



Crl.RC.Nos.890, 975, 976, 1026, 1029 & 1030/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 23.11.2023

Delivered on 15.12.2023

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.RC.Nos.890, 975, 976, 1026, 1029 & 1030/2023

Dineshchand Surana

.. Petitioner in
all the Revision Cases

Versus

The Assistant Director
Directorate of Enforcement
Government of India
Ministry of Finance, Department of Revenue
2nd and 3rd Floor, C Block,
Murugesha Naicker Complex
84, Greaves Road, Thousand Lights
Chennai 600006.

.. Respondents
in all Revision Cases

Prayer in Crl.RC.No.890/2023:- Criminal Revision Petition filed under Section 397 read with 401 of Cr.P.C., 1973, to set aside the order dated 28.04.2023 passed by the learned XIV Additional Special Judge for CBI cases, in Crl.MP.No.3546 of 223 in Spl.CC.No.9 of 2022 in ECIR No.CEZO-1/05/2019 and grant the prayers sought for by the petitioner in Crl.MP.No.3546/2023 in Spl.CC.No.9/2022 in ECIR No.CEZO-1/05/2019.



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Prayer in Crl.RC.No.975/2023:- Criminal Revision Petition filed under Section 397 read with 401 of Cr.P.C., 1973, to set aside the order dated 28.04.2023 passed by the learned XIV Additional Special Judge for CBI cases, in Crl.MP.No.3548 of 223 in Spl.CC.No.10 of 2022 in ECIR No.CEZO-1/42/2020 and grant the prayers sought for by the petitioner in Crl.MP.No.3548/2023 in Spl.CC.No.10/2022 in ECIR No.CEZO-1/42/2020.

Prayer in Crl.RC.No.976/2023:- Criminal Revision Petition filed under Section 397 read with 401 of Cr.P.C., 1973, to set aside the order dated 28.04.2023 passed by the learned XIV Additional Special Judge for CBI cases, in Crl.MP.No.3547 of 223 in Spl.CC.No.11 of 2022 in ECIR No.CEZO-1/37/2020 and grant the prayers sought for by the petitioner in Crl.MP.No.3546/2023 in Spl.CC.No.11/2022 in ECIR No.CEZO-1/37/2020.

Prayer in Crl.RC.No.1026/2023:- Criminal Revision Petition filed under Section 397 read with 401 of Cr.P.C., 1973, to set aside the order dated 27.01.2023 dismissing the bail petition of the petitioner and consequently enlarge the petitioner on default bail in Spl.CC.No.11/2022 on the file of the learned XIV Additional Special Judge-CBI in the interest of justice and equity.

Prayer in Crl.RC.No.1029/2023:- Criminal Revision Petition filed under Section 397 read with 401 of Cr.P.C., 1973, to set aside the order dated 27.01.2023 dismissing the bail petition of the petitioner and consequently enlarge the petitioner on default bail in Spl.CC.No.09/2022 on the file of the learned XIV Additional Special Judge-CBI in the interest of justice and equity.

Prayer in Crl.RC.No.1030/2023:- Criminal Revision Petition filed under Section 397 read with 401 of Cr.P.C., 1973, to set aside the order dated 27.01.2023 dismissing the bail petition of the petitioner and consequently enlarge the petitioner on default bail in Spl.CC.No.10/2022 on the file of the learned XIV Additional Special Judge-CBI in the interest of justice and equity.

For Petitioner in



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Crl.RC.Nos.890, 975
& 976/2023

: Mr. V.Sivaandaraaj
for Ms.Ramya Subramanyam

For Petitioner in
Crl.RC.Nos.1026, 1029
& 1030/2023

: Mr.Nithyaesh Natraj
for Ms.Ramya Subramanyam

For Respondent in
all Revisions

: Mr.Ar.L.Sundaresan
Additional Solicitor General
assisted by Mr.N.Ramesh
Special Public Prosecutor for
Enforcement Directorate

COMMON ORDER

SUNDER MOHAN, J.

- (1) Since all the revisions are filed by the accused/petitioner challenging the orders passed, remanding him to custody and the orders dismissing the bail applications filed by him under Section 167[2] of Cr.P.C., the above revisions are disposed of by this common order.
- (2) The petitioner is facing trial in three Special Calendar Cases, namely, Spl. CC.Nos.9, 10 and 11/2022 pending before the learned XIV Additional Special Judge for CBI cases, Chennai, on the complaints given by the respondent herein under Section 4 of the Prevention of Money Laundering Act, 2002 *[hereinafter referred to as 'PMLA']*.



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- (3) The petitioner is the Managing Director of two Companies, by name Surana Industries Limited [SIL] and Surana Power Limited [SPL]. The two companies are accused in Spl.CC.No.09/2022 and 11/2022. The petitioner herein is also a promotee of M/s.Surana Corporation Limited which is an accused in Spl.CC.No.10/2022. In the above capacities, the petitioner has also been arrayed as accused in the three complaints filed against the three Companies.
- (4) The case of the respondent is that the petitioner, through the aforesaid Companies, has misappropriated the credit facilities extended to the Companies and siphoned them off for personal gains causing loss to the tune of Rs.3986 Crores and odd and thus, was involved in the offence of Money Laundering.
- (5) Initially, three ECIRs were recorded against the Companies and its Directors and their investigation revealed that the Companies above named, through their Directors/Promotees, indulged in the manipulation of Books of Accounts, indulged in paper transactions to inflate the turnover of the Companies to get more credit facilities from the Banks and thereafter, siphoned off the funds from the



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Companies through Shell Companies for personal gains and thereby indulged in the offence of Money Laundering. The investigation also revealed that the Shell Companies were in the names of relatives, employees of the petitioner and residents of the petitioner's ancestral village.

- (6) During the investigation, the petitioner was arrested on 12.07.2022 in all the three ECIRs referred to above.
- (7) The respondent completed the investigation and filed three complaints, which are pending trial in the Special Calendar Cases referred to above.
- (8) Since the petitioner was in custody even after filing the complaints, his remand was extended by the Trial Court periodically. The petitioner had filed bail applications before the Trial Court which were dismissed and it is reported that the petitioner has preferred a bail application before this Court which is pending adjudication before the concerned learned Single Judge.
- (9) The petitioner also filed an application in each of the Special Calendar Cases for bail under Section 167[2] of Cr.P.C stating that



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in the complaints, the respondent themselves had stated that the investigation is being continued which means that the investigation is not completed and therefore, the petitioner is entitled to statutory bail under the said provision.

- (10) The petitioner has filed an application in each of the Special Calendar Cases praying for cancellation of the order of remand extension dated 06.04.2023.
- (11) Challenging the said orders refusing to cancel the remand extension orders in the above three Special Calendar Cases, the petitioner has filed Crl.RC.No.890, 975 and 976/2023. Challenging the orders, dismissing the bail applications filed by him under Section 167[2] of Cr.P.C., the petitioner had preferred Crl.RC.Nos.1026, 1029 and 1030/2023.
- (12) Mr.V.Sivaandaraaj, learned Senior counsel appearing on behalf of Ms.Ramya Subramanyam, learned counsel on record for the petitioner in Crl.RC.Nos.890, 975 and 976/2023 made the following submissions:-

→ The power of remand after the filing of the complaints is



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traceable to Section 309 of Cr.P.C., as the PMLA does not have any provision for remand.

- ➔ Section 309 of Cr.P.C., provides that the Court shall record reasons for extending the remand of the accused and the orders passed extending the remand, are bereft of reasons and therefore, the petitioner's right under Article 21 of the Constitution has been violated.
- ➔ The twin conditions enshrined in Section 45 of PMLA are not applicable while considering the remand extension and therefore, the orders extending the remand, must be supported by reasons.
- ➔ In the present case, the arrest of the petitioner was not necessary and the arrest has been made in violation of the guidelines laid down by the Hon'ble Supreme Court in the case of *Arnesh Kumar Vs. State of Bihar and Another* reported in **2014 [8] SCC 273**.
- ➔ The learned counsel relied upon the judgment of the Hon'ble Supreme Court in the case of *K.S.Puttaswami and Another Vs.*



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Union of India reported in *2019 [1] SCC 1* in support of his submission that deprivation of liberty must be proportionate to its legitimate objectives.

- ➔ Reliance was placed upon a judgment of the Delhi High Court in the case of *Court on its own Motion Vs CBI* reported in *ILR 2004 [1] Del 47*, in support of his submission that arrest has to be resorted only if the triple tests are satisfied. The triple tests are, [1]the accused is at "flight risk"; [2] should have tampered with the evidence; and [3]the accused has intimidated or influenced the witnesses or has a tendency to do so. In the instant case, the respondent has not made out any such case either for justifying the arrest or for denying bail to the petitioner.
- ➔ The learned counsel therefore submitted that the petitioner has been incarcerated for more than a year and that even if the petitioner is not entitled to bail, he may be kept under house arrest so that he will be able to have access to the voluminous records filed by the respondent and to effectively defend himself



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in the trial.

→ He also relied upon the judgment of the Hon'ble Supreme Court in the case of ***Gautam Navlakha Vs. National Investigation Agency and Another*** reported in ***2022 [13] SCC 542***.

(13) As regards Crl.RC.Nos.1026, 1029 and 1030/2023, Mr.Nithyaesh Natraj, learned counsel for the petitioner submitted that in all the three complaints, the respondent had stated as follows:-

"[b]To permit the complainant to file additional / supplementary complaint, if any, on completion of investigation and which is being continued in order to identify remaining proceeds of crime, as the further investigation is still going on."

(14) The learned counsel therefore submitted that in terms of Section 167[2] of Cr.P.C., the accused would be entitled to statutory bail if the investigation is not completed. Since the respondent themselves have admitted that the investigation is being continued and further investigation is still going on, the petitioner cannot be denied statutory bail merely because a complaint based on an incomplete



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investigation, has been filed.

- (15) The learned counsel relied upon the judgment of Delhi High Court in the case of *Chitra Ramakrishna Vs. Central Bureau of Investigation [CBI] through the Investigating Officer* reported in *2022 SCC Online Del 3124*, wherein the Delhi High Court had granted bail to the accused therein under Section 167[2] of Cr.P.C., since the Investigating Agency in the said case had filed the Final Report stating that further investigation was still going on. The learned counsel, therefore submitted that though the bail application of the petitioner on merits is pending before the learned Single Judge of this Court, this Court may consider the petitioner's right for statutory bail as the investigation has not yet been completed.
- (16) *Per contra*, Mr.Ar.L.Sundaresan, learned Additional Solicitor General of India assisted by Mr.N.Ramesh, learned Special Public Prosecutor appearing for the respondent [Enforcement Directorate] relied upon the common counter affidavit filed in Crl.RC.Nos.890, 975 and 976/2023 to show the magnitude of the offence committed by the petitioner and that, the prosecution which has already found



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proceeds of crime, has to unearth further proceeds of crime as the petitioner has siphoned off the money in various ways and through various persons. The learned Additional Solicitor General further pointed out that the petitioner's right to get released on bail has been considered by the Trial Court and the petitioner has already moved an application before this Court and the same would be considered on merits. However, there is no requirement under Section 309 of Cr.P.C., to give reasons for extension of remand. Section 309 of Cr.P.C., provides for conducting proceedings on a day-to-day basis and stipulates that adjournment beyond the following day has to be necessary for reasons to be recorded. The learned Additional Solicitor General therefore, submitted that the provision which is intended for speedy trial and grant of an adjournment, cannot be applied to submit that reasons have to be recorded for extending the remand under Section 309 of Cr.P.C.

- (17) As regards the Revisions filed challenging the dismissal of the bail applications filed by the petitioner under Section 167[2] of Cr.P.C.,



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the learned Additional Solicitor General submitted that the complaint filed by the respondent is not an incomplete one and the respondent can proceed with the trial based on the complaint and the materials filed along with the complaint before the Trial Court and that, they need not await the result of the further investigation that is going on, to proceed with the trial. However, the learned Additional Solicitor General submitted that given the magnitude of the case and the power vested with them under Explanation [ii] to Section 44 [1] of PMLA, the respondent is entitled to ascertain if there are other proceeds of crime and as to how they have been laundered. Therefore, he submitted that the argument of the learned counsel for the petitioner that the investigation is incomplete, cannot be countenanced.

- (18) This Court has anxiously considered the rival submissions and also perused the materials placed before it.
- (19) As narrated above, three Criminal Revision Cases in Crl.RC.Nos.890 975 and 976/2023 have been filed challenging the orders passed by the learned Trial Judge refusing to cancel the order of extension of



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remand dated 06.04.2023 and not to extend the remand any further.

The petitioner has moved applications praying for cancellation of the order of extension of remand dated 06.04.2023 in all three Special Calendar Cases.

- (20) The case of the petitioner is that under Section 309 of Cr.P.C., remand cannot be extended without recording reasons. We are unable to accept this argument as the said submission is contrary to the plain language of Section 309 of Cr.P.C.
- (21) Section 309 of Cr.P.C., reads as follows:-

"Section 309:- Power to postpone or adjourn proceedings:-

1) In every inquiry or trial, the proceedings shall be held as expeditiously as possible, and in particular, when the examination of witnesses has once begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded.

Provided that when the inquiry or trial relates



to an offence under Section 376, [Section 376-A, Section 376-AB, Section 376-B, Section 376-C, Section 376-D, Section 376-DA or section 376-DB of the Indian Penal Code 145 of 1860], the inquiry or trial shall be completed within a period of two months from the date of filing of the charge sheet.

(2) If the Court, after taking cognizance of an offence, or commencement of trial, finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody:

***Provided** that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time:*

***Provided** further that when witnesses are in attendance, no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded in writing:*

***Provided** also that no adjournment shall be granted for the purpose only of enabling the accused*



person to show cause against the sentence proposed to be imposed on him.]

Explanation 1.- *If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.*

Explanation 2.- *The terms on which an adjournment or postponement may be granted include, in appropriate cases, the payment of costs by the prosecution or the accused."*

- (22) The said provision deals with the power of the Trial Court to postpone or adjourn proceedings. The object of the said provision is to ensure that the trial is conducted on a day-to-day basis and if for any reason, the trial cannot be conducted on day-to-day basis, the Trial Court shall record reasons for granting adjournments. Section 309 [2] of Cr.P.C., states that if the accused is in custody, the Trial Court shall also remand the accused, provided the remand shall not exceed 15 days at a time. The provisos to Section 309 [2] of



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Cr.P.C., also deal with grant of adjournments and that no adjournment should be granted when witnesses are in attendance. Therefore, the said provision deals with the conduct of the trial in a speedy manner.

- (23) Section 309 of Cr.P.C., does not indicate anywhere that remand cannot be extended unless reasons are recorded. If it is the case of the petitioner that he is in custody for an indefinite period as the trial is not proceeding on a day-to-day basis, his rights can certainly be protected to ensure speedy trial. That may also be a ground for seeking regular bail. However, we may hasten to add that the Court considering the bail application, of course, would consider all other factors including the magnitude of the economic offences committed by the petitioner. But, it is far-fetched to say that extending the remand must contain reasons every time the trial is postponed for hearing. The violation of the rights as stated earlier, has to be adjudicated only in a bail application which is subject to twin conditions mentioned in Section 45 of PMLA. Therefore, we are of the considered view that the orders passed by the Trial Court are in



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accordance with law and there is no reason to interfere with the same.

(24) We are also unable to accede to the petitioner's request for house arrest to enable him to access voluminous documents to defend himself in the trial. The Hon'ble Supreme Court in ***Gautam Navlakha's case [cited supra]***, no doubt, held that in extraordinary cases, the house arrest also can be one form of judicial custody. On the facts, we find that the petitioner has not made out any extraordinary circumstances for this Court to extend the said benefit to the petitioner herein. However, we are inclined to direct the respondent to ensure that all the documents relied upon by the prosecution are furnished to the petitioner and the petitioner has access to the same even if he is in prison.

(25) With the above observations, **Crl.RC.Nos.890, 975 and 976/2023 stand dismissed.**

(26) As regards Crl.RC.Nos.1026, 1029 and 1030/2023, the short question which arises for consideration is whether the petitioner is entitled to statutory bail on the ground that the respondent has not



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- (27) The respondent has stated in the complaints praying for permission to continue with the investigation and this Court had already extracted the relevant prayer in paragraph No.13 of this common order. However, the prayer made by the respondent does not indicate that the investigation is incomplete. There is a difference between a case where the investigation which is incomplete and a case where investigation is complete and further investigation is pursued for collection of additional evidence. The reading of the complaints does not suggest anywhere that the complaints have been filed based on an incomplete investigation. The prayer made by the respondent seeking permission to continue with the investigation to identify further proceeds of crime cannot be interpreted to say that the complaint is not final.
- (28) The learned Additional Solicitor General submitted that the trial could not be commenced because the petitioner and the other accused are continuously filing petitions to stall the progress of the trial and that further investigation is not a hindrance to the



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commencement of the trial. That apart, the learned Additional Solicitor General submitted that the trial can commence based on the complaint and the materials so far collected by the respondent.

- (29) We are of the view that given the specific stand taken by the respondent, that the complaint and the materials filed disclose the offences and that they would proceed with the trial on that basis, we cannot hold that the investigation is incomplete and therefore, the petitioner is entitled to statutory bail. The respondent had already identified a portion of the proceeds of crime which is sufficient to prove the charge against the petitioner herein. The further investigation is conducted *qua* the remaining proceeds of crime. In the judgment of the Delhi High Court relied upon by the learned counsel for the petitioner in the case of ***Chitra Ramakrishna [cited supra]***, the Court was dealing with the Final Report filed by the CBI for the offence under Section 13[1][d] of the Prevention of Corruption Act. In that case, the Delhi High Court found that the Final Report was incomplete and it was filed only to deny statutory bail to the petitioner therein. As stated earlier, an incomplete Final



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Report is different from a Final Report which states that further investigation is necessary to identify more proceeds of crime. In the present case, the complaints filed by the respondents are not incomplete and the trial can be proceeded with independent of further investigation. Therefore, we are of the view that the observations made in the judgment of the Delhi High Court, would not apply to the facts of the instant case.

- (30) The learned counsels for the petitioner had relied upon the other judgments which do not answer the issue raised in this case directly and further have no application to the facts of the instant case.
- (31) For the aforesaid reasons, we find no merit in the three Criminal Revision cases and they are liable to be dismissed. Accordingly, **Crl.RC.Nos.1026, 1029 and 1030/2023 stand dismissed.**
- (32) As a result, all the Criminal Revision Cases stand **dismissed.**
- (33) Since the petitioner/accused have a constitutional right for speedy trial and also a statutory right which is provided under Section 309 of Cr.P.C., we are inclined to direct the Trial Court, namely, the learned XIV Additional Special Judge for CBI cases, Chennai, to



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complete the trial within a period of six months from the date of receipt of a copy of this order.

[SSSRJ] [SMJ]
.12.2023

AP

Internet : Yes

Index : Yes/ No

Netural Citation: Yes/No

To

1.The XIV Additional Special Judge for CBI cases,
Chennai.

2.The Assistant Director
Directorate of Enforcement
Government of India
Ministry of Finance, Department of Revenue
2nd and 3rd Floor, C Block,
Murugesu Naicker Complex
84, Greaves Road, Thousand Lights
Chennai 600006.

3.The Special Public Prosecutor
Enforcement Directorate
Chennai.



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S.S.SUNDAR, J.,
and
SUNDER MOHAN, J.,

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15.12.2023