IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.638 OF 2022

Central Bureau of Investigation,
Banking Securities Fraud Branch,
Plot No.C-35A, G-Block,
Bandra-Kurla Complex,
Mumbai – 400 098 ..Applicant

Vs.

1. Maiank Mehta,
Age : 55 years,
British National,
Residing at Flat 7A,
Block 1 Estoril Court,
55, Garden Road,
Hong Kong

2. The State of Maharashtra,

3. The Enforcement Directorate,
Through the Assistant Director,
Kaiser-E-Hind Building,
Ballard Estate,
Fort, Mumbai – 400 001 ..Respondents

Mr.Raja Thakare, Senior Advocate along with Mr.Kuldeep Patil, Mr.Siddharth Jagushte, Ms.Saili Dhuru, Mr.Kanishk Waghwase and Mr.Akash Kavade, Advocates for applicant – C.B.I.

Mr.Amit Desai, Senior Advocate along with Mr.Rohan Shah, Mr.Manavendra Mishra, Mr.Gopala Krishna Shenoy, Mr.Sankalp Sharma, Mr.Palash Bhatkoti, Mr.Pranjal Aggarwal, i/b. Khaitan & Co., Advocates for respondent no.1

Mr.A.R.Patil, APP for respondent no.2 - State

CORAM : R.G. AVACHAT, J.
RESERVED : MARCH 03, 2023
PRONOUNCED ON : MARCH 20, 2023

ORDER :-

The challenge in this application, under Section 482 of the Code of Criminal Procedure, is to the order dated 16.06.2022 passed by learned Special Judge (CBI), on application (Exhibit – 144) in P.M.L.A. Special Case No.04 of 2018 and P.M.L.A. Special Case No.03 of 2019.

The applicant herein is Central Bureau of Investigation (CBI). Respondent no.1 is one of the accused in Crime, being FIR No.RCBSM2018E0001 dated 31.01.2018. He (respondent) was also one of the accused in P.M.L.A. Special Case Nos.04 of 2018 and 03 of 2019. The respondent preferred application (Exhibit -144), seeking permission to go abroad, i.e. to his place of residence in Hong Kong, for a period of three months. The Special Court allowed the application on certain terms and conditions.

2. The CBI challenged the said order by preferring present application. This Court, vide order dated 23.08.2022, dismissed the same, confirming the order passed by the Special Court. The CBI, therefore, approached the Hon'ble Supreme Court in Petition(s) for

Special Leave to Appeal (Crl.) No.8915 of 2022. The Apex Court, vide its order dated 09.02.2023, set aside the order dated 23.08.2022 and remanded the matter back to this Court to decide afresh.

FACTS :-

3. On the basis of the complaint (FIR) filed by Punjab National Bank (PNB), Zonal Office, Mumbai, the CBI, BSFB Branch, Mumbai, registered the crime, being FIR No.RCBSM2018E0001 dated 31.01.2018. The gist of allegations in the FIR is that Gokulnath Shetty, Deputy Manager, PNB, working in Foreign Exchange Department and Manoj Kharat, Single Window Operator, PNB, fraudulently issued 150 Letters of Undertaking (LoU) without following the prescribed procedure by obtaining required request applications, documents, approval of the authorities thereto and without making entries in the bank system, avoiding detection of the transactions so made, transmitted SWIFT (Society for Worldwide Interbank Financial Telecommunications) instructions to overseas branches of Indian banks for raising buyers credit and funding the NOSTRO accounts of PNB. The funds so raised for payment of import bills, have not been utilised for such purposes in many cases.

Initially, there were eight LoUs amounting to Rs.280 Crores and little over 70 Lakhs. During further scrutiny of the record, it was revealed that it was the case of total 150 LoUs, aggregating to Rs.6,498 Crores approximately, issued during the period from February, 2017 to May, 2017. The main beneficiary and mastermind of the crime is Nirav Modi. Many of his family members are privy to the conspiracy hatched by Nirav Modi and some of the bank officials including the two named above.

4. The CBI has, so far, filed three charge-sheets pursuant to the aforesaid FIR registered for the offences punishable under Sections 120-B and 420 of Indian Penal Code and Sections 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988. Those crimes are predicate/scheduled offences under part A of the Prevention of Money Laundering Act, 2002 ("PMLA", for short).

5. The Enforcement Directorate (ED), through the Assistant Director, Zonal Office, Mumbai, filed/launched two prosecutions for the offences under Section 3 punishable under Section 4 of PMLA against all those who are accused in the FIR registered by the CBI. The respondent and his wife – Ms.Purvi Modi (sister of Nirav Modi) were also accused in the prosecutions launched by ED.

6. The ED reached out to the respondent and his wife Purvi Modi in Honk Kong. Both of them expressed their desire to co-operate with the ED. Both of them, therefore, preferred application for grant of pardon. The ED did not raise objection to their application for grant of pardon. The Special Court tendered both of them pardon in terms of the provisions of Sections 306/307 of the Code of Criminal Procedure (Cr.P.C.). Both respondent and his wife came to India pursuant to the order granting them pardon. Their statements under Section 50 of PMLA have been recorded. As stated above, the respondent preferred application (Exhibit-144), seeking permission to visit his place of residence, i.e., Hong Kong, for three months. The ED did not raise any objection to the said application. The CBI, however, contested the application.

7. It is the case of the respondent that he is British citizen of Indian origin, residing in Hong Kong for last 35 years. He holds British Passport. He had not been named in the FIR registered with the CBI. Although he was an accused in PMLA case, on account of grant of pardon to him, he is an approver in the proceedings. During the investigation made by the ED, the respondent made a clean breast of all the relevant facts and circumstances. He traveled

to India on 06.09.2021 with the sole intention and purpose of co-operating and assisting in the ongoing investigation carried out by the ED. Since the respondent co-operated with the investigation, the outstanding non-bailable warrant issued against him came to be cancelled. However, pursuant to the Look-Out Circular, the respondent was summoned by the CBI. He visited office of the CBI many a time. He has been co-operating with the investigation undertaken by the CBI.

8. The respondent claims to be a reputed businessman. He manages Rosy Blue Hong Kong Ltd., which is a part of the Rosy Blue Group, one of the largest diamond manufacturers and traders worldwide. He has been living and operating the businesses overseas for more than 34 years. He is suffering immense business and reputational loss by not being able to cater to the needs of his clients and staff in Hong Kong. His multiple clients have been struggling to pay on time due to severe restrictions and lockdowns in China owing to the Pandamic. It may lead to cash flow related issue for the respondent's businesses. Due to Russia-Ukraine war, he has already suffered a huge economic loss. His two daughters are in Hong Kong. He, therefore, needs to be urgently in Hong Kong to attend his professional and family commitments.

9. As stated above, the Special Court permitted the respondent to visit Hong Kong for three months. This Court, vide order dated 23.08.2022, confirmed the order passed by the Special Court. The CBI, therefore, approached the Apex Court. It is the case of the applicant - CBI that notice under Section 91 of Cr.P.C. was issued, directing the respondent to appear before the Addl. Superintendent of Police, CBI, Mumbai, with certain documents in the nature of statements of three bank accounts noted therein. It was the case of CBI that the respondent did not provide any details as to statements of three bank accounts.

10. The Hon'ble Supreme Court remanded the matter to this Court with the following observations :-

> "11. The first respondent has been granted pardon upon his willingness to be an approver in the case which has been instituted by the ED. While on the one hand, the first respondent asserts that the considerations which weighed in the grant of pardon to him in the case instituted by the ED should apply to the case which has been instituted by the CBI, this is seriously in contest on behalf of the CBI.
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> 12. The Additional Solicitors General appearing on behalf of the CBI on the other hand submitted that the CBI seeks disclosure of further information which is within the knowledge of the first

respondent which is why details of the bank accounts of which disclosure was sought were placed before this Court in a previous proceeding. CBI submits that the information sought by it is independent of the money trail which forms the subject of the ED case.

13. Mr.Amit Desai, Senior counsel appearing on behalf of the first respondent submits that the first respondent is ready and willing at this stage to furnish a letter of authorization to the CBI so that it may directly approach the banks for disclosure of the statement of accounts provided that CBI furnishes a time frame within which the first respondent would be permitted to travel abroad. It has been urged that the first respondent who has co-operated with the ED would be ready and willing to cooperate with the CBI so as to ensure that all the information which they seek is duly made available.

14. As the case has evolved before this Court, it is apparent that the situation as it obtained before the High Court when the impugned order was passed on 23 August 2022, is substantially different at the present point in time, consequent upon the demand of the CBI for certain specific information which, until date, has not emerged on the record. The first respondent, as noted above, has indicated that he would be willing to issue an authorisation to the CBI provided, some time frame is set down for the process to be completed. The Special Judge (CBI) while considering the application of the first respondent to travel abroad has not had occasion to deal with the issues which have emerged before this Court during the course of hearing, as adverted to above. The same would apply to the proceedings before the High Court.

> 15. Instead of this Court applying its mind afresh for the first time to the issues which are sought to be raised by the CBI, we are of the considered view that it would be appropriate to remand the proceedings back to the High Court. Be that as it may, we would request the High Court to reconsider the matter afresh. The High Court may also form its own view on the offer which was made on behalf of the first respondent during the course of the hearing, as stated above. To facilitate this process, we permit the CBI to file a further affidavit before the High Court in the proceedings which shall be remanded by this Court, within a period of two weeks from the date of this order. Both the parties would be at liberty to produce relevant material, documents and grounds before the High Court in support of their respective pleas. The High Court shall consider the matter afresh and pass fresh orders preferably within a month from the date of this order."

11. Heard learned counsel for the parties. The CBI filed its additional affidavit.

12. Mr.Raja Thakare, learned Senior Counsel for the applicant - CBI, made submissions reiterating the averments in the additional affidavit. According to learned Senior Counsel, the respondent is at flight risk. Once he goes out of India, he is not likely to come back. The respondent has now been arrayed in the

CBI case. The respondent and his wife are the principal facilitators in diverting and siphoning of funds. During the course of investigation, the server records/data were seized by the CBI, as it came to light that during the year 2012, USD 8.9 million were shown to be transferred by the father of Nirav Modi to the respondent, in addition to USD 30 million remitted through Pacific Diamonds FZE in 2013. Notice under Section 91 of Cr.P.C. was issued to him on 25.01.2022 in respect of the 2012 transactions. The respondent showed ignorance about those transactions. Those transactions were not part of the ED's prosecution. The respondent also did not provide the bank details pertaining to those transactions. The circumstances prevailing during ongoing investigation of the CBI case, are completely different than the case which has been investigated by the ED. The respondent did not join ED's investigation until cancellation of his warrant. The E-mails sent to the respondent's wife were found undelivered. Communications were, therefore, sent to the respondent. He, however, did not co-operate. The Special Court did not consider that the respondent is U.K. citizen and resident of Hong Kong. His wife is a Belgian citizen. As such, both of them have no roots in India. The other co-accused namely, Neeshal Modi, Nehal Modi, Mihir Bhansali and Sandeep

Mistry, close relatives/friends of Nirav Modi, are all foreign nationals and absconding. In view of this, the respondent poses a credible flight risk.

13. Learned Senior Counsel would further submit that the respondent did not disclose the sums held in the bank accounts of M/s.Pavilion Point Corporation, an entity controlled by the respondent and his wife. M/s.Pavilion Point Corporation is accused no.21 in the supplementary prosecution complaint by the ED. Due to his non co-operation, the investigation into his role in the crime is at stand-still. It is extremely essential to examine the three bank accounts noted in the notice under Section 91 of Cr.P.C. Relying on some authoritative pronouncements, learned Senior Counsel would submit that the economic offences are committed for personal profit and the casualty is the well being of the Society. Such offence affects the economy of the country. He would further submit that the respondent had conceded to co-operate with the investigating agency and therefore, as agreed before the Apex Court, a joint meeting was held between the Investigating Officer of CBI and ED on 25.10.2022. During the meeting, it had come to light that the bank account details of the respondent (account no.91417600 in

which USD 30 millions were credited) is not available with the ED. Further, complete details of account no.820173 in the name of M/s.Pavilion Point Corporation are also not available with the ED. A request was made to NCB, Singapore, on 30.11.2022, for providing the bank account details related to the respondent and his wife. Letter Rogatory for legal assistance in the case has also been sent to Singapore authorities for providing bank account details. Hon'ble Supreme Court had directed the respondent to send communications to the respective banks at Singapore for getting his bank account details required by the CBI. He has not provided such details to the CBI, till date. The High Commission of India in Singapore is following up the matter with the concerned authorities in Singapore. Investigation against the respondent is still pending and would not be taken to its logical conclusion due to non-availability of aforementioned documents, despite the CBI is taking all possible measures. In such a situation, it would be imprudent to permit the respondent to travel, as, thereafter, the investigating agency would not have any control over him and his so-called co-operation would be simply illusory. With these submissions, learned Senior Counsel urged for setting aside the order permitting the respondent to visit Hong Kong.

14. Mr.Amit Desai, learned Senior Counsel, would, on the other hand, submit that the respondent is a devout Jain. His single mistake landed him in such a situation. Both respondent and his wife remorsed. They, therefore, agreed to extend full co-operation with the investigation undertaken by the ED. On their request and with the consent of the ED, the Special Court granted them pardon. Both of them had given their statements under Section 50 of P.M.L.A. Attention of this Court was adverted to the affidavit filed by the ED authority in response to the application (Exhibit-144). The ED has conceded the respondent and his wife to have extended full co-operation in the investigation. A sum of little over Rs.520 Crores would be repatriated to India. The respondent voluntarily came to India. The FIR registered with the CBI dates back to year 2018. The respondent has not been named in the FIR. Three charge-sheets have been filed by the CBI. The respondent is not accused therein. It is only when the Special Court granted the respondent permission to visit Hong Kong, the CBI authorities on 29.06.2022, for the first time, changed its narrative and the respondent is being treated as an accused without there being any change in the circumstances in between. According to learned Senior Counsel, the Apex Court granted liberty to file further affidavit to

bring on record the material, documents and grounds in support of their plea. The CBI has failed to bring anything substantial. The CBI suppressed many of the facts, before the Hon'ble Supreme Court. Letter Rogatory in the matter was sent on 12.12.2022 and as per the CBI's affidavit, the High Commission of India in Singapore is following up the matter. According to learned Senior Counsel, the right to travel is intrinsic part of the fundamental right secured to an individual. In support of his submissions, he relied on number of authorities including the Apex Court judgment in the case of **Mrs.Maneka Gandhi Vs. Union of India and anr., (1978)1 SCC 248**. The respondent is being differently treated inspite of he being approver and the endorsement of his co-operation by the ED. He would further submit that the CBI did not provide the respondent with the basic details like bank account of HSBC referred to in the summons for USD 8.9 million transaction dated 22.03.2012 from one Deepak Modi. The summons refer to a ledger and despite repeated requests, no such account number or bank details were provided to him to seek further information. According to learned Senior Counsel, copies of the documents relied upon, filed with second prosecution complaint of the ED dated 28.02.2019, show that the bank statement of transactions amounting to USD 8.9

million was with the ED prior to September, 2018 and it is Firestar Holdings, a Nirav Modi company, was the beneficiary and not the respondent. He would further submit that the respondent and his wife did not object to provisional attachment of their three bank accounts, except one wherein the respondent has his hard earned money. Attention of this Court was adverted to certain observations made by the Special Court in the impugned order and even the observations made by this Court in its order dated 23.08.2022. According to learned Senior Counsel, it was a case of concurrent findings. Learned Senior Counsel would further submit that the respondent and his wife are actually ostracized from the family for testifying again the prime accused Nirav Modi. The co-accused who are said to be in abroad are not approver of the Government of India. The CBI, instead of pursuing for their extradition, is keeping a person, who has voluntarily come to India for assisting the Government of India in such *quasi hostage* situation. Those named in the charge sheets are at large. There is no shred of material to suggest the respondent's involvement in the crime, except the apprehension that the respondent is a flight risk. According to learned Senior Counsel, the statements of bank accounts have already been provided for information required by the CBI. All the necessary co-operation is extended by the respondent. The CBI is well poised to send Mutual Legal Assistance Treaty (MLAT) for the details needed. The respondent has voluntarily written to the banks to assist the Government of India to obtain whatever information was possible. It was thereafter informed in Hon'ble Supreme Court that the banks were not willing to provide the same without undertaking a significant, cumbersome procedure, which was not feasible and it was mooted that the CBI would be better placed and faster to achieve the documents via MLAT or Letter Rogatory. Learned Senior Counsel reiterated the averments in the affidavit-in-reply. He relied on the following authorities to ultimately urge for dismissal of the application:-

(1) Parvez Noordin Lokhandwalla Vs. State of Maharashtra and anr., (2020)10 SCC 77;

(2) Decision of the Apex Court dated 01.04.2019 in the case of Moin Akhtar Qureshi Vs. Central Bureau of Investigation (Criminal Appeal No.575 of 2019 - arising out of S.L.P. (Crl.) No.2494 of 2019);

(3) Gian Singh Vs. State of Rajasthan, (1999)5 SCC 694;

(4) Miss Marie Andre Leclerc VS. State (Delhi Administration) and anr., (1984)2 SCC 443;

(5) Satwant Singh Sawhney Vs. D. Ramarathnam, Assistant Passport Officer, New Delhi and ors., AIR 1967 SC 1836;

(6) Saket Kamleshkumar Agrawal Vs. Director, Serious Fraud Investigation Office and ors., 2021 SCC OnLine Bom 8136;

(7) Union of India, Through Mr.V.R. Parmar Vs. Abubakar Ahmed Said Saleh and anr., 2016 SCC OnLine Bom 15590;

(8) Dr.Prannoy Roy and anr. Vs. Union of India and ors., W.P.(C) 5316/2021;

(9) Decision of Delhi High Court dated 30.05.2022 in the case of Directorate of Enforcement Vs. Jacqueline Fernandis, Crl. M.C. 2657 of 2022 and Cri. M.A. 11064/2022;

(10) Rana Ayyub Vs. Union of India and anr., 2022 SCC OnLine Del 961;

(11) Chenhsuiyun Vs. Directorate of Revenue Intelligence, 2021 SCC OnLine Del 3241;

(12) Shivani Saxena Vs. Directorate of Enforcement and anr., 2021 SCC OnLine Del 1626;

(13) Suresh Nanda Vs. Central Bureau of Investigation, (2008) 3 SCC 674;

(14) Enforcement Directorate Vs. Nemi Chand Jain @ Chandraswami, 2008(101)DRJ 255;

(15) Quentin Schmidt Vs. State of Karnataka, By Kodigehalli Police Station, 2020 SCC OnLine Kar 2309;

(16) Karti P. Chidambaram Vs. Bureau of Immigration, Ministry of Home Affairs Government of India and ors., 2018 SCC OnLine Mad 2229;

(17) S. Martin Vs. The Deputy Commissioner of Police, Central Crime Branch; 2014 SCC Online Mad 1651.

15. Considered the submissions advanced. Perused the documents and the authorities relied on.

16. No doubt, right to travel to the place of one's choice, is part of the fundamental right to certain freedom enshrined under Article 19 of the Constitution of India. All the authorities relied on by learned Senior Counsel for the respondent suggest that even foreign nationals/Indian citizens have been permitted to visit foreign countries, pending investigation or prosecution relating to serious crimes. Keeping on mind what has been submitted by learned Senior Counsel relying on the judgment of the Apex Court in the case of **Maneka Gandhi** (supra) and other authorities referred to herein above, this Court proceeds to decide present application in view of the facts and circumstances obtainable therein.

17. The crime, which is being investigated by the C.B.I. and even in respect of which, complaints under PMLA have been filed before the Special Court, are economic offences of high magnitude, i.e. involving Rs.6,498/- Crores. It is true that the respondent was not named in the FIR, which has been registered way back in 2018. It is also true that he was not made an accused in the CBI investigation in the said FIR, until little after the Special Court granted the respondent permission to visit Hong Kong for three months. It is also true that the respondent appears to have extended full co-operation to the ED. He has also been granted pardon in the case instituted by the ED. His statement under Section 50 of PMLA has also been recorded. Both respondent and his wife have not raised any objection for preliminary attachment of their two of three bank accounts. The funds in one of the three accounts are said to be self earning of the respondent. The respondent is also ready to surrender the amount standing to the credit in the said account. It is also true that the ED authorities filed affidavit conceding the respondent to have fully co-operated in the investigation made by the ED. It has also been informed that sum of little over Rs.520 Crores is being repatriated to India with the

assistance of the respondent and his wife. It is also true that the respondent and his wife came to India pursuant to the order granting them pardon. Since then, i.e. from June, 2021, the respondent is in India. The respondent has offered a flat worth Rs.21 Crores as per ready reckoner value of 2021, standing in the name of his parents, as a security for his return to India. He is also ready to abide by any of the conditions this Court may impose, if he is allowed to visit Hong Kong. It is also true that his two young daughters are in Hong Kong. The respondent feels to have been detained in India for no reason.

18. This Court too is not averse or reluctant to allow the respondent to visit Hong Kong for a period of three months, but for the information which is required to be obtained from him.

19. A notice/order dated 13.10.2021 issued to him to produce the documents or articles under Section 91 of Cr.P.C., records that the following details were required from the respondent.

Description of documents/articles

1. Statement of account for a/c. no.91417600 maintained in Barclay Bank, Singapore in the name of Maiank Mehta for the period from 01.01.2011 to 31.12.2020.

2. Statement of account under client no.6775997 and a/c. no.6775997.001.800.840 maintained in Julius Bar in the name of Pavilion Point Corporation since opening till 31.12.2020.

3. Statement of account for a/c. no.155370 subsequently renumbered to 820173 (in July 2013) maintained in UBS Bank at Singapore in the name of Pavilion Point Corporation for the period from 01.01.2011 to 31.12.2020.

20. In the notice dated 25.01.2022, the respondent was called up to produce the following documents :-

Date	Particulars	Voucher No.	Debit amount (in USD)
22.03.2012	HSBC – USD savings A/c. (Auragem Co. Ltd.) being paid to Mayank Mehta	389	1,500,000.00
22.03.2012	HSBC – USD savings A/c. (Auragem Co. Ltd.) being paid to Mayank Mehta	390	4,400,000.00
22.03.2012	HSBC – USD savings A/c. (Fancy Creation Co. Ltd.) being paid to Mayank Mehta	319	3,000,000.00

21. The following is the response given by the respondent to the aforesaid requisitions:-

Sr. No.	Bank Account Statement Particulars	Status
1.	A/c. No.91417600 maintained with Barclay Bank,	The said Bank account was operational since 2013 and not 2011, till 2016. The account was not in existence during 2011 to 2012 and from

	Singapore for the period 1 January 2011 to 31 December 2020	2016 till 2020 as requested. Since the account was closed 6 years ago and Barclays Bank has exited their private wealth management business. Further, there is a pending MLAT request by the Enforcement Directorate with Singapore since 2018 The CBI has been duly informed about the above vide a letter dated 11 November 2022. Further, the respondent vide submissions dated 12 November 2022 informed the Hon'ble Supreme Court. On 2 December 2022, the Ld. Counsel appearing for CBI, informed the Hon'ble Supreme Court that decision has been taken to move the competent authority in Singapore under the MLAT. Further, approval has been granted by the Ministry of Home Affairs for pursuing an LR.
2.	Statement of account under client no.6775997 and A/c. No. 6775997.001.800.840 maintained with Julius Baer in the name of Pavilion Point Corporation, a company controlled by the respondent No.1 since opening till 31.12.2020	The said information has already been provided to CBI vide letter dated 18 October 2021, wherein the requisition bank statements were submitted. A copy of the same is annexed hereto and part of Annexure C. Further, the said account was opened in January, 2016 and frozen under Mutual Legal Assistance Treaty issued by the ED in 2018. Thus, there would be no statements for the said account from 2011-2016 and 2018-2020
3.	Statement of account for A/c. No.155370 (renumbered as 820173) maintained with UBS Bank, Singapore in the name of Pavilion Point Corporation for the period 01.01.2011 to	The information and bank statements with respect to the said account has already been supplied to the CBI vide letter dated 24 February 2022 for the period 2013-2015. A copy of the same is annexed hereto and a part of Annexure C. Please note that the statement of A/c. No. 820173 has thus been fully provided as the bank account was closed in 2015 and hence, there would be no statements from the period 2016-2020 as requested.

	31.12.2020	Further, pursuant to the order dated 7 November 2022 of the Hon'ble Supreme Court of India in the SLP (Crl) No.8915 of 2022, vide e-mail dated 9 November 2022, the respondent once again requested the UBS Bank for bank statement of account number 155370 (renumbered as 820173) for the period 01.01.2011 to 31.12.2020. On 2 December 2022, the learned counsel appearing for CBI, informed the Hon'ble Supreme Court that decision has been taken to move the competent authority in Singapore under MLAT. Further, approval has been granted by the Ministry of Home Affairs for pursuing an LR.

22. As regards 8.9 Million USD transaction, Mr.Desai, learned Senior Counsel, would submit that the statement of Shri.Shyamsunder Wadhwa recorded by the ED authorities, sheds light thereon. As per the said statement, Nirav Modi's Firestar Company is a beneficiary thereof. The statement of Shyamsunder Wadhwa has been placed on record.

23. It has been specifically stated on affidavit by the C.B.I. that inspite of the statement made before the Apex Court on behalf of the respondent that he is ready and willing to furnish the letter of authorisation to the CBI, so that it may directly approach the banks, the same has not yet been given. True, said statement is conditional one. The gist of the affidavit-in-reply filed by the respondent and the claim of the applicant – CBI, undoubtedly, suggest that the

respondent has not furnished entire statements of bank accounts for the period from opening of those accounts to the date of their closure. The respondent was holder of those accounts. He is, therefore, expected to submit the same to the CBI. It is true that the CBI is making all-out efforts to secure the said information. Letters Rogatory have been issued. M.L.A.T. proceedings are underway. The Indian High Commission in Singapore is also looking into the matter with a view to obtain requisite information required by the CBI. It is reiterated that when the respondent is holder of those bank accounts, it is he, who is expected to obtain the details thereof, from the concerned banks and submit the same to the CBI. The respondent has his office and staff in Hong Kong. It is not difficult for him to obtain the requisite information and submit the same to the CBI in response to the notice dated 13.10.2021.

24. Admittedly, the respondent has not supplied statement of his bank Account No.91417600. So far as regards the other two bank accounts are concerned (M/s.Pavilion Point Corporation), although he claimed to have supplied to the CBI the statements of accounts, it appears that the said statements of accounts are not for the period from opening of those accounts to the closure thereof.

Let the bank concerned make such statement that the bank account statement supplied is complete in all respect, as has been asked for by the CBI. The respondent, in his response, submits that the CBI is taking efforts to obtain the same. This Court has, therefore, reason to observe that the respondent has not complied with the CBI requisition letter dated 13.10.2021 complete in all respects. So far as regards the notice dated 25.01.2022, the respondent cannot take shelter of the fact that he has not been supplied with the bank accounts number. According to him, USD 8.9 transaction dated 22.03.2012 has duly been reflected in the investigation made by the ED. The said fact has specifically been denied by the CBI. The respondent is also, therefore, required to come clean and furnish the requisite information, as has been asked for vide notice dated 25.01.2022. The CBI would do well to give the respondent the bank account number in relation to the transaction dated 22.03.2012.

25. It is reiterated that this Court is not opposed to allow the respondent to visit Hong Kong for three months, but only after he complies with the notices/orders dated 13.10.2021 and 25.01.2022, to produce the documents.

26. In view of the above, the application is allowed in terms of the following order:-

(i) The order dated order dated 16.06.2022 passed by learned Special Judge (CBI) on application (Exhibit – 144) in P.M.L.A. Special Case No.04 of 2018 and P.M.L.A. Special Case No.03 of 2019, permitting the respondent to visit Hong Kong for three months, is maintained.

(ii) Schedule, if any, of the respondent's proposed visit to Hong Kong is, however, deferred to or made subject to the respondent complying with the notices dated 13.10.2021 and 25.01.2022.

(iii) The respondent is permitted to leave India for Hong Kong, fifteen days after he complies with the notices of the CBI dated 13.10.2021 and 25.01.2022 or the CBI receives the information from the concerned banks. On such compliance having been made, the respondent shall report the same to this Court under intimation to the CBI.

(iv) The respondent to furnish cash security in the sum of Rs.15 Crores and solvent surety in the sum of Rs.30 Crores, before the Special Court, eight days prior to leaving India for Hong Kong.

(v) Rest of the terms of the impugned order dated 16.06.2022 to stand unaltered.

[R.G. AVACHAT, J.]

KBP