**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**RESERVED ON : 01.08.2023**

**PRONOUNCED ON : 30.08.2023**

**CORAM**

**THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN**

**Crl.O.P.Nos.14163, 17316 &17287 of 2023**

Prabhakaran ... Petitioner in all Crl.O.Ps.

Vs.

The State Rep.by
The Assistant Director,
Directorate of Enforcement,
Government of India,
Ministry of Finance, Department of Revenue,
2nd & 3rd Floor, C- Block,
Murugesa Naicker Complex,
84, Greams Road, Thousand Lights,
Chennai – 600 006. ... Respondent in all Crl.O.Ps.

**COMMON PRAYER:** Criminal Original Petitions filed under Section 439 Cr.P.C. r/w Section 45 of PMLA Act, 2002, praying to enlarge the petitioner on bail in connection with Spl.C.C.Nos.9, 10 & 11 of 2022, pending trial on the file of the learned XIV Additional Special Judge for CBI Cases, Chennai.

For Petitioner : Mr.Rajarathinam, Senior Counsel
for M/s.Swamisubramanian

For Respondent : Mr.N.Ramesh,
Special Public Prosecutor for E.O.Cases

**COMMON ORDER**

These petitions are filed under Section 439 Cr.P.C. r/w Section 45 of PMLA Act, 2002, to enlarge the petitioner on bail in connection with Spl.C.C.Nos.9, 10 & 11 of 2022, pending trial, on the file of the XIV Additional Special Judge for CBI Cases, Chennai.

2.Petitioner is one of the accused in ECIR Nos.CEZO-1/05/2019 (Spl.C.C.No.9 of 2022), CEZO-1/42/2020 (Spl.C.C.No.10 of 2022) & CEZO-1/37/2020 (Spl.C.C.No.11 of 2022), on the file of the Assistant Director, Directorate of Enforcement, Chennai – 06. These cases came to be registered as follows:

2.1.FIR in RC11/E/2019, dated 01.11.2019, came to registered by the Central Bureau of Investigation, Banking Fraud & Securities Branch, Bangalore, against M/s Surana Industries Limited and Others, Chennai for the offences under Sections 120-B r/w 420, 467, 468, 471 of IPC, 1860 and under Sections 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988. As per the averments in FIR No.RC11/E/2019, dated 01.11.2019, M/s Surana Industries Limited along with its Promoters, Directors and unknown others, by indulging in misappropriation and criminal breach of trust, manipulation of books of accounts through fictitious accounts and conversion of property have caused a loss of Rs 1301.76 crores to 12 Public Sector Banks led by M/s.IDBI and wrongful gains to themselves. Since there appeared a *prima facie* case of money laundering, ECIR No. CEZO-1/05/2019 was recorded against M/s Surana Industries Limited & Others for the offence of money laundering.

2.2.FIR in RC0782020E0006, dated 08-10-2020, was registered by the Central Bureau of Investigation, Banking Fraud & Securities Branch, Bangalore, against M/s Surana Corporation Limited and Others for the offences under Sections 120-B r/w 420, 468, 471 of IPC and under sections 13(2), 13(1)(d) of the Prevention of Corruption Act, 1988.

As per the averments in the FIR No. RC0782020E0006, dated 08-10-2020, M/s Surana Corporation Limited along with its Promoters, Directors and various other persons, by writing off receivables from the books of accounts and creating various fictitious entities have siphoned off funds and indulged in misappropriation/diversion of funds and falsification/fabrication of books of accounts, which led to the account being declared as NPA with an outstanding principal amount of Rs.1188.56 crores. Since there appeared a *prima facie* case of money laundering, ECIR No. CEZO-1/42/2020 was recorded against M/s Surana Corporation Limited for the offence of money laundering.

2.3.FIR in RC0782020E0005, dated 08.09.2020 was registered by the Central Bureau of Investigation, Banking Fraud & Securities Branch, Bangalore, against M/s Surana Power Limited and five others of Surana Group, Chennai, for the offences under 120-B r/w 420, 468, 471 of IPC, 1860 and under sections 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988. As per the averments in the FIR No.RC0782020E0005, dated 08.09.2020, M/s Surana Power Limited represented by its Promoters, Directors and various other persons by their acts, like booking of entry of Rs.22.50 crore to BHEL, making excess payment made to EPC contractors and writing off Rs 86.24 crores in respect of EPC contractors, related parties transactions, indulged in misappropriation of funds and criminal breach of trust as well as manipulation of books of accounts, which resulted in commission of fraud. The lender banks led by IDBI bank were misrepresented by M/s.Surana Power Limited by providing manipulated accounts and thereby, resulting in the account being declared as NPA with an outstanding principal amount of Rs.1495.76 crores. Since there appeared a *prima facie* case of money laundering, ECIR No. CEZO-1/37/2020 was recorded against M/s Surana Power Limited for the offence of money laundering.

2.4.These cases are now pending in Spl.C.C.Nos.9, 10 & 11 of 2022, respectively, on the file of the Principal Sessions Court, Chennai, Special Court constituted under Section 43 (1) of the Prevention of Money Laundering Act, 2002.

3.The learned counsel for the petitioner submitted that the allegations against M/s. Surana Industries Limited & others, M/s. Surana Power Limited & others and M/s. Surana Corporation Limited & others are that they have defrauded the banks by floating a web of shell companies, wherein, they appointed its employees / relatives as Directors / Proprietors / Partners and indulged in transaction with them without actual transactions or movement of goods, by using the same credit capital obtained from various banks as loans and these amounts were enrooted to the accounts of those shell companies and thereafter, transferred the same to the personal accounts of the promoters of the companies by projecting it as unsecured loan from their associate shell companies and the funds were subsequently infused in the main group of companies as part of the promoters contribution to enhance the DP limits. Thus, they caused a loss of Rs.3,986 crores.

3.1.The specific case against the petitioner is that he is the employee of Surana Industries Limited and was made as a Director of

M/s. Sayso Exim Pvt Ltd., M/s. Tribhovan Enterprises Pvt Ltd and M/s. Natural Coal Pvt Ltd, by the promoters of the company for facilitating routing and siphoning of the funds received from accounts of companies of the Surana Group.

3.2.It is the submission of the learned counsel for the petitioner that even as per the complaint allegations, petitioner is only a dummy Director, incapable of taking any independent decision, rather, he was a puppet at the hands of Shri.Dinesh Chand Surana and his associates. He has no property, either movable or immovable in his name or in the name of his family members. If he was really involved in the offence of money laundering, he would have been benefited monetarily. There is no material available to show that petitioner was benefited monetarily. Prior to his arrest and after his arrest, he had been co-operating with the investigation agencies. He is in judicial custody for nearly one year. When he was arrested, his wife was pregnant and during his incarceration, his wife delivered twin children. Till date, he has not seen the face of his children. There is no one to take care of his wife and children for their daily needs. In the said circumstances, the learned counsel for the petitioner seeks bail for the petitioner.

4.In response, the learned Special Public Prosecutor submitted that Surana Industries Limited, Surana Corporation Limited and Surana Power Limited availed credit facilities from the banks and then misappropriated the funds and siphoned them off for the personal gains of its Directors, causing loss to the tune of Rs 3986.08 Crores to the consortium of the banks. Petitioner was an employee in the Surana Industries Limited and joined as Tally Master. Subsequently, he was made a Director of SIL companies M/s Sayso Exim Pvt Ltd, M/s Tribhovan Enterprises Pvt Ltd and M/s Natural Coal Pvt Ltd. These are all the dummy companies of the Surana Group under the control of Shri Dinesh Chand Surana. Investigation revealed that these companies were actively involved in routing and siphoning of the funds received from accounts of companies of the Surana Group as detailed above. More specifically, (i)from the said funds routed/ diverted/ routed through M/s Sayso Exim Pvt Ltd., M/s Tribhovan Enterprises Pvt Ltd and M/s Natural

Coal Pvt Ltd., 60 windmills were purchased from Surana Corporation Limited in an auction of the State Bank of India and 7 windmills were purchased from M/s Surana Green Power Limited. The said 67 windmills were purchased by M/s Bell Tower Enterprises LLP for an amount of Rs 50.33 crores.

(ii) A sum of Rs 58.80 crores was transferred to one M/s Kanwarlal & Company for the purchase of two properties. The money advanced for the said properties from M/s Sayso Exim Pvt Ltd. is Rs. 43.96 crores and from M/s Tribhovan Enterprises Pvt Ltd. is Rs.14.84 Crores. These aspects were not disclosed by the petitioner in his statements, dated 21.03.2022 and 22.03.2022.

(iii)There was a huge cash deposit in the account of M/s Natural Coal Pvt Ltd and petitioner stated that he has given loans to M/S BELL Tower Enterprises LLP and also Rs.65 crores as unsecured loan to Shri Dinesh Chand Surana on his request. M/s. Sayso Exim Pvt Ltd and M/s Tribhovan Enterprises Pvt Ltd had transacted in hundreds of Crores with

Surana Corporation Ltd in financial years 2015-16 and 2017-18, as follows:

| Name of the Party | Total Sale Value (Amount in INR Crores) | Total Purchase Value (Amount in INR Crores) |
|---|---|---|
| Sayso Exim Private Limited | 490.24 | 375.93 |
| Tribhovan Enterprise Private Limited | 273.43 | 216.73 |
| **Total** | **763.67** | **592.66** |

**(A) M/s.Natural Coal Pvt Ltd.**

| Sr.No. | Date of Transaction | Debit Amount | Credit Amount | Transaction Particulars |
|---|---|---|---|---|
| 1 | 04.04.2015 | | 15,00,00,000 | Surana Industries Limited |
| 2 | 04.04.2015 | 7,25,00,000 | | Dinesh Chand Surana |
| 3 | 04.04.2015 | 7,75,00,000 | | Dinesh Chand Surana |
| 4 | 04.04.2015 | | 10,00,00,000 | 21-318499 (SIL) |
| 5 | 04.04.2015 | 5,10,00,000 | | Dinesh Chand Surana |
| 6 | 04.04.2015 | 4,90,00,000 | | Dinesh Chand Surana |
| 7 | 04.04.2015 | | 8,30,00,000 | Surana Industries Limited |
| 8 | 04.04.2015 | 8,30,00,000 | | Dinesh Chand Surana |
| 9 | 08.04.2015 | | 4,39,70,000 | Thribovan Enterp |
| 10 | 08.04.2015 | 2,29,65,000 | | Sasyo Exim |
| 11 | 08.04.2015 | 2,10,00,000 | | Sasyo Exim |
| 12 | 09.04.2015 | | 2,80,23,000 | Surana Industries Limited |
| 13 | 09.04.2015 | 2,80,23,000 | | Vijay Raj Surana |
| 14 | 10.04.2015 | | 2,14,12,000 | Surana Industries Limited |
| 15 | 10.04.2015 | 2,14,12,000 | | Vijay Raj Surana |
| 16 | 10.04.2015 | | 51,42,000 | Surana Industries Limited |
| 17 | 10.04.2015 | 51,42,000 | | Vijay Raj Surana |

## (B) M/s. Thribovan Enterprises Pvt Ltd.

| Sr.No. | Date of Transaction | Debit Amount | Credit Amount | Particulars |
|---|---|---|---|---|
| 1 | 03.04.2014 | | 2,00,00,000 | Surana Industries Limited |
| 2 | 03.04.2014 | 2,00,00,000 | | Vinayaga Infra |
| 3 | 08.09.2014 | | 2,30,00,000 | Surana Industries Limited |
| 4 | 09.09.2014 | 2,30,00,000 | | Sri Balaji Khem Products |
| 5 | 10.01.2015 | | 4,05,00,000 | Surana Industries Limited |
| 6 | 10.01.2015 | 3,00,000 | | Sri Balaji Khem Products |
| 7 | 12.01.2015 | 4,02,00,000 | | Sasyo Exim Pvt Limited |
| 8 | 23.01.2015 | | 3,92,50,000 | Surana Industries Limited |
| 9 | 23.01.2015 | 3,92,50,000 | | Vinayaga Infra |
| 10 | 28.01.2015 | | 4,80,00,000 | Surana Industries Limited |
| 11 | 28.01.2015 | 4,80,00,000 | | Vinayaga Infra |
| 12 | 29.01.2015 | | 3,50,00,000 | Surana Industries Limited |
| 13 | 29.01.2015 | 3,50,00,000 | | Vinayaga Infra |
| 14 | 28.09.2015 | | 1,40,00,000 | Surana Industries Limited |
| 15 | 28.09.2015 | 1,40,00,000 | | Natural Coal Pvt Ltd |
| 16 | 25.09.2015 | | 2,00,09,000 | Surana Industries Limited |
| 17 | 25.09.2015 | 2,00,09,000 | | Natural Coal Pvt Ltd |
| 18 | 23.09.2015 | | 3,40,00,000 | Surana Industries Limited |
| 19 | 23.09.2015 | 3,20,00,000 | | Natural Coal Pvt Ltd |
| 20 | 13.10.2015 | | 5,12,00,000 | Surana Corporation |
| 21 | 13.10.2015 | 2,15,40,000 | | Surana Corporation |
| 22 | 13.10.2015 | 2,50,10,000 | | Surana Corporation |
| 23 | 12.10.2015 | | 1,20,00,000 | Surana Corporation |
| 24 | 12.10.2015 | 1,20,00,000 | | Sasyo Exim Pvt Limited |
| 25 | 23.02.2016 | 1,31,55,500 | | Vinayaga Infra I Ltd |
| 26 | 23.02.2016 | | 1,31,58,000 | Surana Ind Ltd. |

## (C) M/s. Sayso Exim Pvt Ltd.

| Sr.No. | Date of Transaction | Debit Amount | Credit Amount | Particulars |
|---|---|---|---|---|
| 1 | 03.10.2015 | | 2,14,08,500 | Surana Industries Limited |
| 2 | 03.10.2015 | 2,14,10,000 | | Surana Coporation Limited |
| 3 | 08.10.2015 | | 2,99,99,000 | Surana Industries Limited |
| 4 | 08.10.2015 | 3,00,00,000 | | Surana Coporation Limited |
| 5 | 08.10.2015 | | 2,99,99,000 | Surana Industries Limited |
| 6 | 08.10.2015 | 2,99,99,500 | | Surana Coporation Limited |
| 7 | 08.10.2015 | | 2,99,99,200 | Surana Coporation Limited |
| 8 | 08.10.2015 | 3,00,01,000 | | To tfr |
| 9 | 12.10.2015 | | 1,80,00,000 | Thribhovan |
| 10 | 12.10.2015 | | 1,20,00,000 | Thribhovan |
| 11 | 12.10.2015 | 1,80,01,000 | | Surana Coporation Limited |
| 12 | 12.10.2015 | 1,20,00,500 | | Surana Coporation Limited |
| 13 | 13.10.2015 | | 3,00,00,000 | Natural Coal Pvt Ltd |
| 14 | 13.10.2015 | 3,00,00,000 | | Surana |
| 15 | 13.10.2015 | | 8,14,02,600 | Surana Industries Limited |
| 16 | 13.10.2015 | 2,55,24,600 | | Surana Coporation Limited |
| 17 | 13.10.2015 | 2,56,75,400 | | Surana Coporation Limited |
| 18 | 13.10.2015 | 3,02,25,000 | | Surana Coporation Limited |
| 19 | 24.07.2014 | | 40,00,000 | Vinayaga Infra I Ltd |
| 20 | 24.07.2014 | | 50,00,000 | Vinayaga Infra I Ltd |
| 21 | 24.07.2014 | | 50,00,000 | Vinayaga Infra I Ltd |
| 22 | 25.07.2014 | 40,00,000 | | Surana Power Ltd. |
| 23 | 25.07.2014 | 55,50,000 | | Surana Ind Ltd. |
| 24 | 25.07.2014 | 4,56,000 | | NDK Enterprises |

| Sr.No. | Date of Transaction | Debit Amount | Credit Amount | Particulars |
|---|---|---|---|---|
| 25 | 25.07.2014 | 15,00,000 | | Surana Ind Ltd. |
| 26 | 25.07.2014 | 4,17,000 | | Sri Balaji Khem Products |
| 27 | 27.12.2014 | | 1,88,46,976 | Natural Coal Pvt Ltd. |
| 28 | 27.12.2014 | | 50,00,000 | Natural Coal Pvt Ltd. |
| 29 | 29.12.2014 | 1,81,12,100 | | Rajul Raj Trading |
| 30 | 29.12.2014 | 50,00,000 | | Surana Power Ltd |
| 31 | 29.12.2014 | | 1,79,95,000 | Sri Balaji Khem Products |
| 32 | 29.12.2014 | 1,50,00,000 | | Surana Ind Ltd. |
| 33 | 30.12.2014 | | 4,77,50,000 | Sri Balaji Khem Products |
| 34 | 30.12.2014 | 5,10,00,000 | | Surana Ind Ltd. |
| 35 | 02.01.2015 | | 5,10,00,000 | Sasyo Exim |
| 36 | 02.01.2015 | 5,10,00,000 | | Surana Ind Ltd. |
| 37 | 06.07.2016 | | 1,25,63,775 | Surana Corporation Ltd. |
| 38 | 06.07.2016 | 1,20,14,200 | | Bell Tower Enterprises LLP |
| 39 | 06.07.2016 | 10,52,000 | | Surana Ind Ltd. |

5.The aforesaid transactions had taken place at the time when third accused P.Anand was the Director of these companies. Anand was replaced by the petitioner and he continued the offence of money laundering by diverting the bank funds from SIL, SCL through these companies to M/s Bell Tower Enterprises LLP and M/s Kawarlal & Co for purchasing benami properties.

6.Looking at the financial and family/educational background of the petitioner, it does not look like he can have a business acumen to run companies in capacity of the Director and dealing with Crores of rupees in business. He was acting only at the behest of Shri Dinesh Chand Surana and his associates in committing offences of money laundering. Petitioner was not co-operating with the investigation and not revealing the truth and infact he was shielding Shri Dinesh Chand Surana in the money laundering activities. This is a classic case of money laundering, where the ingredients of money laundering, namely, placement, layering and integration are all present. In the said circumstances, learned Special Public Prosecutor strongly opposed these petitions.

7.In reply, to the submissions of the learned Special Public Prosecutor, the learned counsel for the petitioner relied on the judgment of the Hon'ble Supreme Court reported in ***2022 SCC Online SC 1748 in Sanjay Agarwal Vs. Directorate of Enforcement,*** wherein, considering the maximum sentence for the offence and the period of custody undergone by the appellant therein, he was released on bail.

8.Considered the rival submissions and perused the records. From the consideration of the materials produced, namely, complaint allegations, counter affidavit of the respondent, petition averments and submissions of the learned counsel appearing for the parties; allegations against this petitioner as extracted in paragraph Nos.3.4 to 3.9 of the counter affidavit are as follows:-

(i) From the funds diverted through M/s.Sayso Exis Pvt Ltd, M/s.Thribovan Enterprises Pvt Ltd and M/s Natural Coal Pvt Ltd, 60 windmills were purchased from Surana Corporation Limited in an auction of the State Bank of India and 7 windmills were purchased from M/s Surana Green Power Limited. These 67 windmills were purchased by M/s Bell Tower Enterprises LLP for an amount of Rs 50.33 crores.

(ii) The funds routed/ diverted/ routed from M/s Sayso Exim Pvt Ltd and M/s Thribovan Enterprises Pvt Ltd., were transferred to the tune of Rs 58.80 crores to M/s. Kanwarlal & Company for the purchase of two properties.

(iii) Shri Ramlal Jain, Proprietor, M/s. Kanwarlal & Company gave a statement that Shri.Dinesh Chand Surana wanted to purchase some of his properties and for the same, arranged the funds to the tune of Rs.58.80 crores. This money was received from M/s.Sayso Exim Pvt Ltd., to the tune of Rs.43.96 Crores and M/s Thribovan Enterprises Pvt Ltd., to the tune of Rs.4.84 crores. This fact was not disclosed by the petitioner in his statement, dated 21st & 22nd March, 2022.

(iv) There was a huge deposit in the account of M/s.Natural Coal Pvt Ltd and on being asked about this, petitioner stated that he gave loans to M/s. Bell Tower Enterprises LLP and Rs.65 crores of unsecured loan to Shri.Dinesh Chand Surana.

(v) M/s.Sayso Exim Pvt Ltd., and M/s Thribovan Enterprises Pvt Ltd., had transacted in hundreds of Crores with Surana Corporation Ltd during the period of financial year 2015-16 and 2017-18 as detailed below:

| Name of the Party | Total Sale Value (Amount in INR Crores) | Total Purchase Value (Amount in INR Crores) |
|---|---|---|
| Sayso Exim Private Limited | 490.24 | 375.93 |
| Tribhovan Enterprise Private Limited | 273.43 | 216.73 |
| **Total** | **763.67** | **592.66** |

9.In paragraph 3.9 of the counter affidavit, few transaction details of M/s.Natural Coal Pvt Ltd, M/s Thribovan Enterprises Pvt Ltd and M/s.Sayso Exim Pvt Ltd. with Surana Group in helping money laundering are given. This was already extracted above.

10.It is alleged in all the three complaints that petitioner was acting under the directions of the Shri Dinesh Chand Surana and his associates thereby aided and abetted them in siphoning of funds and was a very active conduit in this exercise of money laundering. He acted as a vehicle of Surana Group and was involved in the process or activity connected with the proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming them as untainted properties. He is only a dummy Director and helped in siphoning of funds and money laundering to Shri Dinesh Chand Surana.

11.Petitioner had taken over the position of Directorship from Shri.P.Anand.

12.After reserving the orders on 01.08.2023 and on going through the records, this Court found that there was no information about the date on which the petitioner had become the Director of the aforesaid three companies. That date is very important to find out whether any money laundering transactions had taken place during the period when the petitioner was the Director of these companies. Therefore, this Court reopened the case for clarification and further hearing on 16.08.2023. On 16.08.2023, the following order was passed by this Court.

> *This Court wants to know from the learned Special Public Prosecutor as to the following points,*
>
> *(1) What is the date of the petitioner/I.Prabhakaran becoming the Director of the M/s.Sayso Exim Pvt Ltd, M/s. Thribovan Enterprises Pvt Ltd and M/s.Natural Coal Pvt Ltd.?*

*(2) Whether this petitioner was Director of these companies during the period 2014 to 2015, more specifically during the period of money transaction, tabulated in paragraph 3.9 in the counter filed by the respondent, had taken place?*

13.On 23.08.2023, the learned Special Public Prosecutor filed further written submissions of the complainant/respondent. It is stated in the further written submissions that petitioner had become the Director of the following companies tabulated below, which were under the direct control and management of Shri Dinesh Chand Surana.

| S.No. | Name of the Company | Date of Appointment as Director | Date of Cessation |
|---|---|---|---|
| 1 | M/s.Sayso Exim Pvt Ltd | 04.11.2015 | N/A |
| 2 | M/s. Thribovan Enterprises Pvt Ltd | 04.11.2015 | N/A |
| 3 | M/s.Natural Coal Pvt Ltd. | 04.11.2015 | N/A |

14.It is further submitted that an amount of Rs.50.33 crores, which was the proceeds of crime was provided to M/s.Bell Tower Enterprises LLP as unsecured loan for the purchase of 67 windmills. Further, agreements were made for the purchase of properties from Shri Ramlal Jain and an amount of around Rs.58.80crores was given to M/s.Kanwarlal & Company for the same. These amounts are nothing but proceeds of crime, which had been siphoned off from Surana Group of Companies and layered to the Shell companies, where the petitioner was the Director.

15.In the counter affidavit and in the further written statement, there is no mention about the period during which Rs.50.33crores was provided to M/s Bell Tower Enterprises LLP as unsecured loan for the purchase of 67 windmills. Similarly, there is no detail given with regard to the period during which Rs.58.80 crores was given to M/s.Kanwarlal and company for the purchase of property.

16.Money transactions said to have taken place when the petitioner was the Director in M/s.Natural Coal Pvt Ltd, M/s Thribovan Enterprises Pvt Ltd and M/s.Sayso Exim Pvt Ltd. Details of the transactions like, date of transaction, debit amount, credit amount, transaction particulars are given in paragraph 3.9 of the counter. We have seen from the further written submissions that petitioner had become the Director of M/s.Sayso Exim Pvt Ltd and M/s Thribovan Enterprises Pvt Ltd on 04.11.2015 and M/s.Natural Coal Pvt Ltd on 26.11.2015.

17.The transaction details of M/s.Natural Coal Pvt Ltd, are available from 04.04.2015 to 10.04.2015. During these period, petitioner was not a Director of M/s.Natural Coal Pvt Ltd.

18.The transaction details of M/s Thribovan Enterprises Pvt Ltd starts from 03.04.2014 to 23.02.2016. Except the last two transactions in Sl.Nos.25 & 26, with regard to the debit amount of Rs.1,31,55,500 and credit amount of Rs.1,31,58,000, other transactions, namely, Sl.Nos.1 to 24 had taken place before the petitioner became the Director of M/s. Thribovan Enterprises Pvt Ltd.

19.As far as the transaction details of M/s.Sayso Exim Pvt Ltd, the transaction details are given from 03.10.2015 to 06.07.2016. Only the last three transactions in Sl.Nos.37, 38 & 39 had taken place when the petitioner was the Director of M/s.Sayso Exim Pvt Ltd, other transactions namely Sl.Nos.1 to 36 had taken place before the petitioner became the Director.

20.From the materials produced, we have only the following money transactions that had taken place during the period when the petitioner was the Director of M/s.Thribovan Enterprises Pvt Ltd & M/s.Sayso Exim Pvt Ltd.

**(B) M/s. Thribovan Enterprises Pvt Ltd.**

| Sr.No. | Date of Transaction | Debit Amount | Credit Amount | Particulars |
|---|---|---|---|---|
| 25 | 23.02.2016 | 1,31,55,500 | | Vinayaga Infra I Ltd |
| 26 | 23.02.2016 | | 1,31,58,000 | Surana Ind Ltd. |

**(C) M/s. Sayso Exim Pvt Ltd.**

| Sr.No. | Date of Transaction | Debit Amount | Credit Amount | Particulars |
|---|---|---|---|---|
| 37 | 06.07.2016 | | 1,25,63,775 | Surana Corporation Ltd. |
| 38 | 06.07.2016 | 1,20,14,200 | | Bell Tower Enterprises LLP |
| 39 | 06.07.2016 | 10,52,000 | | Surana Ind Ltd. |

21.As of now, there is no evidence produced in support of the claim that petitioner assisted other accused in this case in laundering

Rs.50.33crores or Rs.58.80 crores or Rs.65 crores and he assisted in transacting crores of rupees given in tabular column in paragraph 3.9 of the counter. The money transactions when the petitioner was the Director of M/s.Thribovan Enterprises Pvt Ltd & M/s.Sayso Exim Pvt Ltd., amounts to Rs.2,62,21,700/- in debit and Rs.2,57,21,775/- in credit transactions.

22.Even as per the complaint allegations, petitioner is a dummy Director of these companies. When he was asked questions about the money transactions and activities of these companies, he was not in a position to answer. Other than his salary, he did not have any benefit or financial help as the Director of these companies. Neither he nor his brothers own any immovable property. His father has ancestral property at his native village, Alagapuri. He owned one Honda Activa Scooter, which was in the name of his wife, and it was gifted by the parents of his wife. Therefore, it is quite obvious that the main accused in this case, namely, Shri Dinesh Chand Surana and others floated the aforesaid Shell companies, made an employee, i.e., petitioner as the Director of these companies and indulged in the laundering of money. It is also stated in the counter filed in Crl.M.P.No.12114 of 2022 before the Principal Sessions Judge, Chennai (Special Court under PMLA, 2002) that it is hard to digest and believe by looking at the financial and family/educational background of the petitioner, it doesn't look like he can have a business acumen to run companies in capacity of the Director and deal in crores of rupees in business. This is another testimony to show that petitioner was used as a tool by the main accused in this case in the offence of money laundering. Petitioner was arrested on 12.07.2022 and since then he is in judicial custody. His wife was five months pregnant at the time of his arrest and she delivered twins in November 2022. He has not even seen his children till now.

23.The Hon'ble Supreme Court in ***Mohd Muslim @ Hussai Vs. State (NCT OF DELHI),*** while considering Section 37 of the NDPS Act, observed as follows:

> *20. The standard to be considered therefore, is one, where the court would look at the material in a*

*broad manner, and reasonably see whether the accused's guilt may be proved. The judgments of this court have, therefore, emphasized that the satisfaction which courts are expected to record, i.e., that the accused may not be guilty, is only prima facie, based on a reasonable reading, which does not call for meticulous examination of the materials collected during investigation (as held in Union of India v. Rattan Malik19). Grant of bail on ground of undue delay in trial, cannot be said to be fettered by Section 37 of the Act, given the imperative of Section 436A which is applicable to offences under the NDPS Act too (ref. Satender Kumar Antil supra). Having regard to these factors the court is of the opinion that in the facts of this case, the appellant deserves to be enlarged on bail.*

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*23...............................incarceration has further deleterious effects – where the accused belogns to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The Courts therefore, have* *to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable) and ensure that trials – especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily. For the above said reasons, the appellant is directed to be enlarged on bail subject to such conditions as the trial court may impose.*

24.The Hon'ble Supreme Court, in ***Sanjay Agarwal Vs. Directorate of Enforcement, reported in 2022 SCC Online SC 1748,*** observed as follows:

*5. It appears that the appellant was admitted to regular bail in connection with the aforesaid offences punishable under the provisions of Customs Act vide order dated 28.08.2018. Upon registration of the proceedings by the Enforcement Directorate on 03.02.2021, the appellant came to be arrested in said PMLA case on 28.11.2021 and has since then been in custody.*

*6. At this stage, we need not go into the* *submissions raised on behalf of either side. The fact of the matter is that for an offence where the maximum sentence could be punishable with imprisonment for seven years, the appellant has undergone custody for about a year.*

*7. It further appears that the investigation is still pending and the matter is not ripe for trial on merits before the appropriate Court.*

*8.Considering the entirety of the circumstances on record and in the peculiar facts, in our view, the appellant is entitled to the relief of bail.*

25.The learned Special Public Prosecutor submitted that in economic offence cases, jail is a rule and bail is an exception and the petitioner has to satisfy the conditions under Section 45 of the PMLA Act for the grant of bail. Section 45 of the PMLA Act, reads as follows:

***45. Offences to be cognizable and non-bailable.****(1) 1[Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of*

*1974), no person accused of an offence 2[under this Act] shall be released on bail or on his own bond unless--]*

*(i) the Public Prosecutor has been given a opportunity to oppose the application for such release; and*

*(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:*

..................

26.In the case before hand, the learned Special Public Prosecutor has been given an opportunity of opposing the bail petition. In the light of the discussion held above, this Court finds that there are no legal materials, as of now available to show that petitioner was involved in the alleged laundering of money involving several crores. Of course there are materials to show that there had been transactions for a sum of Rs.2,62,21,700/- in debit and Rs.2,57,21,775/- in credit, taken place during the time when he was the Director of two companies. It is seen from the complaints that he is a dummy Director and there is no financial, family background and has no business acumen to run companies in the capacity of the Director and dealing in crores of rupees in business. Petitioner was only used by the main accused taking advantage of his position as an employee for a monthly salary of Rs.30,000/-. Therefore,this Court is of the view that there exists reasonable grounds for believing that petitioner is not guilty of the offence alleged in the complaints. This is the first offence he is charged with, there is no bad antecedents and therefore, it is not likely that he would commit similar offence while he is on bail. Petitioner is in judicial custody from 12.07.2022. Taking into consideration of these aspects, this Court is of the view that the petitioner can be released on bail with conditions.

27.Accordingly, the petitioner is ordered to be released on bail on he executing a bond for a sum of **Rs.1,00,000/-** (Rupees One Lakh only) with **two common sureties (out of which, one should be a blood relative)**, each for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the satisfaction of the **learned XIV Additional Special Judge for CBI Cases, Chennai** and on further conditions that :-

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

**[b] the petitioner shall report before the respondent police daily morning at 10.00a.m., until further orders.**

**[c] if the petitioner has passport that should be surrendered before the concerned court.**

[d] the petitioner shall not abscond either during investigation or trial.

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the

petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

28.Accordingly, these Criminal Original Petitions are allowed.

sli **30.08.2023**

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 & 3rd Floor, C- Block,
Murugesa Naicker Complex,
84, Greams Road, Thousand Lights,
Chennai – 600 006.

3.The Central Prison,
Puzhal.

4.The Public Prosecutor,

**G.CHANDRASEKHARAN , J.**

sli

**Pre-Delivery Order in**
**Crl.O.P.Nos.14163, 17316 &17287 of 2023**

**30.08.2023**