IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11780 of 2025

Arising Out of PS. Case No.-27 Year-2023 Thana- E.C.I.R (GOVERNMENT OFFICIAL) District- Patna

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Ramesh Prasad Baranwal S/o Sh. Onkar Prasad Baranwal R/o - 49, Aditya Apartment, Adarsha Pally, Jagarata Pally, Deshpriya Nagar, Belghoria, Kolkata, West Bengal- 700056.

... ... Petitioner

Versus

The Union of India through Assistant Director, Directorate of Enforcement, Patna Bihar

... ... Opposite Party

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Appearance :

For the Petitioner	:	Mr.Harsh Kaushal, Advocate
For the ED	:	Dr.Krishna Nandan Singh, ASG Mr.Tuhin Shankar, Advocate Mr.Gopal Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA

ORAL ORDER

13 07-10-2025 Heard learned counsel appearing on behalf of the petitioner and Mr. Tuhin Shankar, learned counsel appearing on behalf of the Enforcement Directorate (ED).

2. The accused/petitioner seeks bail in connection with Special Trial No. 3/2024 arising out of ECIR No. PTZO/27/2023 dated 17.10.2023 (arising out of supplementary record of Special Trial (PMLA) Case No. 12/2023) registered for the offences under Sections 4 of the Prevention of Money Laundering Act, 2002, pending in the court of learned Sessions Judge/Special Judge (PMLA), Patna.

3. The accused/petitioner is named in the First Information Report and is in custody since 21.06.2024. Petitioner has one criminal antecedent i.e. Bidhannagar Cyber Crime P.S. Kolkata bearing FIR No. 12/2023 dated 28.01.2023.

4. The factual background of the prosecution case

I. The brief case of the prosecution is that an information was received regarding cyber fraud, which was alleged to be committed from Ms. Carmel Fox (an Irish National), vide letter bearing Ref. No. E-Ireland/Misc/02 / 2023/05/433 dated 19.04.2023 from AD, NCB India (CBI) forwarded a copy of an e-mail dated 07.04.2023 from NCB-Ireland. It is alleged that an Irish National was cheated an amount 950 Euros (Rs. 84,941.40) through cyber fraud on 07.12.2021 and proceeds of crime has been transferred to India. It is alleged that Ms. Carmel Fox received a call from Mobile No. 0833989852316 identifying herself as Stephanie from Eircom Technological Service and asked her about her broadband connection and said that she was due a refund of 250 Euros and asked her bank account details, which Ms.

Carmel Fox provided. It is further alleged that as per information provided by NCB Ireland that one Nitesh Kumar, a native of Patna, Bihar transferred an amount of 950 Euros from credit card of Ms. Carmel Fox to a rewire bank account which was further transferred to M/s Leconix Business Centre Pvt. Ltd. having its registered office at Kolkata.

II. It is further alleged that during investigation, it was found that Nitesh Kumar and Sk. Lutfur Rehman are the directors of the company which was incorporated on 26.11.2020. It was revealed that M/s Leconix Business Centre Pvt. Ltd has the financial transaction with M/s Scrapix Consultancy Services Pvt. Ltd., of which Sagar Yadav and Prativa Yadav are the directors. It is stated that co-accused Sagar Yadav was the beneficial owner of M/s Leconix Business Centre and Nitesh Kumar was his associate and was working with them.

III. It is alleged that a search operation was carried out in three locations in Kolkata and one location in Kharagpur, West Bengal on 27.12.2023, which was the housing and official premises of Sagar Yadav. Later on Sagar

Yadav and his associate Santosh Kumar were arrested in Kolkata on 28.12.2023. thereafter, during investigation one Robin Kumar Yadav was arrested on 04.05.2024 in Hazaribagh. In this regard, search operation was conducted in the premises of Ravinandan Prasad Verma, who was also arrested under section 19 of the PMLA, 2002 on 28.05.2024. During course of investigation and revelation made by Robin Kumar Yadav, involvement of Ramesh Prasad Baranwal (the petitioner) in the aforesaid crime is revealed.

IV. It is alleged that during investigation, it was found that the petitioner was an associate of the co-accused Robin Yadav and involved in running fake call centre, which was opened for committing cyber fraud from foreign nationals. The petitioner and others were used to operate another fake call centre at First Floor, Webel IT Park, Bolpur, Kolkata, where the petitioner (Ramesh Prasad Baranwal) used to manage the affairs of call centre.

V. It is alleged that proceeds of crime generated and possessed by the accused petitioner are as under:

I. Proceeds of crime of Rs. 26,50,000/- is found and seized from his residence.

II. Receipt of proceeds of crime of Rs. 27,48,500/- in the bank account nos. 110301507808, 50100461230150 and 268901000604 in the name of Ramesh Prasad Baranwal (petitioner), Tara Baranwal (mother) and Suman Mahato (wife of the petitioner) maintained with HDFC Bank and ICICI Bank directly from M/s Leconix Business Centre Pvt. Ltd. and Robin Kumar Yadav.

III. Receipt of proceeds of crime of Rs. 36,69,196/- in the bank account nos. 268901500931, 110301507808, and 50100461230150 268901000604 in the name of the petitioner, Tara Baranwal (mother) and Suman Mahato (wife of the petitioner) maintained with HDFC Bank and ICICI Bank from various associates and mule account.

IV. Receipt of proceeds of crime of Rs. 15,35,717/- in account bank 110301507808, 50100461230150 and the nos. 268901500931, 268901000604 in the name of the petitioner, Tara Baranwal (mother) and Suman Mahato (wife of the petitioner) maintained with HDFC Bank and ICICI Bank from Robin Kumar Yadav through online platform/payment 2 gateways namely Lendbox. Resilient Innovations Pvt Ltd and Wunderbaked Technologies Pvt Ltd.

V. Md. Hussain deposited the proceeds of crime of Rs. 15,21,500/- in the bank 268901500931. 50200068738729, 268901500982 and in the name of Ramesh Prasad Baranwal and his mother Tara Baranwal maintained with HDFC Bank and ICICI Bank.

5. On the basis of aforesaid complaint, Special Trial (PMLA) Case No. 03/2024 dated 16.02.2024 was instituted and the petitioner was arrested on 21.06.2024 at 5:00 AM vide Letter No. F.No: PTZO/27/2023 dated 21.06.2024 by the respondent authority. The transit custody of the petitioner was granted on 21.06.2024 by the Hon'ble court at Kolkata. Subsequently, the petitioner was produced before learned Court of Sessions Judge-cum-Special Judge (PMLA), Patna on 22.06.2024 and since then petitioner is in judicial custody.

Submission on behalf of the petitioner

6. Learned counsel appearing on behalf of the petitioner submitted that petitioner was working as an associate employee of Robin Yadav and others on commission basis and the amount of Rs. 26.50 Lakhs which was recovered in cash from the residence of the petitioner is the amount received as salary for running the call centre.

7. It is submitted that petitioner has falsely been implicated in the present case as he had opened bank account

in the name of himself, his wife and mother for the purpose of income tax benefit, where prosecution has failed to demonstrate any incriminating materials.

8. Learned counsel for the petitioner has further relied upon several cases decided by the Hon'ble Supreme Court in support of his submission, which are **Benoy Babu Vs. Directorate of Enforcement reported in (2023) SCC Online SC1393, Ajay Ajit Peter Kerkar Vs. Directorate of Enforcement & Anr. reported in (2022 SCC Online SC 929, Ramkripal Meena Vs. Directorate of Enforcement reported in (2024) SCC Online SC 2276, Manish Sisodia Vs. Directorate of Enforcement reported in (2024) SCC Online SC 1920, Kalvakuntla Kavitha Vs. Directorate of Enforcement reported in (2024) SCC Online SC 1920, Prem Prakash Vs. Union of India through the Directorate of Enforcement reported in (2024) SCC online SC 2270 and Vijay Nair Vs. Directorate of Enforcement reported in (2024) Online SC 2269** and **V. Senthil Balaji Vs. Deputy Director, Directorate of Enforcement [2024 SCC**

OnLine SC 2626].

9. It is submitted that prosecution has cited total of **37 prosecution witnesses**, and **59 documents running into 7,801 pages**, which are sufficient to suggest that conclusion of trial is not possible in the near future and in this regard, learned counsel relied upon paragraphs 49, 50, 53 and 54 of judgment of the Hon'ble Supreme Court in the case of **Manish Sisodia v. Directorate of Enforcement**, reported in **2024 SCC OnLine SC 1920**. Similarly, he has also placed reliance on **Ramkripal Meena's Case**, reported in **2024 SCC OnLine SC 2276**, wherein the Hon'ble Supreme Court has observed following in paragraph – 7:-

> "7. Adverting to the prayer for grant of bail in the instant case, it is pointed out by learned counsel for ED that the complaint case is at the stage of framing of charges and 24 witnesses are proposed to be examined. The conclusion of proceedings, thus, will take some reasonable time. The petitioner has already been in custody for more than a year. Taking into consideration the period spent in custody and there being no likelihood of conclusion of trial within a short span, coupled with the fact that the petitioner is already on bail in the predicate offence, and keeping in view the peculiar facts and circumstances of this case, it seems to us that the rigours of Section 45 of the Act can be suitably relaxed to afford conditional liberty to the petitioner. Ordered accordingly."

Submission on behalf of the ED

10. By filing counter affidavit, Mr. Tuhin Shankar, learned counsel appearing on behalf of the Enforcement Directorate vehemently opposes the prayer of bail of the petitioner and submitted that during course of investigation, it is revealed that Ms. Carmel Fox, who is an Irish National was cheated with an amount of 950 Euros, which is equivalent to Rs. 84,941.40 only. It is submitted that the proceeds of crime was later on transferred to Account No. 50200054992391 of M/s Leconix Business Centre Pvt. Ltd. The criminal activity as committed by Nitesh Kumar would fall under section 411, 419 and 420 of the IPC and section 75 r/w 66 and 66D of Information Technology Act, 2000.

11. It is submitted by learned counsel that Nitesh Kumar and S.K. Lutfur Rahman are the directors of the company, where the bank has provided the bank account statement for the period 08.01.2021 to 17.11.2022 and total credit and debit of amount are Rs. 3.29 Crores and Rs. 3.25 Crores respectively. Apart from the above mentioned credit of Rs. 84,941.40 into the account, there had been credit of Rs.

96 Lakhs approximately which was done through Rewire account as RDA remittance.

12. It is submitted that during course of investigation and analysis of the data of I-Phone of Robin Kumar Yadav, the name of the petitioner namely, Ramesh Kumar Baranwal has been revealed as an associate of Robin Yadav. It is submitted that petitioner found involved in commission of money laundering and assisting the other accused persons. Analysis revealed that proceeds of crime has been credited into the account of the petitioner and his family members.

13. It is submitted by learned counsel appearing for Enforcement Department that in absence of schedule offence, the proceeding under PMLA Act is unjustified is of no bearing in view of section 2(1)(r)(a) of PMLA Act, 2002.

14. It is pointed out by learned counsel that petitioner was managing the affairs of the fake call centre at Webel IT Park, Bholpur, West Bengal, which he admitted in his statement recording during investigation. In support of his submission, learned counsel relied upon the legal report of

Hon'ble Supreme Court as available through **Saumya Chaurasia Vs. Directorate of Enforcement [Special Leave Petition (Criminal) No. 8847 of 2023,** where the Hon'ble Apex Court has been pleased to reject the prayer of bail of the petitioner while discussing the ambit of Section 45 of the PMLA. Here, it is essential to refer section 45 of the PMLA Act for better understanding of the case, which reads as under:

> "**45. Offences to be cognizable and non-bailable -** (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no person accused of an offence (under this Act) shall be released on bail or on his own bond unless -]
> (i) the Public Prosecutor has been given an opportunity to oppose the application for such release; and
> (ii) where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail;
> (2) The limitation on granting of bail specified in [***] of sub-section (1) is in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail."

15. From the aforesaid legal discussions, it can be said that this Court is only required to place its view based on probability on the basis of reasonable materials collected during the investigation. From the perusal of materials collected during investigation, it transpires that this petitioner

was found as an associate of Robin Yadav. Petitioner *prima facie* found involved in commission of money laundering and assisting the accused persons. The analysis of data as collected from the I-Phone of Robin Yadav suggests *prima facie* that proceed of crime has been credited into the account of the petitioner and his family members, therefore, this Court cannot be said satisfied that there are reasonable ground for believing that petitioner is not guilty of offence and that he is not likely to commit any offence while on bail, the twin conditions as to satisfy in view of section 45(1)(ii) of the PMLA Act, 2002 to grant bail. But, simultaneously, as discussed aforesaid certainly the right qua speedy trial is available to the petitioner having an overriding effect to the rigors of statutory provisions as available under Section 45 of the PMLA Act.

16. It would be apposite to reproduce para 21 of **V. Senthil Balaji (supra),** which reads as under:

> *"21. Hence, the existence of a scheduled offence is sine qua non for alleging the existence of proceeds of crime. A property derived or obtained, directly or indirectly, by a person as a result of the criminal activity relating to a scheduled offence constitutes proceeds of crime. The existence of proceeds of crime at the time of the trial of the offence under Section 3*

of PMLA can be proved only if the scheduled offence is established in the prosecution of the scheduled offence. Therefore, even if the trial of the case under the PMLA proceeds, it cannot be finally decided unless the trial of scheduled offences concludes. In the facts of the case, there is no possibility of the trial of the scheduled offences commencing in the near future. Therefore, we see no possibility of both trials concluding within a few years."

17. As in present case altogether **37 prosecution witnesses**, and **59 documents running into 7,801 pages** are to be examined during the trial, which is yet to start giving a clear cut projection that trial is not likely to conclude in near future, coupled with the fact as petitioner remains in custody since 21.06.2024 i.e., **about one year and four months** against maximum sentence of 7 years, accordingly, above named petitioner, is directed to be released on bail in connection with Special Trial No. 3/2024 arising out of ECIR No. PTZO/27/2023 dated 17.10.2023 (arising out of supplementary record of Special Trial (PMLA) Case No. 12/2023) on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned District & Sessions Judge-cum Special Judge (PMLA), Patna/concerned court, subject to the

condition as laid down under Section 437(3) Cr.P.C/Section 480(3) of the Bhartiya Nagarik Suraksha Sanhita (in short “B.N.S.S.”).

(Chandra Shekhar Jha, J)

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