

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. Civil Writ Petition No.14536 of 2023

Pankaj Bansal ... Petitioner
Versus
Union of India and others ... Respondents

2. Civil Writ Petition No.14539 of 2023

Basant Bansal ... Petitioner
Versus
Union of India and others ... Respondents

Date of Decision: 26.7.2023

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. R.S. Rai, Senior Advocate,
Mr. Vikram Chaudhri, Senior Advocate,
with Mr. Kunal Dawar, Mr. Vipul Sharma, Ms. Rubina
Virmani, Ms. Shruti Mandhotra, Mr. Mayank Aggarwal,
Ms. Hargun Sandhu and Mr. Keshvam Chaudhri, Advocates
for the petitioner(s).

Mr. S.V. Raju, Additional Solicitor General of India,
Mr. Jagjot Singh Lalli, DSG,
Mr. Lokesh Narang, Senior Panel Counsel,
Mr. Zoheb Hussain, Special Counsel for ED,
Mr. Annam Venkatesh, Mr. Ankit Bhatia,
Ms. Madhumitha Kesavan, Mr. Hitarth Raja,
Mr. Vivek Gurnani, Mr. Kavish Garach,
Ms. Manisha Dubey, Advocates,
Mr. G.N. Ghosh, Deputy Legal Advisor,
Mr. Gaurav Saini, Assistant Legal Advisor.

Ritu Bahri, J.

1. The petitioners Pankaj Bansal and Basant Bansal have filed these petitions challenging vires of Section 19 (1) of the Prevention of Money Laundering Act, 2002 (for short "PMLA") and have further made prayer for quashing the orders dated 15.06.2023, 20.06.2023 and 26.06.2023 (Annexures P-18, P-20 and P-21) respectively whereby they had been ordered to be remanded to the custody of respondent No.2 and

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then to judicial custody. Their prayer for declaring Section 19 (1) of PMLA as unconstitutional had been rejected on 20.07.2023. So far as, the relief claimed by the petitioners for quashing the orders (Annexures P-18, P-20 and P-21) is concerned, before considering the same, certain facts as emanating from the record are required to be mentioned. The same are that several FIRs had been registered against various IREO group of companies viz., IREO Pvt. Ltd., IREO Grace Realtech, IREO Waterfront Pvt. Limited and IREO Fiveriver Pvt. Limited etc. on the basis of complaints submitted by several buyers who had alleged that they had booked plots in projects being developed by the above cited companies and had handed over different amounts of money. However, they had not been handed over the possession of properties sought to be purchased by them and the money paid by them had been siphoned off. Investigations were conducted and it was revealed that IREO group had received several crores of rupees and huge amount of money had been transferred outside India in last some years in the guise of buyback of shares, redemption, purchase of shares etc. on instructions of one Lalit Goyal who was the Managing Director-Vice Chairman of these companies. The said Mr. Lalit Goyal was arrested on 16.11.2021. His statements were recorded several times during the course of investigation and he was booked under the provisions of PMLA. It was revealed during the course of investigation that huge amount of money was diverted to M3M group of companies by IREO group companies after layering of funds and all the companies through which funds were routed by IREO group to M3M group were shell companies owned/controlled/managed by M3M group and its controller only. The

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involvement of M3M group in money laundering with Mr. Lalit Goyal of IREO group was revealed. The company M/s M3M India Limited was founded by the petitioner Basant Bansal and one Roop Kumar Bansal and the petitioner Pankaj Bansal was also a Director in this group of companies. Sh. Lalit Goyal had been arrested and was subsequently given concession of bail. During the course of investigation, the present petitioners were also found involved in laundering the money diverted by IREO group of companies and were booked along with accused Roop Bansal. They secured concession of anticipatory bail from High Court of Delhi.

2. It is also revealed that on 17.04.2023, FIR No.0006 was registered at Police Station Anti Corruption Bureau, Panchkula on the basis of some information received against Mr. Sudhir Parmar posted as Special Judge for dealing with cases of Enforcement Directorate and CBI cases at Panchkula on the allegations that he was showing favourism to Lalit Goyal, owner of IREO group of companies, Roop Bansal and his brother Basant Bansal who were owners of M3M and were cited as accused and cases against whom were pending before his Court. As per the source information, Mr. Sudhir Parmar while being posted as Additional District & Sessions Judge, Gurugram and by abusing his official position, had got undue favours from the owners of M3M and IREO group of companies by getting appointed his nephew Mr. Ajay Parmar @ Amrit as a Legal Advisor in M3M company on salary package of approximately Rs.12 lac per annum which on transfer of Mr. Sudhir Parmar as Special Judge of CBI at Panchkula had been hiked to Rs.18-20 lacs in connivance with the present petitioners, Roop Bansal and Lalit Goyal. Some audio recordings and

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screenshots of whatsapp chats were provided. A case under Sections 7, 8, 11 and 13 of Prevention of Corruption Act, 1988 and Section 120-B of IPC was registered against the above named Sh. Sudhir Parmar, Ajay Parmar, Sh. Roop Bansal and some unknown persons. The petitioners were arrested in FIR No.6 of 2023 on 14.06.2023 and were initially ordered to be remanded to the custody of Enforcement Directorate and then to judicial custody. In these petitions, they have challenged the orders whereby they had been remanded to custody i.e. orders (Annexures P-18, P-20 and P-21) respectively on the ground that these orders are in violation of procedure established by law and have been passed in a mechanical manner without due application of mind.

3. Learned counsel for the petitioners have argued that the arrest of the petitioners was illegal and in violation of the safeguards laid down under Section 19 of PMLA. The remand order had been passed in routine by the Court and the fact that the petitioners were arrested only on the basis of summons without issuance of any warrant by the police and against their constitutional rights were ignored. It was argued by learned counsel that the arrest of the petitioners had been effected without due compliance of provisions of Sections 41 and 41-A of the Code of Criminal Procedure and, therefore, it was vehemently argued that the impugned orders as passed by the Additional Sessions Judge, Panchkula thereby remanding to the petitioners to the custody of respondent No.2 and then to judicial custody were liable to be set aside.

4. The petitioners further prayed for their release on bail as interim/ad interim measure. It was vehemently argued by learned counsel

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for the petitioners that they were in custody since 15.06.2023. Their arrest was in violations of the provisions of Constitution of India. The investigation was likely to take time. The respondent No.2 had failed to disclose as to why the further custody of the petitioners was required. Nothing incriminating was discovered from them. Hence, prayer has been made for releasing them from custody during the investigation.

5. Mr. S.V. Raju, Additional Solicitor General of India representing the respondents had argued at the outset that since the relief claimed by the petitioners challenging the vires of Section 19 (1) of the PMLA had already been dismissed on 20.07.2023 by this Court, therefore, the remaining reliefs as claimed by the petitioners could not be entertained by this Court being a Division Bench as the reliefs so prayed could be considered by a Single Bench as per the roster assigned by the High Court. This contention had been resisted by learned counsel for the petitioners by submitting that the petitioners were very much entitled to claim the remaining reliefs from this Court even after rejection of their prayer as to challenge of vires of Section 19 of the PMLA. Since we have already considered the question as to vires of provisions of PMLA which was one of the reliefs as claimed by the petitioners and have decided the same, therefore, in our opinion, the remaining reliefs as claimed by the petitioners can also be considered by this Court especially in view of the fact that the petitioners have not raised any objection qua the same.

6. The contention further raised by Mr. S.V. Raju was that the orders directing remand of the petitioners to custody of respondent No.2 and then judicial custody, were judicial functions performed by the Special

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Court/Additional Sessions Judge on Duty, Panchkula and were passed while dealing with the merits of the matter. The petitioners were in custody on the basis of valid orders passed by a competent Court. The petitions were also not maintainable since as on the date of filing of the same, their custody was on the basis of a valid order. In this context, he relied upon a Constitution Bench Judgment of Hon'ble Supreme Court cited as **Sanjay Dutt v. State through CBI, Bombay (II)**, (1994) 5 SCC 410, wherein it was held that a petition seeking the writ of habeas corpus on the ground of absence of a valid order of remand or detention of the accused, had to be dismissed, if on the date of return of the rule, the custody or detention was on the basis of a valid order. He further argued that there were serious allegations against the petitioners. Investigation was being conducted by the respondent No.2 against the petitioners after registration of ECIRs. The investigation conducted so far in this case and in the FIR previously registered against the co-accused Mr. Lalit Goyal revealed that the petitioners were prima facie involved in transfer of crores of rupees from IREO company headed by its owner Lalit Goyal who was a co-accused and the said money as belonging to innocent buyers, had been siphoned off in connivance with the present petitioners, Sh. Roop Bansal who along with the petitioners were managing the affairs of M3M group of companies being Managing Director/Directors/founders. He argued that it had also come in the investigation conducted so far by respondent No.2 that the petitioners in connivance with Mr. Lalit Goyal and Mr. Roop Bansal who were accused before CBI Court, Panchkula had bribed Mr. Sudhir Parmar, CBI Judge and his nephew by giving undue favours to them and in order to seek favourable

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orders from the CBI Court in respect of the previous FIR in which the petitioners and above named Mr. Lalit Goyal and Mr. Roop Bansal were cited as accused. Therefore, he strenuously argued that no case for release of the petitioners from custody was made out.

7. We have given due deliberations to the contentions raised by both sides. In our opinion, the petitioners have failed to make out any case to show as to how orders (Annexures P-18, P-20 and P-21) whereby they had been remanded to the custody of respondent No.2 and then to judicial custody were liable to be set aside. A perusal of these orders rather reveals that the petitioners had been validly remanded to custody by passing detailed orders by the concerned Court. The act of directing remand of an accused is a judicial function. The orders of remand passed by the Special Court/Additional Sessions Judge on duty reveal that the merits of the matter as well as the question that the detention of the petitioners was justified or not, had been dealt with while remanding them to custody. As such, in our considered opinion, it is not open to the petitioners to challenge correctness of these orders at this stage. More so, the question as to legality of initial detention of the petitioners might be examined on the dates on which they were remanded to custody of respondent No.2 or to judicial custody as on the specific dates on which the orders (Annexures P-18, P-20 and P-21) were passed and their present confinement cannot be held to be invalidated on the ground that the orders detaining them in custody initially were illegal. Reliance in this regard can be placed upon **Col. B. Ramachandra Rao (Dr) v. State of Orissa**, (1972) 3 SCC 256, wherein similar observations were made and which has also been relied upon by the respondents. Therefore, we are inclined to hold that no ground has been

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made out for setting aside the orders (Annexures P-18, P-20 and P-21) respectively as passed by learned Duty/Additional Sessions Judge, Panchkula whereby the petitioners have been remanded to the custody of respondent No.2 and then to judicial custody on 15.06.2023, 20.06.2023 and 26.06.2023. Accordingly, prayer made by the petitioners to that extent is rejected.

8. On perusal of the material placed on record, it has been revealed that the allegations as levelled against Judicial Officer namely, Mr. Sudhir Parmar who is alleged to have taken undue favours from the present petitioners and other key persons of M3M group of companies and Managing Director of IREO company are being investigated by respondent No.2. The same are quite serious in nature. Keeping in view the gravity of the same, the prayer as made by the petitioners for grant of release from custody at this stage does not deserve to be accepted. Hence, the same is rejected. As per the discussion as made above, the writ petitions have become liable to be dismissed. It is ordered accordingly. However, since as per the respondents, further investigation for establishing the exact part played by the petitioners in the subject crime is going on, therefore, a direction is given to the respondents to submit status report qua the steps taken during the course of investigation as on 22.08.2023.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

26.7.2023
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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No