

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

226

CRM M-61964 of 2023  
Date of Decision: 10.01.2024

Dara Singh

Versus

Directorate of Enforcement

...Petitioner

... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Atul Lalhanpal, Sr. Advocate with  
Ms. Shikha Charak, Advocate, for the petitioner.

Mr. Satya Pal Jain, Additional Solicitor General of India with  
Ms. Promila Nain, Senior Standing counsel for the  
respondent.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant a regular bail in complaint case No. PMLA-SC-No. COMA/05/2022 filed under Sections 44 and 45 of Prevention of Money Laundering Act, 2002 (hereinafter to be referred as '**the PMLA Act**') for commission of offence of money laundering as defined under Section 3 and punishable under Section 4 of the PMLA Act pending in the Court of Special Judge (PMLA) SAS Nagar, Mohali.
2. Learned counsel for the petitioner contends that the petitioner was wrongly arrested in case FIR No. 63 dated 28.08.2008 registered under Section 22 of the NDPS Act, Police Station Sohana, for keeping in conscious possession of 1 kg 230 grams of cocaine. Vide judgment and order dated 04.03.2015 passed by the trial Court,

the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of 12 years. The petitioner had also filed a criminal appeal No. CRA-493-DB-2015 and the sentence imposed on the petitioner already stood suspended by this Court. Learned counsel further contends that on 29.08.2008, the police had allegedly recovered 1 Kg and 230 grams of cocaine from the petitioner's car. During interrogation, the petitioner had allegedly revealed that he had links with Gurdarshan Singh, co-accused for buying cocaine. He had also kept one receipt regarding the deposit of Rs. 45,000/ in the account of one Manohar Singh and the said receipt was recovered.

3. Learned counsel further contends that after 15 years of the FIR and after 11 years of ECIR, a complaint under Sections 44 and 45 of the PMLA Act for commission of offence under Sections 3 and 4 of the PMLA Act had been filed against the petitioner and Gurdarshan Singh. Learned counsel further contends that an information was sought with regard to the account statements and the properties of the present petitioner. The petitioner also produced his bank account statements from the year 2005 to 2009, however, nothing incriminating was recovered from him. On 24.11.2022, the petitioner was summoned to appear in the present case and the petitioner had appeared before the Special Court. Learned counsel further submits that nothing was to be recovered from the petitioner by ED and his custodial interrogation was not required in any manner. Learned counsel further contends that the petitioner is aged about 76

years and is not maintaining good health and his bypass surgery was done in the year 2015. He was in continuous treatment from ECHS Hospital in Phase VI, Mohali and his case deserves to be considered sympathetically.

4. On the other hand, learned counsel for the respondent submits that the petitioner does not deserve the concession of bail at this stage, without fulfilling the twin conditions as laid down under Section 45 of the PMLA Act. Even the mandate of twin conditions had been upheld by the Hon'ble Supreme Court in the matter of **Vijay Madan Lal Choudhary and others Vs. UOI and others 2022 SCC Online SC 929.**

5. In reply, learned counsel for the petitioner contends that a review petition had already been filed in the matter of **Vijay Madan Lal Choudhary and others** case (supra) and the same is pending for adjudication before the Hon'ble Supreme Court. Learned counsel further submits that the petitioner was not arrested under Section 19 of the PMLA Act and his statement has already been recorded under Section 50 of the PMLA Act. Consequently, the rigors of Section 45 of the PMLA Act shall not apply to the facts and circumstances of the present case. Learned counsel further relies upon the law laid down by the Hon'ble Delhi High Court in the matter of **Rana Kapoor Vs. Directorate of Enforcement 2022(295) DLT 468** and the judgments passed by this Court in the matters of **Mandeep Singh and others Vs. Assistant Director, Directorate of Enforcement, PMLA, Jalandhar,**

**2020(2) RCR (Criminal) 483 and Suraj Seth Vs. Assistant Director,  
Directorate Enforcement Jalandhar 2023(1) C.R.C. (Criminal) 635.**

6. I have heard learned counsel for the parties and have given thoughtful considerations to the submissions made by both the sides.

7. In fact, in the present case, the ECIR was ordered to be registered by the respondent in the year 2009 and the petitioner was summoned on 24.11.2022 to appear in the said case. The petitioner appeared before the trial Court and the case was repeatedly adjourned. However, the petitioner was never arrested during the course of the investigation. It is also apparent that the petitioner was never arrested by the respondent in exercise of its duty under Section 19 of the PMLA Act.

8. Apart from that, the sentence imposed on the present petitioner in the appeal arising out of FIR No. 63/2008 has already been suspended by this Court. Still further, the learned counsel for the respondent has wrongly raised an argument that the provisions of Section 45 of the PMLA Act would be applicable, because the petitioner was never arrested under Section 19 of the PMLA Act. Still further, the conclusion of the trial may take quite a long time and further custody of the petitioner will not serve any meaningful purpose. Even otherwise, the petitioner is very old and is suffering from various old age related deceases and no purpose would be served by keeping him behind the bars.

9. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned subject to the following conditions:-

*(i) The petitioner 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 to disclose such facts to the Court or to any other authority.*

*(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*

*(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*

*(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*

*(v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*

*(vi) In case, the petitioner gets involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move an appropriate application for cancellation of bail granted to the present petitioner.*

(vii) *The concerned Court may insist two heavy local surties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.*

10.01.2024

amit rana

(N.S.SHEKHAWAT)

JUDGE

Whether reasoned/speaking

:

Yes/No

Whether reportable

:

Yes/No