IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**BAIL APPLICATION NO. 1584 OF 2024
WITH
INTERIM APPLICATION NO. 2525 OF 2024**

Sagar Maruti Suryawanshi ...Applicant

Versus

Directorate of Enforcement and anr. ...Respondents

Mr. Ajay Bhise, a/w Deepali Kedar, for the Applicant.
Mr. H. S. Venegaonkar, a/w Aayush Kedia, for Respondent No.1/ED.
Mr. Prashant Kenjale, through VC, i/b Minal Chandnani, for the intervener.
Mr. A. A. Naik, APP for the State – Respondent No.2.

CORAM: N. J. JAMADAR, J.
Reserved On: 11th JULY, 2024
Pronounced On: 25th JULY, 2024

ORDER:-

1. Heard the learned Counsels for the parties.

2. The applicant, who is arraigned in ECIR/MBZO-II/10/2021 registered with the Directorate of Enforcement, Mumbai Zonal Office, for an offence punishable under Section 4 of the Prevention of Money-Laundering Act, 2002 ('the PMLA'), has preferred this application to enlarge him on bail.

3. The gravamen of indictment against the applicant and the co-accused is that Amar Mulchandani (A4) was the

Chairperson of Seva Vikas Co-operative Bank Ltd. ("the Bank"). During the tenure of his chairmanship, Amar Mulchandani (A4) hatched a conspiracy with the borrowers to siphon off public money deposited with the Bank. Applicant Sagar Suryawanshi (A22) and Vinay Aranha (A12) were the principal confederates in the conspiracy.

4. In pursuance of the said conspiracy, Vinay (A12) and the applicant were sanctioned various loans from the Bank without having any creditworthiness and repayment capacity. The loans were advanced without submitting necessary documents and furnishing requisite security. Amar Mulchandani (A4) allowed Vinay (A12) and the applicant to become mutual guarantors to the said loans. New loans were advanced to pay off the earlier loans by resorting to the device of evergreening of loans. Amar Mulchandani (A4) would charge hefty commissions for advancing the loans.

5. Since the loans were advanced *de hors* creditworthiness and repayment capacity, eventually all the loans turned into Non Performing Assets ('NPAs') with an outstanding amount of Rs.429.57 crore. Resultantly, honest and unsuspecting depositors, who had placed deposits with the Bank were defrauded. The applicant and Vinay (A12) were major defaulters. The applicant and Vinay (A12) had diverted the loan amounts by not utilizing the same for the declared purpose, and thereby siphoned off the amounts. The applicant was responsible for defrauding the Bank to the tune of Rs.60.67 crores and Vinay (A12) Rs.43.18 crores.

6. In the prosecution complaint, it is alleged that initially on 17th May, 2018 on the basis of a report lodged by a shareholder of the Bank FIR No.163 of 2018 was registered at Vimantal Police Station, Pune, against Vinay (A12) and Vivek Aranha (A13) for an offence punishable under Section 420 of the Penal Code. Subsequently, on the basis of multiple complaints regarding the malpractices in the operations of the Bank, Commissioner Cooperation, Maharashtra State, directed the Joint Registrar (Audit) to conduct a test audit of the loan accounts of the Bank in excess of Rs.50,00,000/-.

7. The Audit Report revealed misappropriation to the tune of Rs.427.57 crores involving 124 loan accounts (NPAs), which constituted 92% of the loans of the Bank. On the basis thereof, three FIRs have been registered at Pimpri Police Station being CR Nos.525/2021, 526/2021 and 527/2021. The applicant is arraigned as accused No.2 in CR No.527/2021, the subject matter of which is predominantly alleged misappropriation of the loan amount to the tune of Rs.60.67 crores involving 10 loan cases of the applicant's group.

8. Alleging that the applicant initially evaded the summons and was highly non-cooperative when he appeared before the Investigating Officer and there were reasonable grounds to believe that the applicant is guilty of the offence of money-laundering, the applicant came to be arrested on 15th June, 2023.

9. Mr. Bhise, the learned Counsel for the applicant, submitted that the prosecution complaint does not give a correct picture of the initiation of the investigation by ED. An undisguised attempt has been made to improvise the prosecution case having realized that the ECIR would not stand the test of scrutiny. Mr. Bhise submitted that subject ECIR No.10/2021 was initially registered on the basis of FIR No.163/2018, which was lodged by the applicant himself against Vinay (A12) and others. However, on 30th September, 2019, post investigation, Vimantal Police filed 'C' Summary closure report in the said predicate offence. 'C' Summary Report was accepted by the learned Judicial Magistrate by an order dated 18th April, 2022.

10. In the backdrop of aforesaid facts, Mr. Bhise strenuously submitted that the predicate offence having ceased to exist with the filing and acceptance of 'C' Summary Report, proceedings in ECIR No.10/2021 came to an end by operation of law. The respondent, thus, could not have continued the investigation in the ECIR No.10/2021 and arrested the applicant in the said ECIR. A very strong reliance was placed by Mr. Bhise on a Three-Judge Bench decision of the Supreme Court in the case of ***Vijay Madanlal Choudhary and others vs. Union of India and others***[1] to buttress the submission that the predicate offence becoming non-est, the offence of money-laundering can not survive.

11. Mr. Bhise would further urge that the acceptance of 'C' Summary Report has the effect of closure of the prosecution and discharge of the accused and, resultantly, the continuation of investigation by ED and the detention of the applicant is wholly illegal. To this end, Mr. Bhise placed reliance on the decision of a Division Bench of this Court in the case of ***Nareseh Goyal vs. The Directorate of Enforcement***[2] and decisions of Delhi High Court in the case of ***Harish Fabiani vs. Enforcement Directorate***[3] and Punjab and

1 2022 SCC OnLine SC 929.

2 Criminal WP No.4037 of 2022.

3 2022 SCC OnLine Del 3121.

Haryana High Court in the case of ***Chetan Gupta vs. Directorate of Enforcement***[4]

12. Mr. Bhise further submitted that a feeble attempt has been made on behalf of respondent No.1 to take refuge under the alleged subsummation of FIR Nos.525/2021, 526/2021 and 527/2021 subsequently registered pursuant to the Test Audit Report. It was submitted that the alleged subsummation of the above-numbered FIRs occurred after two years of the registration of ECIR and nine months of the closure of the predicate offence, on the strength of which initially ECIR No.10/2021 was registered. Mr. Bhise would urge that the prosecution version that the subsequently registered FIR came to be subsumed in the pending investigation is a subterfuge.

13. Mr. Bhise further submitted that the arrest of the applicant was in flagrant violation of the statutory mandate contained in Section 19 of the PMLA. The Enforcement Directorate has applied a dual standard in the matter of arrest of the accused. Vinay (A12), against whom grave allegations have been made, was not at all arrested. Majority of the co-accused were released by the Special Court under Section 88 of the Code of Criminal Procedure, 1973 ('the

4 2021 SCC OnLine Punjab and Haryana 1326.

Code'). Therefore, on the principle of parity as well, the applicant is entitled to be enlarged on bail.

14. On the merits of the allegations qua the applicant, Mr. Bhise would urge that the applicant is falsely shown to be involved in siphoning off the loan amount to the tune of Rs.60 crores. The entities, which were alleged to be part of applicant's group, have been independently arrayed as accused in the prosecution complaint. The material on record indicates that the applicant was advanced a loan of Rs.1,50,00,000/- only for purchasing cars. A substantial portion to the tune of Rs.1,28,81,250/- has already been repaid by the applicant. Thus, by the own-showing of the prosecution, the money allegedly laundered would fall below the threshold of Rs.1 crore. It was, therefore, submitted that even on the merits of the matter, it cannot be said that there are reasonable grounds to believe that the applicant is guilty of the offence punishable under Section 4 of the PMLA.

15. Mr. Bhise also urged that the test audit report which is the foundation of the alleged fraud, was itself set aside by the State Government by an order dated 31 May 2023, passed in Revision Application No.330 of 2022. Once the test audit report is eschewed from consideration, the allegations of fraudulent transactions also fall through. Hence, the applicant be enlarged on bail.

16. Mr. Venegaonkar, Special PP for Respondent No.1 stoutly resisted the prayer for bail. Mr. Venegaonkar urged that, the principal ground on which the applicant seeks bail is that the ECIR does not survive as the predicate offence being C.R.No.163 of 2018 registered with Vimantal Police Station, Pune, has resulted in 'C' Summary. This very ground is the subject matter of the Writ Petition No.612 of 2023, awaiting adjudication before the Division Bench. Mr. Venegaonkar would urge that propriety would warrant that the said issue not be canvassed by the applicant in the instant bail application as there is a possibility of conflicting decisions. At any rate, according to Mr. Venegaonkar, the said ground is wholly misconceived.

17. Amplifying the submission, Mr. Venegaonkar would urge that there are only two modes in which ECIR in respect of an offence of money laundering punishable under Section 3 of the PMLA can be terminated otherwise than upon a trial. First, under the proviso to Section 44(1)(b) of the PMLA, where post investigation, a closure report is filed before the Special court by the investigating agency under PMLA, if no offence of money laundering is made out. Second, in the event the proceedings in the predicate offence is quashed or all the accused are acquitted or discharged in the predicate offence, then the offence of money laundering cannot survive, as enunciated by the Supreme court in the case ***Vijay Madanlal choudhary*** (supra).

18. In the case at hand, according to Mr. Venegaonkar, neither of the conditions have been fulfilled. ED has not filed the closure report under the proviso to clause (b) of Section 44(1) of PMLA. Nor the 'C' Summary filed in C.R.No.163 of 2018 puts an end to the pending investigation in respect of a huge Bank scam.

19. Mr. Venegaonkar would urge that before the 'C' Summary came to be accepted by the learned Magistrate, FIR Nos.525, 526 and 527 of 2021 were registered on 11th and 12th August 2021. Resultantly, it cannot be said that there was no predicate offence. The criminal activity in relation to the offence of money laundering had already taken place and was under investigation by the jurisdictional police. That satisfies the requirement of existence of a scheduled offence.

20. Mr. Venegaonkar submitted with a degree of vehemence that the FIR Nos.525, 526 and 527 of 2021 were subsumed in ECIR No.10 of 2021, and, thus, the very foundation of the submission that there is no predicate offfence is demolished. Mr. Venegaonkar made an endeavour to draw home the point that the genesis of the crime registered vide FIR No.163 of 2018 and the three FIRs registered pursuant to test audit report, is one and the same. There is a common link in the underlying criminal activity in C.R.No.163 of 2018 and the FIR Nos.525, 526 and 527 of 2021. To add to this, the proceedings in FIR No.806 of 2019 registered with Pimpri Police Station on the basis of test audit report came to be revived by the judgment of the Supreme court in Appeal No.2093 of 2023.

21. Mr. Venegaonkar countered the submissions of Mr. Bhise that the order setting aside the test audit report impinges on the prosecution complaint. An endeavour was made by Mr. Venegaonkar to canvass a submission that the test audit report is not the sole material on the basis of which the scheduled offence and the offences of money laundering have been registered. As there is overwhelming material to show that the applicant was involved in the process or activity connected with the proceeds of crime, the interdict contained in Section 45(1)(ii) of the PMLA, comes into play with full force and rigour. Therefore, the applicant does not deserve to be enlarged on bail.

22. Mr. Venegaonkar joined the issue on the legality of arrest sought to be raised on behalf of the applicant. It was submitted that the threshold prescribed in Section 19 of the PMLA has been fully met. The Investigating officer had formed reasonable belief on the basis of objective material that the applicant is guilty of the offence of money laundering. Taking the court through the prosecution complaint, especially the nature of the alleged transactions and the consequent money trail, Mr. Venegaonkar would urge that a clear case of siphoning off the public deposits in pursuance of a well planned conspiracy has been made out. Emphasis was laid on the gross over-valuation of the properties and ever greening of the loans and the money trail, to bolster up the aforesaid submissions.

23. Mr. Kenjale, learned counsel for the Intervener, also opposed the prayer for bail. It was submitted that the material on record indicates that the applicant had not at all co-operated with the investigation. Huge public funds were siphoned off. The investigation is at a crucial stage. Release of the applicant on bail would jeopardise the investigation and the resultant trial as well, as there is a strong possibility of tampering with evidence and threatening the witnesses.

24. I have carefully perused the material on record and have given anxious consideration to the rival submissions canvassed across the bar. At the outset, it is necessary to clarify that the aspect as to whether with the acceptance of 'C' Summary in FIR No.163 of 2018 registered with Vimantal Police Station, Pune, the proceedings in ECIR No.10 of 2021 survive, is the question which has been agitated in the instant application, as well as the Writ Petition filed for quashing the prosecution complaint arising out of ECIR No.10 of 2021, which is subjudice before the Division Bench. The court is conscious of the fact that there is a possibility of conflicting decisions on this aspect of the matter. However, at the same time, the court is sensitive to the aspect of the application for bail being a statutory remedy, of which the applicant cannot be deprived. While considering the prayer for bail, the applicant cannot be precluded from agitating the grounds which are available in law. I, therefore, consider it expedient in the interest of justice to decide the bail application, mindful of the risk of conflicting decisions on this point. In any event, the court is required to take a prima facie view of the matter, subject to the statutory restrictions under Section 45(1)(ii) of PMLA.

25. On facts, there is not much controversy as regards the initiation and culmination of FIR No.163 of 2018. It was registered on 17 May 2018 by the applicant against Vinay Aranha (A12) and Ors., for an offence punishable under Section 420 of the Indian Penal code. 'C' Summary was filed by Vimantal Police on 26 November 2019. 'C' Summary was accepted by the learned Magistrate by an order dated 18 April 2022. The fact that initially ECIR No.10 of 2021 was registered on the basis of the said FIR No.163 of 2018 is also rather indisputable. The controversy revolves around the question as to whether the registration of FIR Nos.525, 526 and 527 of 2021 in the month of August 2021 on the strength of the test audit report can sustain ECIR No.10 of 2021 as those FIRs were subsumed in the investigation in the predicate offence, vide C.R.No.163 of 2018, as contended by ED?

26. For an answer, it is necessary to note the legal position as regards the offence of money laundering defined under Section 3 of the PMLA. Though the offence of money laundering punishable under Section 4 of the PMLA draws support and sustenance from a scheduled offence, yet it is an independent and standalone offence. Apart from the 'proceeds of crime' under the scheduled offence, the offence of money laundering has no causal connection with the scheduled offence. The existence of proceeds of crime is a *sine qua non* for the offence of money laundering. Absent proceeds of crime, there cannot be an offence of money laundering. Process or activity connected with the proceeds of crime in various forms and manifesations envisaged under Section 3 of the PMLA is the linchpin of the offence punishable under Section 4 of PMLA. It, therefore, implies that if the scheduled offence ceases to exist, it would be a contradiction in terms to contend that despite effacement of the scheduled offence, there is still 'proceeds of crime' in relation to which, the offence of money laundering has been committed.

27. The decision of the Supreme court in the case of ***Vijay Madanlal choudhary*** (supra), on which reliance was placed by both Mr. Bhise and Mr. Venegaonkar, albeit to bolster up their contrasting submissions, makes the legal position absolutely clear. The Supreme court expounded the legal position in paragraphs 253, 269, 280, 281, 282 as under :

> "253. Tersely put, it is only such property which is derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence can be regarded as proceeds of crime. The authorities under the 2002 Act cannot resort to action against any person for money-laundering on an assumption that the property recovered by them must be proceeds of crime and that a scheduled offence has been committed, unless the same is registered with the jurisdictional police or pending inquiry by way of complaint before the competent forum. For, the expression "derived or obtained" is indicative of criminal activity relating to a scheduled offence already accomplished. Similarly, in the event the person named in the criminal activity relating to a scheduled offence is finally absolved by a court of competent jurisdiction owing to an order of discharge, acquittal or because of quashing of the criminal case (scheduled offence) against him/her, there can be no action for money-laundering against such a person or person claiming through him in relation to the property linked to the stated scheduled offence. This interpretation alone can be countenanced on the basis of the provisions of the 2002 Act, in particular Section 2(1)(u) read with Section 3. Taking any other view would be rewriting of these provisions and disregarding the express language of definition clause "proceeds of crime", as it obtains as of now.
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> …………
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> 269. From the bare language of Section 3 of the 2002 Act, it is amply clear that the offence of money-laundering is an independent offence regarding the process or activity connected with the proceeds of crime which had been derived or obtained as a result of criminal activity relating to or in relation to a scheduled offence. The process or activity can be in any form — be it one of concealment, possession, acquisition, use of proceeds of crime as much as projecting it as untainted property or claiming it to be so. Thus, involvement in any one of such process or activity connected with the proceeds of crime would constitute offence of money-laundering. This offence otherwise has nothing to do with the criminal activity relating to a scheduled offence — except the proceeds of crime derived or obtained as a result of that crime.
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> ………
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> 280. We may also note that argument that removing the necessity of projection from the definition will render the predicate offence and money-laundering indistinguishable. This, in our view, is ill founded and fallacious. This plea cannot hold water for the simple

reason that the scheduled offences in the 2002 Act as it stands (amended upto date) are independent criminal acts. It is only when money is generated as a result of such acts that the 2002 Act steps in as soon as proceeds of crime are involved in any process or activity. Dealing with such proceeds of crime can be in any form —being process or activity. Thus, even assisting in the process or activity is a part of the crime of money-laundering. We must keep in mind that for being liable to suffer legal consequences of ones action of indulging in the process or activity, is sufficient and not only upon projection of the ill-gotten money as untainted money. Many members of a crime syndicate could then simply keep the money with them for years to come, the hands of the law in such a situation cannot be bound and stopped from proceeding against such person, if information of such illegitimate monies is revealed even from an unknown source.

281. The next question is: whether the offence under Section 3 is a standalone offence? Indeed, it is dependent on the wrongful and illegal gain of property as a result of criminal activity relating to a scheduled offence. Nevertheless, it is concerning the process or activity connected with such property, which constitutes offence of money-laundering. The property must qualify the definition of "proceeds of crime" under Section 2(1)(u) of the 2002 Act. As observed earlier, all or whole of the crime property linked to scheduled offence need not be regarded as proceeds of crime, but all properties qualifying the definition of "proceeds of crime" under Section 2(1)(u) will necessarily be crime properties. Indeed, in the event of acquittal of the person concerned or being absolved from allegation of criminal activity relating to scheduled offence, and if it is established in the court of law that the crime property in the concerned case has been rightfully owned and possessed by him, such a property by no stretch of imagination can be termed as crime property and ex-consequenti proceeds of crime within the meaning of Section 2(1)(u) as it stands today. On the other hand, in the trial in connection with the scheduled offence, the court would be obliged to direct return of such property as belonging to him. It would be then paradoxical to still regard such property as proceeds of crime despite such adjudication by a court of competent jurisdiction. It is well within the jurisdiction of the concerned court trying the scheduled offence to pronounce on that matter.

282. Be it noted that the authority of the Authorised Officer under the 2002 Act to prosecute any person for offence of money- laundering gets triggered only if there exists proceeds of crime within the meaning of Section 2(1)(u) of the 2002 Act and further it is involved in any process or activity. Not even in a case of existence of undisclosed income and irrespective of its volume, the

> definition of "proceeds of crime" under Section 2(1)(u) will get attracted, unless the property has been derived or obtained as a result of criminal activity relating to a scheduled offence. It is possible that in a given case after the discovery of huge volume of undisclosed property, the authorised officer may be advised to send information to the jurisdictional police (under Section 66(2) of the 2002 Act) for registration of a scheduled offence contemporaneously, including for further investigation in a pending case, if any. On receipt of such information, the jurisdictional police would be obliged to register the case by way of FIR if it is a cognizable offence or as a non-cognizable offence (Nc case), as the case may be. If the offence so reported is a scheduled offence, only in that eventuality, the property recovered by the authorised officer would partake the colour of proceeds of crime under Section 2(1)(u) of the 2002 Act, enabling him to take further action under the Act in that regard."
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> (emphasis supplied)

28. The Supreme court summarized the conclusions in paragraph 467 of the said judgment. Clause (v)(d) of the conclusions reads as under :

> "The offence under Section 3 of the 2002 Act is dependent on illegal gain of property as a result of criminal activity relating to a scheduled offence. It is concerning the process or activity connected with such property, which constitutes the offence of money-laundering. The Authorities under the 2002 Act cannot prosecute any person on notional basis or on the assumption that a scheduled offence has been committed, unless it is so registered with the jurisdictional police and/or pending enquiry/trial including by way of criminal complaint before the competent forum. If the person is finally discharged/acquitted of the scheduled offence or the criminal case against him is quashed by the court of competent jurisdiction, there can be no offence of money-laundering against him or any one claiming such property being the property linked to stated scheduled offence through him."
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> (emphasis supplied)

29. The aforesaid enunciation of law finds echo in a recent decision of the Supreme court in the case of ***Pavana Dibbur***

V/s. Directorate of Enforcement[5], wherein it was observed that “the condition precedent for the existence of proceeds of crime is the existence of a scheduled offence. If the prosecution for the scheduled offence ends in the acquittal of all the accused or discharge of all the accused or the proceedings of the scheduled offence are quashed in its entirety, the scheduled offence will not exist, and therefore, no one can be prosecuted for the offence punishable under Section 3 of the PMLA as there will not be any proceeds of crime. Thus, in such a case, the accused against whom the complaint under Section 3 of the PMLA is filed will benefit from the scheduled offence ending in acquittal or discharge of all the accused. Similarly, he will get the benefit of quashing the proceedings of the scheduled offence.”

30. In the case at hand, ‘C’ Summary report filed in respect of C.R. No.163 of 2018 has been accepted by the learned Magistrate. The Division Bench of this court, in the case of ***Naresh Goyal*** (supra), had an occasion to consider the effect of acceptance of ‘C’ Summary in a predicate offence. The Division Bench referred to the judgment of the Supreme court in the case of ***Vijay Madanlal choudhary*** (Supra), and postulated the consequences of ‘C’ Summary in paragraph

5 AIR 2024 Sc 117.

Nos.9, 10 and 13, as under :

> "9. It is well settled by a catena of judgments including the latest judgment of the Apex court in Vijay Madanlal choudhary (Surpa), that only if there is a predicate offence, that an EcIR will be maintainable. Thus, if the FIR stands closed, by a judicial process, the EcIR will not survive. Thus, the natural corollary would be that the Respondent No.1 – ED would not be able to continue with the investigation, there being no predicate offence.
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> 10. This court in the case of State of Maharashtra V/s. Bhimrao Vithal Jadhav, decided on 21.09.1974 had observed that granting of 'C' Summary amounts to an acquittal. Similarly, in Vijay Madanlal choudhary (supra), the Apex court had observed that if a person is discharged or acquitted of a scheduled offence by a competent court, there can be no offence of money laundering against him. The relevant paragraph, reads thus :
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> [paragraph No.253 extracted above.]
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> ....
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> 13. As noted above, admittedly there is no scheduled offence as against the petitioner in both the petitions, in view of the closure report filed by the police, which was accepted by the courts as stated aforesaid. There being no predicate offence i.e. scheduled offence, the impugned EcIR registered by the respondent No.1 – ED will not survive and as such the said EcIR will have to be quashed and set aside."

31. The articulation of legal position by the Delhi High Court in the case of ***Prakash Industries Ltd.*** (supra) and Punjab and Haryana High Court in the case of ***Chetan Gupta*** (supra) proceeds on similar lines.

32. In the case of ***Chetan Gupta*** (supra) the Punjab and Haryana High Court has held that the proceedings under PMLA are always subservient and secondary to the primary proceedings under some principal criminal offence, which is termed the predicate offence. The Court went on to elucidate the point by adverting to the example of the predicate offence being the wall and the offence of money laundering being the plaster thereon. It was observed that, the predicate offence is that wall on which the plaster of the scheduled offence of PMLA can be applied. No wall, no plaster. Similarly, for any prosecution under scheduled offence, the requirement of a predicate offence is a *sine qua non*. The Enforcement Directorate has no jurisdiction to enter the foray without any primary penal offence. Further, if the predicate offence results in the filing of a closure report or the accused is discharged by the concerned Court or results in his acquittal, then it would imply that the wall has broken, and with it will also go the plaster if it has been put on it.

33. In the light of the aforesaid legal position, it is necessary to note the stand of the respondent No.1 in the prosecution complaint. In paragraph 4 of the prosecution complaint No. 673 of 2023, after reference to the FIR No.163 of 2018, the respondent No.1 refers to a number of complaints lodged pursuant to the Test Audit Report by Mr.Rajesh Jadhavar, Joint Registrar (Audit) resulting in FIR Nos. 525, 526 and 527 of 2021. In paragraph No.16.6 of the prosecution complaint it is asserted that, post registration of the above numbered three FIRs on 11th and 12th August 2021, and since the *modus operandi* was same across those accounts, rather than opening separate ECIR, the money laundering investigation was being done in respect of cumulative losses discovered in the reports of the Auditor.

34. In the affidavit-in-reply the Authorized Officer contends that the investigation into the entire Bank scam to the tune of Rs.429 crores, the subject matter of FIR Nos.525, 526 and 527 of 2021 registered at Pimpri Police against the applicant and others was subsumed in the instant ECIR. Another ECIR MBZO No.II-32 of 2021, wherein the applicant and his wife Sheetal Tejwani were accused, has also been merged with the instant ECIR. It is thus contended that the fact that the C-Summary came to be filed in FIR No.163 of 2018 does not absolve the applicant of the offence of money laundering. It is further contended that ECIR is the internal reference number. It does not amount to an FIR. There is no prohibition in law in subsuming different FIRs in the same ECIR to avoid registration of multiple ECIRs on the basis of different FIRs.

35. In the backdrop of the aforesaid position in law and contentions of Respondent No.1, the rival submissions are required to be appreciated. The real crux of the matter is, whether the subsequent development in the form of registration of three FIRs Nos.525, 526 and 527 of 2001 in connection with Bank scam empowers the Enforcement Directorate to continue investigation into the offence of money laundering initially registered on the basis of FIR No. 163 of 2018?

36. As noted above, as on the date of registration of FIR Nos.525, 526 and 527 of 2021, C-summary filed in FIR No.163 of 2018 was yet not accepted. C-summary was accepted by the learned Magistrate by an order dated 18th April 2022. To put it in other words, before FIR No.163 of 2018 resulted in closure, pursuant to order dated 18th April 2022, three more FIRs, covering a larger canvas of the Bank scam to the tune of Rs.429 Crores, were registered. Whether the action of the Enforcement Directorate in continuing the investigation with reference to the aforesaid three FIRs is legally justifiable ?

37. To explore an answer, the nature and import of the offence of money laundering is required to be kept in view. The aspects which deserve consideration are: whether there was property which was allegedly derived or obtained, directly or indirectly, as a result of criminal activity relating to a schedule offence? Whether the crime was registered with the jurisdictional police or pending by way of complaint before the competent forum in respect of the alleged proceeds of crime? Whether the criminal activity relating to a scheduled offence was already accomplished? If these questions could be answered in the affirmative, then the existence of proceeds of crime, in relation to which the offence of money laundering has allegedly been committed, can be legitimately inferred, albeit *prima facie.*

38. In the facts of the case, in view of the registration of FIR Nos.525, 526 and 527 of 2021, with the allegations that the money was siphoned off from the Bank by resorting to fraudulent loans, the existence of proceeds of crime can be *prima facie* inferred. The second postulate of the crime being registered with the jurisdictional police is also satisfied. The Test Audit Report and the allegations in those FIRs ex-facie indicate that the criminal activity of deriving or obtaining the proceeds of crime was allegedly accomplished. On the substance of the matter thus, prima facie, the allegations of existence of proceeds of crime were made much before the C-summary could be accepted.

39. That leads me to the aspect of procedural justification for the subsummation of the subsequently registered FIRs in the pending investigation into the offence of money laundering.

40. The submission of Mr. Venegaonkar premised on the proviso to Clause (b) of sub-clause (1) of Section 44 of the PMLA does not seem to carry much conviction. The proviso to sub-section (b) of Section 44(1) reads as under:

> "44. **Offences triable by Special Courts.—(1)** Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),
> ....
> **(b)** a Special Court may, upon a complaint made by an authority authorised in this behalf under this Act take [cognizance of offence under section 3, without the accused being committed to it for trial]
> Provided that after conclusion of investigation, if no offence of moneylaundering is made out requiring filing of such complaint, the said authority shall submit a closure report before the Special Court; or"

41. The aforesaid proviso was inserted by Act 23 of 2019. The endeavour of Mr. Venegaonkar to urge that *de hors* the filing of 'C' Summary in CR No.163 of 2018, the proceedings for the offence of money-laundering would not come to an end till the authorized authority files the report envisaged by the proviso to clause (b) of Section 44(1) of the PMLA is required to be stated to be repelled. Such a submission runs contrary to the well recognized position in law that if the predicate offence comes to an end, the offence of money-laundering would not survive.

42. This propels me to the core question as to whether the subsummation of subsequently registered FIRs is permissible. Is there any foundation in the provisions of PMLA. The Explanation (ii) of Section 44(1) of PMLA, which also came to be inserted by Act 23 of 2019 throws some light on the legislative intent. It provides that the complaint shall be deemed to include any subsequent complaint in respect of further investigation that may be conducted to bring any further evidence, oral or documentary against any accused person involved in respect of the offence, for which complaint has already been filed, whether named in the original complaint or not. Apparently, clause (ii) of the explanation appears to subsume in its fold the subsequent complaint post further investigation. The import of clause (ii) of the Explanation also fell for consideration before of the Supreme Court in the case of ***Vijay Choudhry*** (supra). It was observed as under: -

> "368. Insofar as Clause (ii) of the Explanation, at the first glance, it does give an impression that the same is unconnected with the earlier part of the section. However, on closer scrutiny of this provision, it is noted that the same is only an enabling provision permitting to take on record material regarding further investigation against any accused person involved in respect of offence of money-laundering for which complaint has already been

> filed, whether he has been named in the complaint or not. Such a provision, in fact, is a wholesome provision to ensure that no person involved in the commission of offence of money-laundering must go unpunished. It is always open to the Authority authorised to seek permission of the Court during the trial of the complaint in respect of which cognizance has already been taken by the Court to bring on record further evidence which request can be dealt with by the Special Court in accordance with law keeping in mind the provisions of the 1973 Code as well. It is also open to the Authority authorised to file a fresh complaint against the person who has not been named as accused in the complaint already filed in respect of same offence of money-laundering, including to request the Court to proceed against such other person appearing to be guilty of offence under Section 319 of the 1973 Code, which otherwise would apply to such a trial."

43. The aforesaid enunciation indicates that the said provision primarily comes into play after a prosecution complaint for money-laundering has already been filed. It is akin to the provisions in the Code enabling further investigation and filing of supplementary report. The question that wrenches to the fore is if it is permissible to file a supplementary complaint, post further investigation, can the authorised authority be precluded from taking note of the subsequent FIRs revealing the generation of proceeds of crime? If, in a given case, it is shown that the subsequent FIRs are inextricably linked with a prior FIR and cumulatively demonstrate the commission of the offence of money-laundering, in my view, it may be permissible to take note of the subsequent FIRs as well and proceed with the investigation into the offence of money-laundering on the basis of those FIRs. In fact in the case of ***Vijay Choudhary*** (supra) in paragraph 282 (extracted above) the Supreme Court adverted to such a possibility. It was observed that, it is possible that, in a given case, after the discovery of huge volume of undiscoverd property, the authorised officer may be adviced to send information to the jurisdictional police (under Section 66(2) of the 2002 Act) for registration of a scheduled offence contemporaneously, including for further investigation in a pending case, if any.

44. The test for subsummation of subsequent FIRs would be whether the genesis of the subsequent FIRs and the prior one is, one of the same. If the subsequent FIRs have their genesis in the same transaction, in respect of a facet of which a prior FIR was registered then, in my considered view, the fact that the prior FIR resulted in a closure report or the proceedings therein were otherwise terminated, may not necessarily render the investigation into the offence of money-laundering *non-est,* if the subsequent FIRs disclose the process or activity connected with the proceeds of crime, as the ultimate test is the existence of the proceeds of crime.

45. As noted above, in the instant case, the subsequent FIRs i.e. 525, 526 and 527 of 2021 were registered before the 'C' summary came to be accepted in FIR No.163/2018. I, therefore, find it difficult to accede to the submissions of Mr. Bhise that with the acceptance of 'C' summary in FIR No.163/2018 the predicate offence in respect of the proceeds of crime unearthed in FIR Nos.525, 526 and 527/2021 also ceased to exits. Such a construction would defeat the object of the PMLA. In the facts of the case, *prima facie,* there is material to indicate that the genesis of the criminal activity reported in FIR No.163 of 2018 and the subsequent FIRs 525, 526 and 527/2021 based on the Test Audit Report is the fraudulent availing and/or disbursal of the loans.

46. Mr. Bhise next submitted that the very edifice of the FIR Nos.525, 526 and 527/2021 is dismantled as the Test Audit Report was set aside by the State Government by order dated 31st May, 2023. Once the Test Audit Report is set aside, the substratum of the FIRs is also demolished.

47. I have perused the order passed by the State Government in Revision Application No.330 of 2022. By the said order, while setting aside the Test Audit Report the State Government directed the Commissioner, Cooperation, to pass fresh orders for the Test Audit. Suffice it to note that the said order questions the methodology of designation of fraudulent accounts. It further notes that, the outstanding loans of the Bank as of 31st March, 2023 were Rs.580 crores. Out of them, Rs.268 crores were covered by 124 accounts termed fraudulent by the Auditor.

48. In this context, I find substance in the submission of Mr. Venegaonkar that the Test Audit Report is not the sole basis of the prosecution complaint. The investigation has revealed, *prima facie,* siphoning of the funds of the Bank. In this view of the matter, the submission of Mr. Bhise that with the setting aside of the Test Audit Report, the allegations in the FIR and, resultantly, the prosecution complaint lose potency does not merit acceptance.

49. This leads me to the consideration of entitlement for bail on the merits of the proseuction case. To start with, Section 45 (1) contains an interdict against the grant of bail to a person accused of an offence under PMLA, unless the Public Prosecutor has been given an opportunity to oppose the application and the Court is satisfied that there are reasonable grounds for believing that such person is not guilty of such offence and that, if released on bail, is not likely to commit any offence, while on bail. Sub-Section (2) of Section 45 further provides that the limitation on granting bail under sub-Section (1), is in addition to the limitations under the Code or any other law for the time being in force regarding grant of bail.

50. It is well recognized, the prescription of restrictions in the matter of grant of bail does not *ipso facto* imply that there is an absolute bar against grant of bail. The rigor of statutory restrictions in the matter of grant of bail turns upon the degree of restrictions, which the statutory provisions envisage, and the test to be applied to ascertain whether, in a given case, the statutory restrictions are overcome.

51. A three Judge Bench decision of the Supreme Court in the case of ***Ranjitsing Brahmajeetsing Sharma Vs. State of Maharashtra and Anr.***[6], delineated the approach to be adopted in arriving at the satisfaction as to whether the accused is not guilty of the offence for which he is arraigned, in the context of the statutory restrictions contained in Section 21 (4) of the Maharashtra Control of Organized Crime Act, 1999. The said decision was followed with approval by the Supreme Court in the case of ***Vijay Madanlal Chaudhary***

6 (2005) 5 SCC 294.

(supra).

52. The legal position which thus emerges from the aforesaid decisions is that, the statutory restrictions in the matter of grant of bail are required to be considered reasonably. A finding that the accused is not guilty of offence and that he is not likely to commit an offence, if released on bail, is required to be recorded only for the purpose of arriving at an objective finding on the strength of the material on record with a view to assess the entitlement for bail only. If the Court having regard to the material brought on record is satisfied that, in all probability, the accused may not be ultimately convicted, an order granting bail would be justified. It is not obligatory that the Court must arrive at a positive finding that the applicant has not committed an offence under the Act. Similarly, the satisfaction that the accused is not likely to commit an offence, while on bail, is qua the offence of the kind for which the accused has been arraigned, and not any other offence.

53. On the aforesaid touchstone, reverting to the facts of the case, first and foremost, it is necessary to note the capacity in which the applicant allegedly indulged in money laundering. The applicant in connivance with Amar

Mulchandani (A4) allegedly borrowed huge amounts from the Bank, did not utilize the amount of loan for the stated purpose, diverted the loan amounts to other purposes, including for ever-greening of the loans and thereby generated, acquired, layered and integrated the proceeds of crime. The applicant is thus arraigned in the capacity of a fraudulent borrower.

54. As noted above, the applicant allegedly led a group of borrowers (Suryawanshi Group), who were either family members or entities run by his family.

55. The investigation findings with regard to the loan accounts of Suryawanshi Group, pressed into service on behalf of the prosecution, are in paragraph No. 16.30 to 16.44 of the prosecution complaint (page 256 to 276). The total defrauded amount is quantified at Rs.60.67 Crores, covered by 10 loan accounts. The loan accounts are divided into two parts; (1) Property Mortgage Loans and (2) Car Loans.

56. The aforesaid material is required to be considered in conjunction with the specific roles attributed to the applicant and the co-accused, who were members of the Suryawanshi

Group. The applicant is attributed with the role of obtaining 10 loan accounts to the tune of Rs.41.42 Crores in his name and in the name of family members/entities. It is alleged, the funds so availed were diverted to Vinay Arhana (A12), withdrawn in cash and used for various personal purposes other than the stated purpose. Resultantly, 10 loans turned NPA on account of willful default with the outstanding amount aggregating to Rs. 60.67 Crores as of 31st March 2021.

57. It would be contextually relevant to note that, Sheetal Tejwani (A23), the wife of the applicant and two firms, of which she is the proprietress, namely, M/s. Renuka Lawns (A20) and M/s. Paramount Infrastructure (A21) have also been arraigned as co-accused. Qua Sheetal Tejwani (A23), it is alleged that as the proprietress of M/s. Renuka Lawns and M/s.Paramount Infrastructure she had obtained loans from the Bank in the name of those entities. In addition, she had obtained a Car loan of Rs. 2 Crore from the Bank. Eventually, those loans were classified as NPA with an outstanding of Rs.50.30 Crores. Similar allegations are made against M/s. Renuka Lawns and M/s. Paramount Infrastructure.

58. A large component of 5 loans aggregating to 31.41

Crores has been attributed to M/s.Renuka Lawns. It is pertinent to note qua M/s. Renuka Lawns (A20) and M/s. Paramount Infrastructure (A21) it is alleged that those entities represented by their proprietress Sheetal Tejwani were involved in acquisition, possession and use of proceeds of crime to the tune of Rs. 42.78 Crores and Rs. 3.74 Crores, respectively.

59. Girish Tejwani (A24), the brother-in-law of the applicant, allegedly obtained a loan of Rs. 1 Crore from the Bank to purchase a flat from Chandralekha Aranha and Deepti Aranha. Girish Tejwani committed default as he had no repayment capacity and, eventually, the said loan was classified as NPA with outstanding to the tune of Rs.1.47 Crores. Another loan of Rs.2.90 Crores was obtained by late Gul Tejwani, the father-in-law of the applicant.

60. It is imperative to note only one loan i.e. a Car Loan to the tune of Rs.1.46 Crores was obtained by the applicant from the Bank.

61. In the aforesaid context, Mr.Bhise submitted that the allegation that the applicant was the person who had derived and generated the proceeds of crime is not at all borne out by the record. The other members of Suryawanshi Group, who were arraigned as accused, were not arrested and they were released under Section 88 of the Code. Thus, the continued detention of the applicant is wholly unwarranted.

62. Mr. Venegaonkar countered by canvassing a submission that the evidence collected during the course of investigation indicated that the applicant was the main character in the fraud. An endevour was made to take the Court through the gist of the statements of the witnesses recorded under Section 50 of the PMLA and the Money Trail, to draw home the point that the applicant was the principal offender alongwith Vinay Arhana (A12) and Amar Mulchandani (A4).

63. I have minutely perused the investigation findings, especially the money trail in respect of the 10 loan accounts at paragraph No.16.33 of the prosecution complaint, gist of the statements of the witnesses and the role attributed to the accused. As seen above, M/s.Renuka Lawns was the major borrower and defaulter. There does not appear any uncertainty about the character of the said firm. It is the proprietary firm of Sheetal Tejwani. In the prosecution complaint itself, the said character of M/s.Renuka Lawns and

M/s. Paramount Infrastructure has been repetitively asserted. In the statement attributed to Sheetal Tejwani as well, it is stated that she is the proprietress of both the firms.

64. Out of the money trail, in respect of the six accounts of M/s. Renuka Lawns, where the prosecution has furnished a pictorial representation of the diversion of funds, in only one account bearing No.1973, under which a car loan of Rs.2.25 Crores was disbursed, it is shown that a sum of Rs.33 Lakhs was transferred to M/s. Paramount Infrastructure, another firm of Sheetal Tejwani (A23) and out of the said amount, Rs.23 Lakhs were withdrawn in cash and Rs.10 Lakhs was transferred to the account of the applicant and the said amount of Rs.10 Lakhs was utilized by the applicant towards payment of Rs.14,81,967/- to M/s. B. U. Bhandari Motors Automotive. In respect of the extension of CC limit to the tune of Rs.14 Crores M/s. Renuka Lawns also, the very same money trail of Rs.10 Lakhs qua the applicant is furnished. In none of the rest of the accounts, prima facie, the money trail leads to the applicant. On the contrary, the money trail indicates that Sheetal Tejwani (A23) had withdrawn cash amount and the amounts were transferred to the accounts of Vinay Arahana (A12) and his associates.

65. The money trail in respect of M/s. Paramount Infrastructure indicates that out of the amount of Rs.2.91 Crores disbursed by the Bank, Rs.2.50 Crores was transferred to Rozary Education Group and Rs.50 Lakhs was utilized for opening FD account. The money trail in respect of the loan account No.09, under which Rs.96,57,708/- was disbursed to Girish Tejwani (A24), reveals that Rs.70 Lakhs were paid to Chandralekh and Dipti Arhana towards purchase of the flat at Dorabji Classic. Girish Tejwani withdrew an amount of Rs.17.52 Lakhs in cash and paid Rs.9.75 lakhs to M/s. Disha Enterprises of the Arhanas.

66. The money trail in respect of the car loan advanced to late Gul Tejwani indicates that Rs.2.90 Crores were disbursed in the account of M/s. Royal Falcon. The said amount was subsequently withdrawn in cash. Girish (A24) and Sheetal Tejwani (A23) were the guarantors to the said loan.

67. Lastly, out of the amount of Rs.1,45,39,224/- advanced to the applicant for purchase of the car, Rs.1,00,00,507/- was paid to M/s. B.U.Bhandari Motors and Rs.2.10 Lakhs was paid to the RTO. It is alleged, the applicant misutilized the loan funds as he withdrew Rs.45

Lakhs in cash.

68. Prima facie, the aforesaid money trial indicates that the applicant can be attributed with the role of having withdrawn cash amount of Rs.45 lakhs out of the loan disbursed to him for purchase of a car, and a sum of Rs.10 Lakhs was transferred to the account of the applicant from the account of M/s. Paramount, which was, in turn, credited by Sheetal Tejwani (A23) out of the loan amount availed from the Bank for purchase of a used Rolls Royce Car.

69. In the context of the total loan exposure to M/s. Renuka Lawns, Paramount and Sheetal Tejwani (A23), which was alleged to be about Rs.50 Crores, can the applicant be attributed with the role of a key conspirator and beneficiary of the alleged fraud for having received a sum of Rs.10 Lakhs, would be a question for consideration. It is necessary to examine is there any material apart from the money trail to *prima facie* substantiate the role attributed to the applicant.

70. I have perused the gist of the allegations of the prosecution complaint under the caption “statements of Sagar Suryawanshi and his family members and associates and other related persons” (pages 206 to 217). Sheetal Tejwani (A23), as noted above, did not disown the fact that she was the proprietress of M/s. Renuka Lawns and M/s. Paramount. A part of her statement which can be said to have incriminating tendency qua the applicant is that, after the birth of her child in 2013, she handed over business related activities to her husband – the applicant. Further statements culled out in the prosecution complaint, however, indicate that she had known Amar Mulchandani (A4) and Vinay (A12) and there were transactions between them. Girish Tejwani (A24) does not seem to have attributed any role to the applicant. Instead, he claimed to have availed the loan to purchase the flat at the instance of Amar Mulchandani (A4).

71. Shaibaz Azaj Shaikh claimed to have known the applicant. However, with regard to the transaction of credit of the amount of Rs.2.90 Crores, availed by late Gul Tejwani from the Bank, Shaibaz Shaikh feigned ignorance. In respect of another transaction of Rs.3.40 Crores related to the car loan of Abha Pulaskar, Shaibaz Shaikh *prima facie* implicates Vinay Aranha (A12) and stated that the said amount was credited to the account of M/s. Deepti. Mr. Bhandari of M/s. B. U. Bhandari Motors Pvt. Ltd., claimed that the applicant had credited a sum of Rs.1 Crore and paid Rs.20 Lakhs in cash towards purchase of a Mercedes Car S 500 L. Later on, the applicant cancelled the deal and the said amount was returned to the applicant.

72. The situation which thus, prima facie, obtains is that the alleged misappropriation and diversion of funds by the applicant is restricted to the amount availed by the applicant for purchasing a car. The other allegations against the applicant are that the members of the Aranha group stood guarantor for the applicant, and the members of the applicant's group, in turn, stood guarantors for the loans availed by the members of the Vinay Aranha group. The prosecution presses into service material to show that the properties of the relatives of the applicant were furnished as security for availing the loan. The applicant was also the guarantor for the loan availed by Girish Tejwani (A24).

73. The aforesaid evidence, in my view, is required to be appreciated in the light of the relationship between the applicant and Sheetal Tejwani (A23), Girish Tejwani (A24) and late Gul Tejwani, who allegedly constituted the members of the Suryawanshi group.

74. I am conscious that the definition of money laundering covers a wide spectrum of the activities. However, there must be some prima facie material to show that the applicant had indulged in any process or activity connected with the proceeds of crime, directly or indirectly. The court cannot lose sight of the fact that Sheetal Tejwani (A23), and her proprietorship firms M/s. Renuka Lawns, M/s. Paramount and Girish Tejwani (A24) have been arraigned as co-accused.

75. *Prima facie*, as noted above, apart from the credit of a sum of Rs.10 Lakhs to the account of the applicant, the money trail does not lead to the applicant. Thus, the accusation that the applicant was instrumental in the generation, acquisition, layering, placement and use of the proceeds of crime to the tune of Rs.60.67 Crores, *prima facie*, appears tenuous. The Court will have to presume that the default committed by Sheetal (A23), M/s. Renuka Lawns and M/s. Paramount in the repayment of the loan amount, is attributable to the applicant. For that purpose, prima facie, there is no objective material, except the fact that Sheetal (A23) is the wife of the accused.

76. At this juncture, the fact that the prosecution chose not to arrest Sheetal Tejwani (A23) assumes salience. Sheetal Tejwani (A23) was released under Section 88 of the Code by the learned Special Judge by an order dated 16th January 2024 for the reason that the she was not arrested by the Respondent No.1 in connection with the scheduled offence during the course of investigation and even after filing of prosecution complaint. The reasons for not arresting Sheetal Tejwani (A23) need not be delved into, in this application. The decision to arrest or not to arrest is undoubtedly within the domain of the investigating agency. However, deprivation of personal liberty cannot be a matter of chance (from the point of view of the accused) or choice (from the point of view of the investigator).

77. The submission of Mr. Bhise that the applicant is entitled to parity with a number of co-accused, who have been released under Section 88 of the Code, however, does not merit acceptance. Release of an accused under Section 88 of the Code cannot be equated with release of an accused on bail. In the case of ***Tarsem Lal V/s. Directorate of Enforcement, Jalandhar Zonal Office***[7], the Supreme Court has clarified that the bond furnished according to Section 88 is only an undertaking by the accused who is not in custody to appear before the Court on the date fixed. Thus, the order accepting the bonds under Section 88 from the accused does

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not amount to grant of bail.

78. That leaves the accusation of fraudulent default in repayment of the loan availed by the applicant. Prima facie, there is material to indicate that the applicant had used a portion of the loan amount not for the stated purpose. It could also be urged that the applicant had diverted the said amount by routing the same through the vehicle dealer. However, the aspect of repayment of a substantial part of the said amount, highlighted by Mr. Bhise, also deserves to be kept in view. The application for recovery certificate by the Bank and the recovery certificate issued by the Registrar, Co-operative Societies (pages 573 to 580) indicate that a sum of Rs.1,28,81,250/- was recovered by the Bank and appropriated towards the interest component.

79. In the aforesaid view of the matter, I am persuaded to hold that the prosecution may not ultimately succeed in establishing that the applicant had generated, acquired, layered and used the proceeds of crime to the tune of Rs.60.67 Crores.

80. The affidavit in reply filed on behalf of the prosecution does not indicate that the applicant has antecedents. The Court may, thus, draw a justifiable inference that the applicant may not indulge in identical offences, if released on bail.

81. The applicant has been in custody since 15th June 2023. Having regard to the nature of the accusation, the number of accused and the number of witnesses the prosecution would be required to examine, it is unlikely that the trial can be concluded within a reasonable period.

82. Hence, the following order:

: O R D E R :

(i) Application stands allowed.

(ii) The applicant - Sagar Maruti Suryawanshi be released on bail in PMLA Special Case No.673 of 2023 arising out of ECIR/MBZO-II/10/2021 registered with the Directorate of Enforcement, Mumbai Zonal Office, on furnishing a PR Bond in the sum of Rs.1,00,000/- with one or two sureties in the like amount.

(iii) The applicant shall mark his presence before the Enforcement of Directorate, Mumbai Zonal Office, II, Mumbai on first Monday of every month between 11 am to 1 pm for a period of three years or till the conclusion of the trial, whichever is earlier.

(iv) The applicant shall not tamper with the prosecution evidence. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any police officer.

(v) On being released on bail, the applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(vi) The applicant shall surrender his passport before the PMLA Court and and shall not leave the country without the prior permission of the learned Special Judge, PMLA Court.

(vii) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(viii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the co-accused and the trial Court shall not be influenced by any of the observations made hereinabove.

(ix) Interim Application No.2525 of 2024 also stands disposed.

[N. J. JAMADAR, J.]