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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 08.05.2023

Pronounced on: 18.07.2023

\+ **BAIL APPLN. 152/2023**

TARUN KUMAR ..... Petitioner

Through: Mr. Siddharth Aggarwal, Sr. Adv. with Mr. Malak Bhatt, Ms. Neeha Nagpal, Ms. Samridhi, Ms. Arshia Ghose, Advs.

versus

ASSISTANT DIRECTOR DIRECTORATE OF ENFORCEMENT ..... Respondent

Through: Mr. Zoheb Hossain, Spl. Counsel with Mr. Vivek Gurnani, Mr. Kartik Sabharwal, Advs.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

J U D G M E N T

JASMEET SINGH, J

Facts:

1. This is an application seeking bail in Complaint Case No. 20 of 2021 bearing ECIR/DLCO-1/12/2021 arising out of FIR No. RC0742020E0014 wherein the applicant has been charged u/s 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 and u/s 120B r/w 420, 465, 467, 468 and 471 of IPC, 1860 and is in custody since 22.06.2022. The applicant is alleged to have been involved in the offence of money laundering. The allegations against the applicant are that the applicant aided in fraudulent increase of inventory/stock in the

account books of M/s Shakti Bhog Foods Limited ['SBFL'] which helped in increasing the borrowings.

2. The SBFL was engaged in manufacturing and selling food items like wheat flour, rice, biscuits, cookies, dalia, gram flour, maida etc. under the established and well-known brand name of 'Shakti Bhog.'The company was managed through its Directors / Guarantors – Sh. Kewal Krishan Kumar, Sh. Siddharth Kumar and Smt. Sunanda Kumar. SBFL had around 250 regular employees. It is stated that the applicant was one such employee and was drawing renumeration as an employee.

3. An Investigation revealed that a bank fraud was committed by the active involvement of the Managing Directors, Directors and Guarantors of SBFL. Subsequently, in 2020, FIR No. RC0742020E0014 was registered by the CBI, Bank Securities & Fraud Cell, New Delhi on the basis of written complaints of bank officials against the SBFL and its Managing Director - Mr. Kewal Krishan Kumar, and its directors / guarantors - Mr. Siddharth Kumar and Mrs. Sunanda Kumar and unknown public servants, and other unknown persons for commission of offences u/s 13(2) r/w 13(1)(d) of Prevention of Corruption Act,1988 and u/s 120B r/w 420, 465, 467, 468 and 471 of IPC, 1860

4. During the course of the investigation the consortium of banks led by the State Bank of India ['SBI'] vide Letter of Engagement dated 18.05.2018 engaged the services of a Forensic Auditor – BDO India LLP for conducting Forensic Audit of SBFL. The Forensic Auditor conducted audit review for the period w.e.f. 01.04.2013 to 31.03.2017 and submitted the report on 25.06.2019.

5. Consequently, it was alleged that due to the fraudulent activities, SBFL failed to discharge its loan liability and caused loss to the consortium member banks to the tune of INR 3269.42 Crore.

6. Subsequent to the recording of the ECIR, the investigation was initiated under the provision of PMLA. During the course of independent investigation conducted by the Respondent under PMLA, the records/documents pertaining to the instant case were called from various agencies, viz. CBI, Banks, Forensic auditor, Stock auditors, Income Tax department, Sub Registrars Offices. Searches were also conducted on 02.07.2021, 12.08.2021 and 17.09.2021following which the evidences were seized and statements of various persons were also recorded u/s 50 PMLA. The information and documents collected from various sources were scrutinized during the investigation.

7. The investigation revealed that, Mr. Kewal Krishan Kumar, the CMD of SBFL, who was also named as one of the directing minds and will of SBFL in the FIR/ECIR by the Respondent, was arrested on 03.07.2021. Raman Bhuraria, the then Internal Auditor of SBFL was also arrested on 13.08.2021. Subsequently, the Applicant, was summoned for questioning during the course of investigation. The Respondent proceeded to arrest the Applicant on 22.06.2022.

8. As per the Arrest Memo dated 22.06.2022, it is alleged that the Applicant was beneficiary of the proceeds of crime, from SBFL, which amounted to INR 1,00,00,000 over a period of 9 years from 2008 to 2017. It was further alleged that the Applicant was a shareholder / director of various group entities of SBFL and that such entities provided a platform to SBFL to divert and rotate its loan funds

changing its nature from liability to assets, thus, leading to commission of offence of money-laundering as defined under Section 3 of the PMLA 2002.

Submissions by the Applicant

9. It is stated the Applicant was neither named in FIR No.RC0742020E0014 nor named initially in the ECIR No. ECIR/DLZO-01/12/2021 dated 31.01.2021 as the Applicant had no active involvement or role in the management of affairs of the SBFL. It is stated that the role of Applicant was limited to making purchases of raw and other ancillary materials for SBFL and especially only for wheat related purchases.

10. It is stated by the applicant, that Applicant was a mere shareholder and a director but was also not involved in any management or decision making. The Applicant was made a Director only for the purpose of meeting the quorum requirements under the Companies Act. Moreover, the Applicant has never drawn any salary, remuneration, incentive, perks whatsoever as a director which further substantiates that the Applicant has never acted in the capacity of a Director.

11. Applicant was not arrayed as an Accused in the ECIR or first three Complaints, neither was named in the FIR and was never summoned by CBI.

12. It is submitted that ED itself stated that the Applicant was made Director of group companies only to comply with quorum requirements under Companies Act. In order to complete the quorum some of the employees have also been made directors in the companies. ED also admitted that SBFL was managed through its main Directors and

promoters Kewal Krishan Kumar, Siddharth Kumar and Sunanda Kumar, who are the key management persons of SBFL and exercised 'significant influence' over other group companies also. Hence, the applicant never acted in the capacity of a Director or took an managerial decisions in the capacity of the director.

13. It is submitted by the ld. Senior counsel for applicant that Applicant was named for the first time as Accused No. 10 in 4th Supplementary Complaint wherein broad-based allegations have been made against the Applicant based on averments pertaining to his involvement in the affairs of the company. It is also stated that the Respondent has failed to bring forth any material on record which substantiates the allegations. Moreover, the Applicant did not play a role in any decision-making.

14. His shareholding has only been to the extent of 0.000040% in Shakti Bhog Snacks Limited and 0.25% in Pancy Holdings Pvt. Ltd. Applicant is not a signatory to any of the bank accounts of SBFL nor signed any cheques used for transfer of funds.

15. It is also submitted that the veracity of the statements u/s 50 of the PMLA is unreliable as the ED utilized cut, copy, paste method to levy the accusations upon the Applicant.

16. It has also been stated that the alleged proceeds of crime totaling INR 1,00,00,000 attributed to the applicant is nothing but remuneration from SBFL.

Submissions by the Respondents

17. On the contrary, it has been stated by the Respondent that the Applicant aided in fraudulent increase of inventory/stock in the account books of SBFL which helped in increasing the borrowings.

18. The Respondent ED submits that Applicant played an active role in the offence of money laundering namely acquisition of proceeds of crime, its concealment as well as diversion.

19. The allegations that the statements of employees being relied upon are cut, copy, paste is unsubstantiated for the reasons that merely because there is an overlap in certain part of the statements there cannot be a presumption that voluntary statements recorded under section 50 of PMLA are unreliable. The veracity of these statements cannot be doubted especially when the makers of the statements have neither resiled nor alleged any kind of coercion.

20. It is stated that the applicant was a nephew of Mr. Kewal Krishan Kumar. Mr. Kewal Kishan Kumar was the main Promoter and the Managing Director of SBFL. The accused was also the Vice President (Purchases) from 2009 -17 in SBFL and the authorized signatory of bank accounts of two sister concerns of SBFL, unlike all other persons with whom he claims parity, who were merely employees of the company.

21. As a result,

a) the statements under section 50 PMLA of various employees of SBFL

b) documents seized during investigation which contained signatures of applicant relating to transactions with fake entities.

c) The loan funds which were siphoned off to various entities, in which the applicant is either Director or shareholder; makes it broadly probable that the applicant was actively involved with the process and activity relating to siphoning of the proceeds of crime.

Analysis

22. I have heard both the parties.

23. Section 45 of the PMLA reads as under:

> *(1) [Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no person accused of an offence[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:*
>
> *Provided that a person, who, is under the age of sixteen years, or is a woman or is sick or infirm, [or is accused either on his own or along with other co-accused of money-laundering a sum of less than one crore rupees] may be released on bail, if the Special Court so directs:*
>
> ……….

24. In order to grant bail, this Court, in view of the twin conditions has to record a finding that there are reasonable grounds for believing that the applicant/accused is not guilty of the offence of money laundering. It is a settled proposition that "reasonable grounds" is something more than "prima facie".

25. In *Union of India v. Rattan Mallik*, (2009) 2 SCC 624, the Hon'ble Supreme Court has observed:

> ***"13. The expression "reasonable grounds" has not been defined in the said Act but means something more than prima***

facie grounds. *It connotes substantial probable causes for believing that the accused is not guilty of the offence he is charged with. The reasonable belief contemplated in turn, points to existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence (vide Union of India v. Shiv Shanker Kesari [(2007) 7 SCC 798 : (2007) 3 SCC (Cri) 505]). Thus, recording of satisfaction on both the aspects, noted above, is sine qua non for granting of bail under the NDPS Act."*

(Emphasis Supplied)

26. Section 3 of PMLA defined the offence of money laundering as :

*"**Offence of money-laundering.***

Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the[proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming] it as untainted property shall be guilty of offence of money-laundering.
[Explanation.--For the removal of doubts, it is hereby clarified that,--

(i) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following processes or activities connected with proceeds of crime, namely:--

(a) concealment; or
(b) possession; or
(c) acquisition; or
(d) use; or
(e) projecting as untainted property; or
(f) claiming as untainted property, in any manner whatsoever;

(ii) the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever.]"

27. The role of the applicant has been highlighted in the 4th supplementary chargesheet. The SBFL group was nothing but a family-run business wherein the applicant was employed as Vice President (Purchases) between the years 2009 to 2017.

28. The role of the applicant can be ascertained from the various statements, emails and invoices. Investigations revealed that emails from and related to the shell entities (such as -M/s Lachhu Ram Aggarwal & Co. M/s Annpurna Trading Company. M/s Ganesha Overseas. M/s Sarthak Trading Company and M/s Mayank Enterprises) supplying fake invoices to SBFL were also marked to Applicant.

29. Email dt. 22.11.2013 sent by Ewin Ahuja to AH Ansari, Sandeep Misra and Gaurav and cc to the applicant and Vijay Malhotra with Subject *"RTGS to Lachhu Ram by American Express"* contained copies of invoices raised by Lacchu Ram Aggarwal & Co.

From:	Ewin
Sent:	22 November 2013 10:31
To:	Abdul Hasan Ansari; Sandeep Mishra; Gaurav
Cc:	Tarun; Vijay Malhotra
Subject:	RTGS to Lachhu ram by American Express
Attachments:	SCAN0141_000pdf

Dear Sir

RTGS of RS. 19438200/- Vide ref No. sin01083r7042336 has been sent to Lachu Ram Aggarwal & Co. by American express against the discounted four attached invoice.
Service charges debited upfront @ 2.5% + 12.36 % Service tax on Rs. 2,00,00,000/-.
Please pass the necessary entries in books of accounts.

Warm Regards,

SHAKTI BHOG

Ewin Ahuja
Shakti Bhog Foods Ltd.
Regd. Office: 403-406, 4th Floor Krishna Apra BusinessSquare | Netaji Subhash Place,
New Delhi-110034 | India| Phone: 91-11-47525252 | Fax No. 47056490 .

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30. The Email shows that RTGS of Rs. 1,94,38,200 was sent against such fake invoices. The attached fake invoices were verified by Shri Vijay Malhotra on instructions of the applicant. Vijay Malhotra in his section 50 statement has stated under:

> *"I want to state that fake bills purchased from Lachhu Ram Aggarwal & Co. and on instructions of Tarun Kumar, I handled these transactions."*

31. Although the email dt. 22.11.2013 does not bear the signatures of the Applicant and that the invoices are signed by Vijay Kumar Malhotra, CFO, the statements of witnesses as well as co-accused persons, recorded under Section 50 of PMLA, point out to the Applicant's active participation in procuring fake invoices from shell companies. It also reveals that the Applicant assisted in transferring proceeds of crime to shell companies without any genuine business transactions.

32. The Applicant cannot feign ignorance to these transactions as these transactions relate to purchase of material for SBFL and the Applicant admittedly was VP (Purchases).

33. During the period 2013-2017, Letter of Credit (LC) documents valuing Rs. 111.26 crores were crystallized by SBFL on the strength of fake bills with various shell companies without any genuine business transactions.

34. The active role and involvement of the Applicant in the offence of money laundering is evident from the fact that the Applicant was verifying the LC documents, based on fake invoices procured from the shell entities and placing his signatures therein. The email dated 18.11.2013 which was sent by Mr. Ewin (employee SBFL) to other persons in which Applicant was also marked fortifies the same. In the email, there are approved bills, showing "*Professional Fees for arranging supplier bills....*" and scans of cheques issued to J.R. Ladha Financial Services Pvt Ltd, the bills were arranged by SBFL from entry providers and was verified by Applicant. Again, Applicant cannot feign ignorance as he is marked in the emails.

From:	Ewin
Sent:	18 November 2013 18:13
To:	Abdul Hasan Ansari; Sandeep Mishra; Gaurav; Hare Krishna Shukla
Cc:	Tarun; Vijay Malhotra
Subject:	Cheques issued to J.R. Laddha Financial Services from SCB
Attachments:	SCAN0013_000.pdf; SCAN0014_000.pdf

Dear Sir

Attached herewith approved Bills and scan of cheques issued to J.R. Laddha Financial Services from SCB. TDS deducted @ 10 %, please update in your records.

Cheque Date	Cheque No.	Amount INR	Party Name
3/12/2013	802171	500000	J. R. Laddha Financial Services p ltd
7/12/2013	802172	500000	J. R. Laddha Financial Services p ltd
11/12/2013	802173	500000	J. R. Laddha Financial Services p ltd
16/12/2013	802174	500000	J. R. Laddha Financial Services p ltd
19/12/2013	802176	500000	J. R. Laddha Financial Services p ltd
24/12/2013	802177	500000	J. R. Laddha Financial Services p ltd
28/12/2013	802178	454835	J. R. Laddha Financial Services p ltd

Warm Regards,

SHAKTI BHOG

Ewin Ahuja

Shakti Bhog Foods Ltd.

Regd. Office: 403-405, 4th Floor Krishna Apra Business Square | Netaji Subhash Place, New Delhi-110034 | India| Phone: 91-11-47525262 | Fax No. 47056499 .
Connect to us on – www.facebook.com/MYDIVSS and www.facebook.com/SHAKTIBHOG
Website - www.mydivss.com

J. R. LADDHA FINANCIAL SERVICES (P) LTD.
Corporate Office : 47, "ATLANTA", 4th Flr., Nariman Point, Mumbai-400 021
☎ : +91 22 4025 9000, Fax.: +91 22 4025 9001, Email : infomumbai@jrladdha.in
www.jrladdha.in

BILL

JRLFS/April/14 Date: 24/04/2013
To
Shakti Bhog Foods Ltd
403-405,4th" Floor
Krishna Apra Business Square
Netaji Subhash Place
Delhi-110034

Kind Attn: Mr. Vijay Malhotra

Being our professional fees for arranging bill purchase Rs 5.75 Cr @0.06% for 90 days under Letter of Credit in favoring of Chaturbhuj Enterprises (HUF) from HDFC Bank dated 08.04.2013	34500.00
Add: ServiceTax@12%	4140.00
Add: Education cess @3%	124.20
Total	38764.20
Rupees : Thirty Eight Thousand Seven Hundred Sixty Four and Twenty paisa Only.	

Our Service Tax No. AAACJ6606QST001
Our I. T. PAN No. AAACJ6606Q

For J.R. Laddha Financial Services Pvt Ltd

Authorised Signatory

DIRECTORATE OF ENFORCEMENT, GOVT. OF INDIA

Signature Not Verified
Digitally Signed By:AMIT ARORA Signing Date:18.07.2023 19:08:02

35. Apart from fake invoices, fake transport invoices for these LCs were arranged under the applicant and others. Investigations revealed that total payment of Rs 342.05 crores (Rs. 111.26 crores in the form of L/C and Rs.229.79 crores in the form of direct payments made from bank accounts) were made to 05 vendors of SBFL. On verification of (TAN and PAN) numbers of these vendors and their transporters, 02 of these vendors were found having invalid TAN and PAN of the non-existent transporters. Truck numbers mentioned on transport challan were also not found real trucks but different Class of vehicles. It was observed that 54 of the vehicle numbers mentioned were registered as two wheeler (Bajaj Chetak, Royal Enfield Bullet, Honda Activa etc.), ambulance, school bus, low capacity transport vehicle etc. purporting to be carrying goods of weight ranging from 250-310 quintals. Transporters (Kamal Trading & Maa Durga Road lines) through which it operated do not exist at the address provided in its transport challan.

36. Statement of Sandeep Mishra under section 50 reveals that the transport was done under the applicant:

> *"I used to collect fake invoices from entry operators; that myself or Shri Tarun Kumar used to convey details of amount, description, quantity, vehicle number etc to dummy operators as these details are required to be filled in fake invoices and transport documents provided by entry operators of dummy* entities;.."

37. There are other emails specifically marked to the applicant which elaborate on the role applicant played in the process of laundering proceeds of crime.

a) An email dated 12.12.2012 between Mr. Sandeep Mishra and Mr. Abdul Hassan Ansari wherein Applicant was also marked. The body of the email was

"Please find enclosed the Bank of Baroda current account details along with this mail. As discussed with Tarun Sir, an amount of INR 1.8 Crs needs to be deposited in this account by tomorrow morning."

b) An email dated 01.12.2014 between Mr. Anshu Gautam and Applicant along with excel sheets showing the Inland Letter of Credit (ILC) details as on 01.12.2014. That the total outstanding is Rs 349 Crores out of which overdue is 202 Crores, which again show the involvement of the Applicant

c) An email received from Indraprastha Sekhari Bank, Wazipur confirming that Applicant is the authorised Signatory in Pansy Holdings Pvt Ltd. And Phlox Portfolio Pvt Ltd

38. The above emails show the involvement of the applicant in the running of the affairs and business dealings of SBFL as he was either the originator or primary recipient. In view of such clear emails, I at this stage cannot give a finding that there are reasonable grounds for believing that the accused/applicant is not guilty of offence of money laundering. The emails categorially lead one to infer that the applicant was directly involved in process/activity connected to the proceeds of crime.

39. Moreover, the applicant has also not been able to bring home the point that he was only director for the namesake. The statements of various employees of SBFL would also lead to reasonable inference that he is actively connected with the process or activity relating to the proceeds of crime. The incriminating statements are as under:-

A) The statements of Sh. Sandeep Mishra, Accountant (SBFL), which was recorded on 01.07.2022 u/s 50 PMLA "*On being asked about role of Tarun Kumar, I want to state that all such mails were marked to Tarun Kumar as fake bills raised by dummy entities were discounted as per instructions of Tarun Kumar. I want to further state that Tarun Kumar used to coordinate with entry operators for purchasing fake bills and he was in complete knowledge about accommodation entries provided by entry operators to SBFL through their shell entities*"

b) Mr. Anshu Gautam (Asst. Manager, SBFL) in his statement dated 02.07.2022 stated

"I want to further state that Tarun Kumar in assistance of Sandeep Mishra used to coordinate with entry operators to receive fake invoices/transportability."

c) The Statement of Vivek Prasad (he was an accommodation entry provider) Mr. Vivek used to provide fake bills to SBFL for commission and the money was transferred to one of the many dummy companies of Mr. Vivek, which was further given back in cash to Applicant. In this way, he collected Rs.58.06 Crore in cash from shell entities operated by Vivek Prasad and Ashok Kumar

Goel.

Having asked by you, I am to state that the fund received from M/s Shakti Bhog Foods Limited was either return back to Sri Tarun Kumar in cash after withdrawing it from sister concerns by me.

d) The statement dated 30.06.2022 of Mr. Ewin Ahuja (Employee SBFL) was recorded.

"On being asked I want to state that banking of SBFL and group concerns was looked after by Tarun Kumar and he used to execute these transactions of SBFL with shell entities and group concerns in assistance of employees working under him."

40. As per the statements given by AH Ansari, Sandeep Mishra, Vijay Kumar Malhotra, Ewin Ahuja, I am of the view that the Applicant was not merely an employee of the company who was bound by the decisions taken by Sh. Kewal Krishna Kumar. The defence of the Applicant that the applicant had no such knowledge of any illegal transactions by Sh. Kewal Krishna Kumar and his family members does not seem probable. Also in my opinion, it seems that the applicant had played an active role in the decision making process, as all these bogus transactions were done on the basis of the applicant's instructions and assistance.

41. The above noted statements prima facie also lend credence to the fact that the applicant was not merely the paper director but was a director who was actively involved in the working of the SBFL. Unlike in the

case of Raman Bhuraria vs. Directorate of Enforcement, BAIL APPLN. 4330/2021, these statements have not been retracted by the witnesses.

42. In Rohit Tondon v. Directorate of Enforcement (2018) 11 SCC 46 inter alia has held that section 50 statements are an important piece of evidence which can be relied upon to reject bail.

> *"**31.** Suffice it to observe that the appellant has not succeeded in persuading us about the inapplicability of the threshold stipulation under Section 45 of the Act. In the facts of the present case, we are in agreement with the view taken by the Sessions Court and by the High Court. We have independently examined the materials relied upon by the prosecution and also noted the inexplicable silence or reluctance of the appellant in disclosing the source from where such huge value of demonetised currency and also new currency has been acquired by him. The prosecution is relying on statements of 26 witnesses/accused already recorded, out of which 7 were considered by the Delhi High Court.* ***These statements are admissible in evidence, in view of Section 50 of the 2002 Act. The same makes out a formidable case about the involvement of the appellant in commission of a serious offence of money laundering. It is, therefore, not possible for us to record satisfaction that there are reasonable grounds for believing that the appellant is not guilty of such offence****. Further, the courts below have justly adverted to the antecedents of the appellant for considering the prayer for bail and concluded that it is not possible to hold that the appellant is not likely to commit any offence*

ascribable to the 2002 Act while on bail. Since the threshold stipulation predicated in Section 45 has not been overcome, the question of considering the efficacy of other points urged by the appellant to persuade the Court to favour the appellant with the relief of regular bail will be of no avail. In other words, the fact that the investigation in the predicate offence instituted in terms of FIR No. 205/2016 or that the investigation qua the appellant in the complaint CC No. 700 of 2017 is completed; and that the proceeds of crime are already in possession of the investigating agency and provisional attachment order in relation thereto passed on 13-2-2017 has been confirmed; or that charge-sheet has been filed in FIR No. 205/2016 against the appellant without his arrest; that the appellant has been lodged in judicial custody since 2-1-2017 and has not been interrogated or examined by the Enforcement Directorate thereafter; all these will be of no consequence."

(emphasis supplied)

43. In Vijay Madanlal Choudhary (supra), the Hon'ble Supreme Court has also held:

*"**401.** We are in agreement with the observation made by the Court in Ranjitsing Brahmajeetsing Sharma. The Court while dealing with the application for grant of bail need not delve deep into the merits of the case and only a view of the Court based on available material on record is required. The Court will not weigh the evidence to find the guilt of the accused which is, of course, the work of Trial Court. The Court is only required to place its view based on probability on the basis of reasonable*

material collected during investigation and the said view will not be taken into consideration by the Trial Court in recording its finding of the guilt or acquittal during trial which is based on the evidence adduced during the trial. As explained by this Court in Nimmagadda Prasad, the words used in Section 45 of the 2002 Act are "reasonable grounds for believing" which means the Court has to see only if there is a genuine case against the accused and the prosecution is not required to prove the charge beyond reasonable doubt."

44. The fact that the applicant is a 12^{th} passed individual does not mean that he was not mentally adept to commit the alleged offense. The court at this stage is not required to delve deep into the evidence collected by the investigating agency or to make any findings about its authenticity or relevance to the applicant. I am also not required to make a finding of guilt, conduct a mini-trial, or meticulously examine the evidence. I only need to determine whether the applicant has successfully made out a case for me to state that there are reasonable grounds for believing that applicant is not guilty of the offence of money laundering. For the reasons stated above I cannot do so.

45. In view of the above facts, I am of the opinion that there is sufficient incriminating evidence about the involvement of the accused/applicant in the offence of money laundering.

46. It is not only the statements u/s 50 PMLA which show the involvement of the applicant but other material such as emails as well as documents containing the signatures of the applicant which are also indicative of

involvement of the applicant in the offence of money laundering. The statements have not been retracted.

47. The judgment of Raman Bhuraria (supra) is not applicable to facts of the present case. Firstly, unlike Raman Bhuraria who was an internal auditor of SBFL (for a brief period statutory auditor of SBFL), the applicant is the Vice President of Purchases. As a a Vice president, he was responsible for the day-to-day operations of the company. Secondly, the applicant's role is also made out from the financials, where direct loan funds have been siphoned off to sister concerns of SBFL where applicant is either a shareholder or director.

48. In the light of these documents and material facts I cannot hold that that the applicant is not guilty of the offense of money laundering.

49. For the said reasons, the application for bail of Mr. Tarun Kumar is dismissed.

50. Nothing stated hereinabove shall tantamount to an expression of opinion on the merits of the case and have been made only for the purpose of deciding this bail application.

51. The application along with pending application(s), if any, are disposed of accordingly.

JASMEET SINGH, J

JULY 18th, 2023 / (MS)

Click here to check corrigendum, if any