceived through the contents of Enforcement Case Information Report (ECIR) is that the 2nd accused, by name Sirimalla Nagaraju, motivated the *de facto* complainant and other victims to invest money in Rosneft Hedge Fund by stating that he is one of the Associates of the said company and assured that the invested amount would get doubled in 18 weeks. He also informed that Rosneft Hedge Fund belongs to a Russian based company and that the petitioner and others are running Rosneft Hedge Fund. After three months, Rosneft Hedge Fund started functioning with other name viz. EURESCOIN.NET. When the investors requested to

return their money, Accused No.2-Sirimalla Nagaraju, asked them to reinvest the amount and that it would fetch 200% returns. After collecting reinvested amount, Accused No.2-Sirimalla Nagaraju escaped with fifty two crores and cheated many people. Accused No.1-Sandeep Kaushik and Accused No.4-Sunil Singh Chouhan are residing in Armenia and Georgia. With the money collected, properties were purchased in foreign countries. All the accused diverted the public money in a wrongful and deceitful manner.

4. Making his submission, learned counsel for the petitioner contended that initially, a case was registered in the year 2018 and the petitioner was arrested. Learned counsel submitted that for the purpose of interrogation, police custody was sought by the investigating agency and accordingly, police custody was given for seven days and the petitioner was thoroughly interrogated. Learned counsel also submitted that subsequently, the Enforcement Directorate registered the present case and the petitioner is in judicial custody since 115 days. Learned counsel also submitted that till now, crime

proceeds could not be traced and in these circumstances, the petitioner may be enlarged on bail.

5. Vehemently opposing the submission made by the learned counsel for the petitioner, the learned Standing Counsel for Enforcement Directorate submitted that totally, six cases were registered against the petitioner and other accused and indeed, by starting a multilevel scheme, by creating fake websites and with the help of a shell company, crores of rupees were embezzled and the case is still under investigation and therefore, the petitioner is not entitled for bail.

6. The learned Standing Counsel for Enforcement Directorate also submitted that the petitioner, along with his accomplices, had run MLM schemes and thereby cheated people to a large extent. Learned Standing Counsel also stated that the petitioner and other accused siphoned off money of the investors and in that regard, multiple complaints were given and multiple cases were registered against the petitioner and his accomplices.

7. The learned Standing Counsel for Enforcement Directorate further made a submission that there is direct

proof to show that amounts were transferred to the account of the petitioner. Learned Standing Counsel also stated that the petitioner, along with other accused, organized grand seminars and in those seminars, the petitioner and other accused gave wide publicity about their fake investment plans and promised huge returns. Learned Standing Counsel further stated that as the investigation is still pending, the petitioner is not entitled for bail.

8. It is incumbent on part of this Court to take note of the provisions regarding bails as laid down in the Code of Criminal Procedure and also the mandate of law as enunciated under Section 45 of the Prevention of Money Laundering Act 2002. As per the said provision, no person accused of an offence under the said Act shall be released on bail unless the Public Prosecutor had been given an opportunity of hearing and when the Public Prosecutor opposes the relief claimed, the Court is satisfied that there are reasonable grounds for believing that the applicant is not guilty of such offence and that he is not likely to commit any offence while on bail.

9. In the case on hand, the learned Standing Counsel for Enforcement Directorate clearly projected *prima facie* involvement of the petitioner in the acts of Money Laundering. That apart, submission is also made that the investigation is still pending.

10. Therefore, this Court is of the view that it would be wholly undesirable to enlarge the petitioner on bail as prayed for.

11. Resultantly, the Criminal Petition is dismissed.

12. Miscellaneous petitions, if any pending, shall stand closed.

Sd/- K. AMMAJI

//TRUE COPY// **ASSISTANT REGISTRAR**

SECTION OFFICER

To,

1. The Metropolitan Sessions Judge-Cum-Special Court Constituted under section 43 (1) of the prevention of Money Laundering Act, 2022 at Nampally, Hyderabad.
2. The Metropolitan Sessions Judge, Hyderabad
3. One CC to SRI. ANIL PRASAD TIWARI, Standing Counsel for Enforcement Directorate, High Court of Telangana, Hyderabad [OUT]
4. Copy to Special Public Prosecutor Director of Enforcement Assistant Director, Hyderabad Zonal Office, 5-10-174, 3rd Floor Shakar Bhavan, Basheerbagh, Hyderabad-500004. [OUT]
5. Two CD Spare Copies

VH

HIGH COURT

CSL, J

DATED: 30/12/2022

ORDER

CRLP.No.11007 of 2022

The Criminal Petition is Dismissed

6 VLV 19/1/23