

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

CWP-12736-2021

Date of decision: 07.02.2022

Bhupinder Singh Hooda

...Petitioner

Versus

Assistant Director, Directorate of Enforcement, Government of India

...Respondent

**CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE PANKAJ JAIN**

Present : Mr. Kapil Sibal, Senior Advocate with
Mr. R.S. Cheema, Senior Advocate with
Mr. Pardeep S. Poonia, Advocate,
Ms. Tarannum Cheema, Advocate,
Mr. Adit Pujari, Advocate and
Mr. A.S. Cheema, Advocate
for the petitioner.

Mr. S.V. Raju, Addl. Solicitor General of India with
Mr. Arvind Moudgil, Senior Counsel, Govt. of India, with
Mr. Zoheb Hussain, Special Counsel,
Ms. Jotika Panesar, Advocate,
Mr. Vivek Gurnani, Advocate,
Mr. Anshuman Singh, Advocate and
Mr. Ankit Bhatia, Advocate
for the respondent-ED.

(Proceedings through V.C.)

AJAY TEWARI, J. (ORAL)

Brief facts of the case are that the petitioner had moved an
application before the trial Court with the following prayers :-

*“It is, therefore, most respectfully prayed that,
the Hon'ble Court in the interest of justice may kindly
be pleased to :*

i. Allow the application seeking deferment of the

hearing on arguments on charge till the decision of the Hon'ble High Court in CRR 650/2021 and till completion of further investigation; and/or

ii. Pass any other order (s) which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

2. On the aforesaid application, learned trial Court has passed following order on 5th July, 2021, the operative part of which reads as under :-

“....However, in the interest of justice, the case is adjourned to 15.07.2021 for filing reply to the said applications by the ED and for its consideration. It is made clear to the defence counsels as well as Special Public Prosecutors for the ED that the arguments on charge will also be heard along with the aforesaid applications on the date fixed and if this court finds merit in the aforesaid applications, the case would be adjourned beyond the date i.e. 11.08.2021 fixed by the Hon'ble Punjab & Haryana High Court in CRR No. 649/2021 and CRR No.650/2021, otherwise, charge would be framed on the same date in accordance with law....”

3. That order has been challenged by way of this Writ Petition where the following prayers have been made :-

“For issuance of an appropriate Writ, Order or Direction for quashing of the Complaint No. COMA/42/2019 dated 26.08.2019 titled as Assistant Director, Directorate of Enforcement Vs. The Associated Journals Limited and others, pending in the Court of Ld. Special Judge, PMLA, Panchkula (Annexure P/23),

order taking cognizance by the Ld. Special Judge, Panchkula dated 26.09.2019 (Annexure P/24) and all subsequent proceedings arising therefrom;

AND

Issue any appropriate writ declaring the explanation brought to Section 3 of Prevention of Money Laundering Act, 2002 vide Act 2 of 2013, S.O. 343 (E), dated 08.02.2013 and vide Finance (No.2) Act, 2019 ultravires as the same runs counter to the provisions of Section 2(u) and the interpretation put forth by the Hon'ble Supreme Court in Nikesh Tarachand Shah Vs. UOI; (2018) 11 SCC 1, and the expression 'acquisition' unless read down essentially offends the protection against retrospectively enshrined in Article 20(1) of the Constitution;

AND/OR

Further issue any other appropriate writ, order, relief or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the present case in favour of the petitioner."

4. The limited issue we are taking up is whether the Court could have taken such a precipitate view that in case it did not find any merit in the application filed by the petitioner, it would proceed to frame the Charge then and there.

5. On this limited issue the Ld. Additional Solicitor General has fairly accepted that it would not be inappropriate if this Court directs that the trial Court may decide the application and then in case, the application, is found to be meritless, to give some reasonable time to the petitioner and other accused persons to prepare the arguments on Charge/take appropriate

proceedings against the order which may be passed.

6. We appreciate the candid fairness of learned Additional Solicitor General and with the agreement of learned counsel for the petitioner, proceed to direct the trial Court to decide the application filed by the petitioner and, thereafter, to give him and the other accused persons some reasonable time of one week to prepare their case on Charge/take appropriate proceedings against the order which may be passed.

7. The instant Writ Petition stands disposed off, in the above terms with the clarification that no view is being expressed on the other pleas raised by the petitioner.

(AJAY TEWARI)
JUDGE

February 07, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No