IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2938 OF 2023

Mohammed Farooque Hanif Shaikh … Petitioner
Versus
Union of India and anr. … Respondents

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Mr. Rajiv Chavan, Senior Advocate a/w Pravin Bhoi a/w Shweta Rathod i/b Elixir Legal Services for the Petitioner.
Mr. D. P. Singh, Spl. PP a/w Kuldeep Patil for CBI- Respondent No. 1.
Ms. K. T. Hivrale, APP for the State.

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CORAM : PRAKASH D. NAIK &
N.R. BORKAR, JJ.

DATED : 26.03.2024

P.C. :-

The petitioner has invoked Article 226 of the Constitution of India challenging the FIR bearing No. RC0682017E0004 dated 13.05.2017 registered by Central Bureau of Investigation for offences under Sections 120-B r/w 420 of Indian Penal Code and Sections 13(2)r/w 13(1) (d) of Prevention of Corruption Act and charge-sheet filed in CBI Special Case No. 519 of 2022.

2. The case of the prosecution emanating from FIR is as follows:

"(I) Reliable information was received that Shri Manish Shyamdasani and Mungaram Dewasi, both Board Directors of

M/s Stelkon Infratel Private Limited has indulged in large scale illegal foreign remittances under fraudulent imports of goods during 2015-16. Many of the transactions through RTGS & NEFT were effected through current account No. 3735005500340207 of M/s SIPL with Punjab National Bank, Mandvi Branch, Mumbai. A total 187 remittances amounting to Rs. 463.74 crores have been made through PNB Mandvi Branch, Mumbai against 25 import consignments with a declared value of Rs. 3.14 crores from Nhava Sheva and Mumbai Port during the financial year 2015-16.

(II) In the similar manner, M/s SIPL made foreign exchange remittance on 96 occasions totaling Rs. 216.38 crores using bank accounts with Canara Bank, Nariman Point Branch, State bank of Hyderabad, Fort Branch, Corporation Bank, Mandavi Branch, Central Bank of India, Crawford-market Branch and Axis bank, Mumbai.

(III) M/s SIPL remitted around Rs. 680.12 crores using the aforesaid six bank accounts for imports, but actually, they have filled only 25 bills of Entry during this period with a declared value of Rs. 3.14 crores with Customs. Thus, an excess of Rs. 676.98 crores was illegitimately remitted abroad by M/s SIPL.

(IV) 12 more companies/firms had adopted same modus operandi for illegal foreign remittances. These 12 firms remitted a total amount of Rs. 1572.70 crores abroad by submitting non-existing/fake/forged import documents to the banks. Thus, total amount of Rupees remitted abroad by said 12 firms and M/s Stelkon Infratel Pvt. Ltd. were 12 IEC holder, 928 remittances, amount of Rs. 1572,70,33,194 and Stelkon Infratel Pvt. Ltd., 283 remittances and Rs. 6801170746. Thus, total remittances were 1211 and total amount was Rs. 2252,82,03,940/-.

(V) As per the customs import date, M/s SIPL had made 20 imports of miscellaneous goods in 2015 and 5 imports in 2016 from Jawaharlal Nehru Port and Mumbai Ports.

(VI) Certain Bill of entry invoice number, name of the supplier, the value entries and description of the goods are totally different from those appearing in the documents submitted to the Banks. For example against Bill of Entry No. 2349693 dated 24.08.2015 against invoice number STT 40825 dated 26.07.2015 for invoice Value of Rs. 11,12,227/- of M/s Shenzen Taipingxing, 8 different remittance were effected total amounting to Rs. 18,46,48,862/-. In other words the same bill of entry was submitted to the Bank on 8 different occasions, each time with a different invoice and a corresponding remittance was made. In some cases, the Bill of Entry number and date submitted to the Bank did not appear in the import data of customs as the same were filed by some other importers.

(VII) The group of 13 firms/companies were operating several current accounts in several branches in various banks located in Opera House/Fort/Crawford Market. These firms were floated using IEC's registration at fictitious/non-existent address. These firms have imported miscellaneous consignments through JNPT and Mumbai Port during the year 2015 and 2016. The amount that remitted by these firms through banks is around Rs. 2252.82 crores while the value of actual import was to the tune of only Rs. 24.64 crores.

(VIII) The modus operandi adopted by firms to fraudulently and illegitimately remit foreign currency out of India is that, forged Bill of Entry were presented to the Bank for effecting remittances by these firms. In all cases details of the Bill of Entry submitted to the Bank did not match with the customs import data. The other details like the invoice number and details, name of the supplier, description of goods and value appears to be completely different from the customs data. In certain cases, the same Bill of Entry was submitted to different banks and money was remitted aginst it. For example, M/s SIPL had presented 25 Bill of Entry with total assessable value of Rs. 3,13,69,136/- to Punjab National Bank and same Bill of Entry was presented to the other banks as well. In some cases the Bill of Entry of an unrelated importer were presented to the Bank and money was remitted abroad.

(IX) M/s SIPL submitted the same Bill of Entry to a single bank and also to other Banks, on various occasions. As for example, the Bill of Entry No. 2349693 dated 24.08.2015 filed by M/s SIPL was submitted to the PNB, Mandvi Branch on 8 different occasions. In all the cases, remittance were permitted by the bank without any further verification. The same bill of entry was submitted to Canara Bank on 26.08.2015 and also submitted twice to Corporation Bank on 13.10.2015 and 16.10.2015.

(X) The RBI issued circulars regarding obligation of the authorized dealers while remitting foreign exchange out of India. These circulars state that the authorized dealer need to collect evidence of import from the purchaser of foreign exchange. This is in the form of the exchange control. Copy of the Bill of Entry alongwith full details of importer and import. If the Banks have not exercised any due diligence in verifying the genuineness of the importers and the documents that they have submitted during the request for remittances.

(XI) The accused entered into criminal conspiracy with unknown bank officials for trade based money laundering and in pursuance of the said criminal conspiracy, they illegally transferred funds out of India. The IECs appeared to have been specifically procured for the purpose of money laundering and caused loss to the foreign exchange reserve of the country and the money so illegally remitted could be used for nefarious activities."

3. Enforcement case information Report (ECIR) was registered on 18.09.2017. The ECIR contains the allegations reflected in FIR dated 13.05.2017. It was alleged that the accused firms entered into criminal conspiracy with unknown bank officials for trade based money laundering and in pursuance of said criminal conspiracy, they illegally transferred funds out of India. The IEC's appeared to have been specifically

procured for the purpose of money laundering and caused loss to the foreign exchange reserve of the country and the money so illegally remitted could be used for nefarious activities. Section 420, 120-B of IPC and Section 13(2) r/w 13(1)(d) of PC Act have been included while registering FIR. The said sections falls under paragraph No. 1 of Part A of the Scheduled offences under Schedule to the Prevention of Money Laundering Act, 2002. Prima facie, a case for an offence of money laundering (Section 3 of the PMLA 2002), punishable under Section 4 of the said Act appears to have been made out which requires investigation by the Directorate.

4. The petitioner was arrested in PMLA ECIR on 24.04.2018. The petitioner preferred an application for bail before this Court, viz. Criminal bail Application No. 1297 of 2018. The said application was rejected by the learned single Judge of this Court vide order dated 10.08.2018. While rejecting the application, it was observed by this Court that, the record indicate that, the applicant is directly associated with the eight firms. The 13 companies have indulged into international remittance on the basis of using bogus bill of entry, submitting the same set of documents against multiple outward

remittances under the veil of imports which were never made, are the shell companies opened at the instance of the applicant by luring people of small means or financial resources by inducing them to part with their personal details and the said person have been made proprietors of the said commercial entities or the Directors of the companies by making paltry payment to them. The statements of witnesses recorded by the investigating agency clearly indicate that, it is the applicant, who was not only associated with the said 13 firms but was also intermeddling in its operations. There is sufficient material available on record to show the clear complicity of the applicant.

5. The petitioner preferred SLP No. 6992 of 2018 before the Hon'ble Supreme Court.

6. The petitioner preferred writ petition before this Court viz. Writ Petition No. 2829 of 2019 citing ailment of his wife alongwith medical certificate and prayed for permission to take care of his wife. Vide order dated 06.06.2019, this Court had observed that the certificate dated 06.06.2019 certifies the line of treatment and that wife of petitioner is required to undergo laparoscopy. No doubt, it shows that she would be advised bed-

rest for 4-6 weeks. However, in the peculiar circumstances, looking into the nature of the charges which the petitioner is facing and also the fact that the bail application is rejected, the Court is considering special circumstances in case of the petitioner and therefore, petitioner was permitted to attend his wife either in the hospital or at home. This would be permitted by keeping the petitioner in custody of minimum 2 police officials deputed by the Superintendent of the Taloja Central Prison or any number as he deem fit. The petitioner was permitted to avail the said liberty upto 18.06.2019. The petitioner was permitted to produce on record the report recording medical process of his wife and treatment undergone by her. Vide separate order dated 10.06.2019, the petitioner was permitted to avail the said liberty to visit his ailing wife at hospital or house till 25.06.2019. Since the petitioner was not permitted to avail the liberty till 10.06.2019, vide order dated 25.06.2019, it was recorded by this Court, petitioner’s wife underwent Hysteroscopy on 18.06.2019 and she was discharged on 19.06.2019. The liberty granted was extended till 02.07.2019. The petitioner was directed to be admitted to Taloja Central Prison on 03.07.2019.

7. The petitioner moved the Apex Court. Vide order dated 03.07.2019, the Apex Court directed that the orders passed by the High Court dated 06.06.2019 and 25.06.2019, in so far as the custody of the petitioner is concerned shall continue until further orders. The petitioner continued to be at home under the supervision of two police officials as per orders of this Court.

8. Investigation in FIR dated 13.05.2017 investigated by CBI proceeded. Charge-sheet was filed on 19.05.2022 against Mohd. Gous Shaikh, Kiran Kokare @ Sona Kalia, Mohd. Hussain Shaikh @ Raja, Brijesh Lohiya and Ramesh Nagrajan for offences under Sections 120-B r/w 420, 465, 468, 471 of IPC and Sections 13(2), 13(1)(d) of P.C. Act.

9. The CBI moved an application under Section 267 of Cr.P.C. before the Special Court for issuance of production warrant to take custody of petitioner by CBI for investigation. However, the application was disposed of by Special Court for CBI cases. Vide order dated 25.02.2022, it was observed that, Section 267 of Cr.P.C. contemplates requiring attendance of prisoners who are confined or detained in prison, whereas in the present case, a concession is granted to the accused as per order of

High Court and Supreme Court to attend his wife. Hence, this is not the case as per Section 267 of Cr.P.C. where the accused is actually confined or detained in prison, who though deemed to be in custody as per the order of the Court. However, considering the seriousness of case, prosecution can be permitted to summon the accused for interrogation through jail authority, after getting suitable orders from special PMLA Court in whose custody at present the accused is.

10. The petitioner filed three applications vide Exhibit- 86, 88 and 89 before the PMLA Court. Vide Exhibit- 86, he prayed to note the conduct of investigating agency and contended that order of Supreme Court is flouted. In Exhibit- 88, he prayed to refrain CBI officials from adopting coercive methods against his relatives and him. In Exhibit-90, he made similar allegations, that CBI officials visited the house of his father-in-law and carried out search and they have been harassing his family for no reason. He sought direction to CBI to refrain from adopting coercive method. CBI filed say. The Special PMLA Court vide order dated 16.03.2022 observed that, the petitioner filed two affidavits Exhibit- 94 and 95. Exhibit-94 is filed by Pramod Savale, Police Staff and affidavit Exhibit-95 filed by petitioner.

Pramod Savale is deputed for custody of accused No. 1. Petitioner produced pendrives. The Court observed that CBI cannot interfere in arrangements directed by Hon’ble Supreme Court. The petitioner was permitted to keep the grievance in his applications Exhibit- 88 and 90 before CBI Court.

11. The application preferred by Enforcement Directorate was heard by Hon’ble Supreme Court and vide order dated 28.04.2023, it was observed that, the petitioner is willing to pay the amount towards police guard. The Court observed that there is no ground recall or modify order. On the issue in the given scenario, whether petitioner can be granted bail instead of keeping him under house arrest, learned ASG stated that he has no objection.

12. The petitioner preferred Criminal Writ Petition No. 1153 of 2023 before this Court. The petitioner challenged the proceedings under PMLA. Vide order dated 05.12.2023, the petition was admitted. Interim relief was granted. The petitioner was directed to be released on bail on the ground that prolonged custody amounts to infringement or violation of Article 21 of Constitution of India. It was held that house arrest is ultimately arrest of a person, whereby his liberty to be free

person is ultimately curtailed by operation of law.

13. The petitioner filed complaint before PMLA Court on 23.03.2022 with a prayer to direct Dongri Police Station to investigate the incident that occurred on 14.03.2022. The Police filed report, stating that no evidence surfaced about the demand of illegal gratification by Nilesh Satam from accused.

14. The order dated 25.02.2022 passed by Special Court was challenged before this Court by preferring Criminal Application No. 348 of 2022. Vide order dated 11.12.2023, the application was disposed of. It was observed that, the division Bench granted bail to accused vide order dated 05.12.2023. However, bail bond has not been executed. When the impugned order was passed, the bail order did not exist. The trial Court shall determine the consequences of bail order.

15. The petitioner preferred application for anticipatory bail before this Court viz. Anticipatory Bail Application No. 1936 of 2022 apprehending arrest in the present case. The CBI opposed the prayer by filing counter Affidavit. The application was pending for long time. Ultimately, it was withdrawn. The petitioner preferred Criminal Writ Petition No. 495 of 2023

before this Court. Interim protection in the form of statement by CBI was granted on 17.02.2023. Apparently, the petitioner did not disclose that, he has preferred an application for anticipatory bail before this Court.

16. Learned Advocate for the petitioner submitted that the petitioner has been falsely implicated in this case. The petitioner was arrested in PMLA case and after being in custody and house arrest, he has been granted bail by this Court in that case. Except some vague statements, there is no evidence against the petitioner to show his involvement in the crime. The petitioner is not named in the FIR. Investigation is completed and the charge-sheet is filed. In the charge-sheet the name of the petitioner appears at some places but there is no cogent evidence to establish involvement of the petitioner in the crime. The action of investigating agency suffers from malafides. The petitioner was arrested in PMLA ECIR. The petitioner was permitted to attend his ailing wife at hospital and residence by posting police personnel. The order of this Court was extended by Hon'ble Supreme Court. On 14.03.2022, police constable Pramod Savale reported for duty with Mr. Satam. The behaviour of Mr. Satam was suspicious.

He requested the petitioner to speak to him in private in study room and told him that he had received message from higher officials, who demanded Rs. 5 crores. Mr. Savale informed the petitioner that Mr. Satam is from CBI. The petitioner complained about the conduct of CBI before PMLA Court. The petitioner and Mr. Savale filed affidavit. The PMLA Court vide order dated 16.03.2022 noted conduct of CBI and directed them to follow due process of law for seeking custody. The petitioner has nothing to do with companies and in no way connected with the same. The companies are sole proprietorship firms, partnership irms or limited companies. There is no credible material to demonstrate that the petitioner was instrumental in either sending any remittances abroad or submitting any forged import documents.

17. Learned Spl. PP Mr. D. P. Singh submitted that the petitioner is involved in the crime. There is sufficient evidence to show his involvement in the crime. During the course of investigation, it was found that the petitioner has played vital role. Investigation revealed that pursuant to conspiracy, the petitioner and the other accused induced poor persons to share their KYCs, by giving petty amounts and floated firms and

companies in their names as Directors and Proprietors. The said accused persons obtained IEC, VAT and other registrations for 13 entities and opened current accounts in the branches of Punjab National Bank, Canara Bank, Corporation Bank, e-State Bank of Hyderabad, Central Bank of India and Axis Bank at Mumbai. 23 current accounts were opened for accused entities through the poor persons brought by Mohd. Gous at thebehest of petitioner and four current accounts for the accused entities by Mohd. Husain Hanif Shaikh. During 2014-2016, the petitioner with assistance of Kiran Kokare @ Sona Kalia and others collected huge amount of cash to the tune of Rs. 2252 crores from various entities wanted to send money to Hongkong. The cash so collected layered through the bank accounts, Angadias cheque discount brokers and through the accounts of the members of multi State Co-operative Societies and brought RTGS credits into the account of said 13 entities of the said bank. Additional bank accounts were opened with Central Bank of India and other banks for layering of cash collected from various parties, who wanted to send money to Hongkong for unknown purpose. The wife of the petitioner and other’s used to keep account of the money collected from sources in Mumbai, the money layered into bank accounts of accused entities and the money sent to Hongkong as forex remittance by submitting forged bill in the name of accused entity from the above banks. The petitioner arranged low value imports of chinese goods from Hongkong through namesake accused entities and consignment cleared by filing Bill of entry for the low value, online in EDI system of Jawaharlal National Customs House (JNCH), Nhavasheva and New Customs House (NCH), BPT, Mumbai. The value of the imported consignments in USD, declared in Bills of Entry filed for these entities is very less.

18. Investigation revealed that in order to send huge foreign remittance in USD illegally to Hongkong, the petitioner alongwith Brijesh Lohia and others, prepared forged Bill of Entries for the namesake firms in the same serial number with inflated high USD Value of the consignment and other details and affixed forged seals and signatures of the custom officers of JNCH, Nhavasheva and NCH Mumbai. The petitioner alongwith other auccsed prepared forged invoices of Chinese supplier for high Value and forged Bills of ladding and other documents and submitted to the six banks between 2014-16.

The required funds were layered into the accounts of the said accused entities. The Banks converted the INR into USD as per the exchange rate and sent forex remittances on the USD Value found in the forged Bills of Entry, Invoice to various entities in Hongkong. The goods imported was for a less value, but the money sent abroad by suing the forged BE is of more value. Based on the forged Bills of Entry and invoices, a heavy amount of USD equivalent to Rs. 2188.32 crores approximately were sent on 1173 occasions from the accounts of 12 entities in six banks to various entities in Hongkong, holding account with HSBC, Hongkong and caused loss of forex in USD equivalent to Rs. 2188.32 crores. The petitioner had master minded, the grave economic offence, by sending huge amount of money from India running into several thousand crores of Rupees to various entities in Hongkong by using forged import documents and earning a commission for the same. Charge-sheet was filed on 19.05.2022 against Mohd. Gous Shaikh, Kiran Kokare @ Sona Kalia, Mohd. Hussain Shaikh @ Raja, Brijesh Lohiya and Ramesh Nagrajan under Section 120-B, 420, 465, 468 and 471 of IPC r/w Section 13(2), 13(1)(d) of P.C. Act.

19. It is further submitted that the petitioner had preferred an

application for anticipatory bail bearing No. 1936 of 2022. The said application was listed on several occasions, but the petitioner failed to address arguments on the application. Interim relief was sought in Writ Petition No. 495 of 2023 on 17.02.2023. The anticipatory bail application was withdrawn on 12.09.2023. The pendency of anticipatory bail application was suppressed from this Court on 17.02.2023. The petitioner has been under house arrest since June 2019 to attend his ailing wife. The wife of petitioners was arrested on 24.04.2022. She was found fit and normal during the course of her medical examination in police custody at K. B. Bhabha Hospital. Copies of medical certificate dated 24.05.2022, 26.05.2022, 28.05.2022 and 30.05.2022 are annexed to the affidavit in reply. CBI felt necessity of petitioner custodial interrogation and accordingly sought his production under Section 267 of Cr.P.C. The application was not allowed and vide order dated 25.02.2022, liberty was granted to approach Spl. Judge PMLA. The petitioner continues to scuttle the investigation. The petitioner created concocted story of demand of illegal gratification by Nilesh Satam. The petitioner filed two affidavits alleging incident dated 14.03.2022 before PMLA Court. Vide order dated 16.03.2022, the Court directed petitioner to file grievance before CBI Court. The petitioner filed complaint with two affidavits before PMLA Court with a prayer to direct Dongri Police Station to investigate the incident dated 14.03.2022. Dongri Police Station filed report on 19.04.2022 that no evidence of demand of illegal gratification surfaced. The petitioner has suppressed vital facts. Custodial interrogation of petitioner is necessary. The offence is serious. The petition may be dismissed.

20. We have perused the FIR and the charge-sheet. Although, the FIR was registered for offence under under Sections 120-B r/w 420 of the Indian Penal Code and Sections 13(1) (d) and 13(2) of Prevention of Corruption Act. The final report indicate addition of Sections 467, 468, 471 of the Indian Penal Code.

21. The prosecution case is that, investigation revealed that during the period from 2014-16, the petitioner and the other accused had entered into conspiracy in the matter of sending remittance of huge amount of forex illegally to Hongkong by submitting forged bill of entries with high USD value to various banks under the guise of import payments to various entities in Hongkong and thereby the accused persons earned

commission.

22. In pursuance of the conspiracy, at the relevant period and at place, in order to escape from the legal consequences, the petitioner, Mohd. Gous by themselves as well as through agents, induced name lenders by obtaining their KYCs for a petty consideration and thereby floated nine accused commercial entities/companies with them as Proprietors and Directors and arranged import export code (IEC) and other statutory registration for several entities.

23. Investigation revealed that, the petitioner and Mohd. Gous induced various name lenders for an amount around Rs. 1000/- to part with their KYCs, obtained IECs and floated nine accused entities. Mohd. Gous at the behest of petitioner briefed the name lenders to tell Bank officers that they are going to do import business from china. Mohd. Gous produced the name lenders with KYC's before the bank officials and got arranged opening bank accounts for the accused entities in the said banks. Shri Ramesh Nagrajan worked as a Chief Manager in Central Bank of India from 02.06.2014 to 28.04.2016. In connivance with other accused he opened 7 accounts for the accused entities through poor persons brought

by Mohd. Gous, Mohd. Husain Hanif Shaikh @ Raja was rendering his active participation in the illegal Forex remittance. The petitioner was earlier doing imports of Chinese goods.

24. Petitioner had maintained offices at Surat and other places and appointed persons to prepare forged BEs and other documents with the assistance of the other ladies staff. The wife of the petitioner used to manage the working of the staff, in addition to maintaining the accounts of cash collected, layered and the amount sent to Hongkong and the income of the petitioner.

25. After small-scale imports, the petitioner had obtained the ECC bill of entry of the said entities with low value from the CHAs for preparing forged BE. When more BEs are required, Brijesh Lohiya used to furnish the bill of entry number of the imports made by the other entities. He used to provide computer generated format of BE’s stamps of customs officers, Invoice models of chinese suppliers, Bill of lading etc. to petitioner.

26. As per the instructions of the petitioner, the other persons collected stationary for preparing forged Bill of Entries and

stationary for preparing bill of lading. Rubber stamps of customs officers of JNCH, Nhavasheva and NCH, Mumbai, letter heads and rubber stamps of Prop/Director of various name sake entities, flex name boards of the name sake entities floated by petitioner. As instructed by petitioner, Smt. Bushra and Smt. Nazneen prepared forged Bill of Entry with same serial number allotted by EDI in the name of accused entity, in the system and filled up the in floated USD Value as per the requirement of the money, to be sent as forex remittance to Hongkong and mentioned the tie up party at Hongkong as consignor, so as to distribute the funds.

27. The investigation revealed that USD value will be inflated manifold 20-30 times than the actual value of the consignment to send more money. Further, the actual consignor name in the genuine bill of entry was changed with the name of the tie up party as consignor, in the forged Bill of Entry. This is to ensure that the amount sent from Mumbai is distributed by the tie up party to the relevant parties in Hongkong.

28. Print out of forged BE was taken on dot-matrix printer on the stationery of custodian and Smt. Bushra and Smt. Nazneen used to put the forged signatures and seals of the customs

officers on the BE, forged signatures of the proprietors of the entities on the import documents such as BE, invoice, bill of lading etc. in token of attesting it. The bill of lading will be prepared by using the serial number in the containers and other details, photographed and sent by Kiran Kokare @ Sona Kalia and Aatu Rehman Sabir Khan @ Moin Md.

29. Investigation revealed that to send more money the petitioner had submitted forged bill Entries prepared by Smt. Bhushra and Smt. Nazneen with same serial number with different dates and different amount to more than one bank and got the payment made multiple times. Further forged bill of Entries with non-existing EDI serial number were also submitted and forex payment made. The forged bill of Entry commercial invoice, Bill of lading, Form A-1, Form 15-CA and Form 15-CB alonwith covering letter of 8 entities were submitted by the petitioner and others to Central Bank of India, Punjab National Bank, Axis Bank, State Bank of Hyderabad, Corporation Bank and Canara Bank and on that basis, forex remittances were sent to various entities, holding account with HSBC Bank Hongkong. Investigation revealed that the petitioner had prepared and submitted 28 forged Bills of

Entries and proforma Invoices in the name of M/s Lubeez Enterprises with commercial invoice, Bill of Lading etc. against the Bill of Entries, including 10 advance payments, 26 foreign remittances in USD 7727092 to the tune of Rs. 492057063 during 2015-16 from the account of Lubeez Enterprises to various entities. Lubeez Enterprises had actually imported goods from Hongkong by filing 21 Bill of Entries in JNCH for the total Value of USD 383716.67 equivalent to INR Rs. 39897947 and paid duty of Rs. 10235267. The petitioner prepared and submitted 26 proforma invoices in the name of M/s Pawan Enterprises with commercial invoice, B.L. etc., against Bill of entries, including 10 advance payments, 26 foreign remittances in USD 7270110 to the tune of Rs. 4699 crores during 2015-16 were sent from account of Pawan Enterprises to various entities holding amount with HSBC, Hongkong. The petitioner prepared and submitted 37 forged Bills of Entry in the anem of Lemon Trading Company with commercial Invoice, B. L. etc, against Bill of Entries, including 13 advance payments. 37 foreign remittances in USD 8089873 to the tune of Rs. 521032994 were sent from the account of Lemon Trading Company to various entities. The petitioner prepared 3 forged

Bill of Entries in the name of Padalite Traders with commercial Invoice, B.L., etc., against the Bill of Entries, USD 788443 equivalent to Rs. 4.89 crores sent from account of Pawan Enterprises to various entities in Hongkong.

30. The charge-sheet and the document on record indicate several incriminating circumstances showing participation and involvement of the petitioner. According to the prosecution, the petitioner is the master mind in the crime. Further investigation is continuing to find out sources of funds and to trance role of others.

31. The petition was filed on 21.02.2023. The petition was sought to be amended vide order dated 20.02.2024. Vide amendment, it was contended that on 14.03.2022 Mr. Nilesh Satam requested the petitioner that he wants to speak to him in private room and he demanded money on behalf of superior for not causing harassment to petitioner his family. The petitioner contends that his involvement is malafide. It is pertinent to note that the petitioner was purportedly involved in the fraudulent transactions from 2014 onwards. The custody of petitioner was sought in present case by preferring application in February 2022 and the said application was

disposed of by order dated 25.02.2022. The alleged incident about demand had occurred on 14.03.2022. Thus, the application for production warrant and custody was preferred prior to the alleged incident. The PMLA Court passed order dated 16.03.2022 on the applications preferred by petitioner. The petitioner has filed his affidavit and the affidavit of Mr. Savale, the constable, who was on duty at petitioner's residence. Both the affidavits are affirmed on 14.03.2022 before the same notary. The contention of respondents is that Shri Ramesh Jadhav, P.I. was also in security duty to petitioner on 14.03.2022 and available in the house of petitioner at the time of the alleged incident. The petitioner has not referred to his presence. The petitioner had furnished CCTV footages of his hall inside his house on 14.03.2022, wherein two police persons and CBI person alongwith petitioner were available throughout. From the purport of CCTV footage of the hall furnished by petitioner did not transpire the movement of petitioner and Nilesh Satam from the hall to the study room, wherein alleged incident had happened. The petitioner filed same complaint enclosing said affidavit on 23.03.2022 with a prayer to direct Dongri Police Station to investigate the incident dated 14.03.2022. The PMLA Court sought say/Report from Dongri Police Station. The Report was filed by Dongri Police Station on 19.04.2022 stating that their enquiry with Shri Ramesh Jadhav and Shri B. Savle revealed that Shri Nilesh Satam came for secret duty to keep watch on petitioner in morning hours on 14.03.2022 and they were all present in the hall alongwith the petitioner. They confirmed that Mr. Satam P. C. did not meet the petitioner and did not demand any money. They examined Nilesh Satam, who corroborates the version. Dongri Police Station filed a port stating that no evidence surfaced about the demand of illegal gratification by Nilesh Satam from petitioner and they found that Mr. Satam had come for secret duty to the house of petitioner. The PMLA Court perused the report and passed order dated 19.04.2022 rejecting the complaint stating that the Court had previously passed order dated 16.03.2022. The petitioner had suppressed the aforesaid facts in his application for anticipatory bail. The petitioner had suppressed the order dated 19.04.2022 and report filed by Dongri Police Station in this petition.

32. There is ample material on record to link the petitioner to the offences. The petition is devoid of merits. The petitioner is

trying to scuttle investigation.

33. It is settled law that the power of quashing should be exercised sparingly with circumspection. While quashing the FIR or charge-sheet the Court is not expected to embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR.

34. In the light of voluminous material showing involvement of the petitioner, we are not inclined to grant the relief sought in this petition. Resultantly, the petition has to be dismissed.

ORDER

. Criminal Writ Petition No. 2938 of 2023 is dismissed and disposed of.

(N.R. BORKAR, J.) **(PRAKASH D. NAIK, J.)**