IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16143 of 2025

Arising Out of PS. Case No.-14 Year-2023 Thana- E.C.I.R (GOVERNMENT OFFICIAL) District- Patna

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Punj Kumar Singh Son of Late Ram Ballabh Prasad Singh Resident of Near Suraksha Clinic, Balika Vidya Mandir School, Hetli Bandh, Amtal, P.S. - Jharia, Dhanbad, Jharkhand-828111

... ... Petitioner/s

Versus

The Union of India through the Assistant Director, Enforcement Directorate 1st Floor, Chandpura Place, Bank Road, West Gandhi Maidan, Patna-800001

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Anshuman Sinha, Adv
	:	Mr. Prakhar Prakash, Adv
	:	Mr. Ali Muqtadir Ahmad, Adv
For the Opposite Party/s	:	Dr. K.N. Singh (A.S.G.)
For the E.D.	:	Mr. Tuhin Shankar, Adv

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA

C.A.V. ORDER

9 18-09-2025 Heard learned counsel appearing on behalf of the petitioner and learned APP appearing on behalf of the State.

2. The petitioner seeks bail in connection with Special Trial (PMLA) Case No. 06 of 2024 arising out of ECIR No. ECIR/PTZO/14/2023 registered for the offences under Section 3 and punishable under Section 4 of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as "*PMLA Act*").

3. The petitioner is named in the F.I.R. and is in custody since 19.09.2024.

4. The allegation as per ECIR and addendum ECIRs against the accused persons was allegedly engaging in illegal mining and selling sand without issuance of e-transit *challans* and causing revenue loss to the government. It was alleged in the ECIR that the suspects in pursuance of criminal conspiracy hatched and indulged in the activity related with the offence of money laundering as defined under Section 3 and punishable under Section 4 of the PMLA Act, where it is suspected that petitioner along with other co-accused persons generated and acquired proceeds of crime by commission of scheduled offences punishable under Sections 411, 420 and 120B of the Indian Penal Code, 1960. It is alleged that investigation in ECIR was initiated against six accused persons namely, Broadson, Mithilesh Kumar Singh, Baban Singh, Surender Kumar Jindal, Radha Charan Sah and Kanhaiya Prasad.

5. Learned counsel appearing on behalf of the petitioner submitted that petitioner is an innocent person and has been falsely implicated with the present case merely because he was one of the previous Director of M/s. Broadson

Commodities Pvt. Ltd. (hereinafter referred to as "*Broadson*"), in whose favour settlement of sand ghats for district Bhojpur, Patna and Saran were issued initially for the period of 2015-19 and which was further extended time to time from 01.01.2020 to 31.10.2020, 01.11.2020 to 31.12.2020, 01.01.2021 to 31.03.2021 and finally from 01.04.2021 to 30.09.2021. It is pointed out that present ECIR was registered by the Assistant Director, E.D. bearing ECIR No. PTZO/14/2023 dated 15.03.2023 and addendum ECIR dated 08.11.2023 and 04.05.2024 registered on the basis of predicate/scheduled offences under which total of 20 FIRs were registered against Broadson.

6. It is submitted that petitioner was a Director of Broadson from September 2015 to April 2019 and is currently serving as Director in three other companies and also a Trustee of M/s. Bindhyavasini Mutual Benefit Trust. The complaint alleges that Broadson generated Proceeds of Crime amounting to approximately Rs. 210.68 crore under the PMLA Act, related to illegal sand mining and trading activities in Bihar, Jharkhand and West Bengal. However, petitioner

strongly denies any involvement in the alleged crime. It is submitted that generation of the alleged proceeds of crime occurred in 2020-2021, much before which he resigned from the directorship in 2019. Moreover, petitioner claims he had no personal financial interest in Broadson and was not part of any syndicate responsible for the illegal operations. The substantial FIRs against Broadson were registered only in 2021, which further establishes that the petitioner was not connected to the alleged misconduct.

7. It is further submitted by learned counsel for the petitioner highlighting that complaint relies on an amount of ₹77.63 crore as alleged revenue loss due to sale of sand without e-*challan*. Learned counsel disputed this characterization, stating that the loss cannot be treated as proceeds of crime. Additionally, of all 20 FIRs mentioned in the investigation report, four FIRs pertain to Section 379 IPC (theft), which is not a scheduled offense under PMLA Act, making them irrelevant for the Enforcement Directorate's jurisdiction. Moreover, only two FIRs of the year 2017 were registered during the relevant period, out of which one

resulted in acquittal and the other is stayed by the Hon'ble High Court of Patna.

8. It is further submitted that, except for two FIRs from 2017, the remaining FIRs were registered when M/s BSCPL surrendered the settlement of sand ghats. Notably, 13 FIRs were registered against M/s BSCPL within just 8 days (16.09.2021 to 23.09.2021). It is contended that inspections by the Mines Department officers in a single day at several sites is physically impossible and violates Rule 59 of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019. Therefore, the alleged loss of Rs 77.63 crore reflected in FIRs No. 1 to 19 is based solely on assumptions without legally admissible evidence and cannot be considered as proceeds of crime within the meaning of Section 2(1)(u) of the PMLA Act.

9. It is further submitted that Broadson is facing multiple disputes with the Department of Mines and invoked the arbitration clause under the agreement and the New Sand Policy 2013. It requested by Collectors of Patna, Bhojpur and Saran to nominate an arbitrator to resolve the disputes.

Meanwhile, two writ petitions (CWJC No. 13483/2021 and CWJC No. 15402/2021) were heard in early February 2022. It is stated that Broadson had already initiated arbitration proceedings, both writs were dismissed with liberty to pursue the alternate remedy of arbitration. When the Collectors failed to appoint an arbitrator, Broadson approached the Patna High Court via Request Cases No. 33/2022, 39/2022, and 38/2022 for Patna, Bhojpur, and Saran respectively. The High Court allowed the requests and appointed Arbitrator, in June 2022.

10. Dissatisfied with the appointment of the arbitrator, the State of Bihar filed three appeals before the Hon'ble Supreme Court (SLP (C) Nos. 12789/2022, 14537/2022, and a civil diary case pending adjudication). The Supreme Court dismissed the appeals concerning Patna and Saran in July 2022 and May 2023 respectively, while the appeal for Bhojpur is still pending. On 18.08.2023, the appointed Arbitrator ruled that disputes arising after 01.01.2020 cannot be referred to arbitration. Consequently, Broadson (BSCPL) filed commercial suits in Patna and Saran

courts regarding claims after that the State of Bihar, initiated certificate cases under the Bihar and Orissa Public Demand Recovery Act, 1914, against BSCPL to recover alleged costs of misappropriated sand and royalty for the remaining surrender period. These cases are pending before the Commercial Court at Patna and are actively contested by Broadson, highlighting the existence of claims and counterclaims, and indicating no involvement of proceeds of crime in the matter.

11. It is further alleged in the ECIR/complaint that proceeds of crime amounting to Rs 83,52,45,069/- were generated through the sale of sand without issuing e-*challans*, causing loss to the government. This figure was calculated by the investigating agency based on documents recovered by the Income Tax Department during a search and seizure operation in February 2023 at the premises of Radha Charan Shah, Ashok Kumar, and Sudama Kumar. It is argued that the investigating agency and the complaint cannot rely on the evidence recovered by the Income Tax Department. These loose evidence are claimed to be irrelevant and insufficient to

conclude the alleged generation of proceeds of crime, and reliance on them is contrary to the Indian Evidence Act, 1872 and Criminal Procedure Code, 1973.

12. It is submitted that figure *qua* proceeds of crime of Rs 83.52 crores was included through a separate addendum dated 04.05.2024 to the ECIR No. ECIR/PTZO/14/2023, based on FIR dated 07.02.2024, which itself was solely based on the loose sheets recovered by the Income Tax Department. On bare perusal of the FIR forming the basis of the ECIR No. ECIR/PTZO/14/2023 dated 15.03.2023 reveals that the allegation contradict the provisions of the 2019 Rules and the Indian Evidence Act, making any investigation or charge-sheet legally unsustainable. The prosecution's claim regarding sand sale from February 2020 to August 2020, as derived from the loose sheets, does not match the GST deposit made by M/s BSCPL during the same period. This indicates that the data is not only irrelevant but also unreliable.

13. It is submitted that the offence of money laundering can only proceed if a predicate offence exists. If,

based on objective assessment, the alleged predicate offence prima-facie appears weak or non-existent. In support of his submission learned counsel relied upon the legal report of Delhi High Court as available through **Sanjay Pandey Vs. Directorate of Enforcement, 2022 SCC OnLine Del 325** : **Chitra Ramkrishna Vs. Directorate of Enforcement** Bail App- 2919 of 2022 and **Sanjay Jain Vs. Directorate of Enforcement, 2024 DHC 1900.**

14. It is further submitted that the ECIRs in question are based on several FIRs, of which, only two FIR i.e. FIR No. 109/17 dated 05.04.2017 and FIR No. 523/17 dated 31.07.2017, predate the construction of the petitioner's properties. Significantly, no chargesheet has been filed even in these two FIRs despite lapse of nearly nine years. Thirteen predicate FIRs cited by the ED stands either quashed or concluded by the submission of final form. As it is laid down at para no. 253 in **Vijay Madanlal Choudhary vs. Union of India through E.D.** reported in **2022 SCC OnLine 929**, existence of a subsisting predicate offence is *sine qua non* for the very foundation of proceeds of crime. In the

present case, the absence of any live predicate offence and the temporal disconnect of the FIRs with the Petitioner's investments render the entire proceedings legally untenable. While considering applications for grant of bail, the Court is required to form only a *prima facie* view and is not expected to meticulously weigh the evidence for the purpose of drawing inferences under the twin conditions stipulated in Section 45 of the PMLA.

15. It is further submitted that even, while dealing with bail under a special legislation such as the PMLA, governed by Section 45, the Hon'ble Supreme Court has unequivocally held that the rigors of the statute must be harmonized with the constitutional guarantees enshrined under Article 21. It has been consistently observed by the Supreme Court that while adjudicating bail, even under the PMLA, the Court is duty-bound to give due consideration to the fundamental right to life and personal liberty and the right to a speedy trial.

16. Learned counsel submits that the Hon'ble High Court has quashed the FIRs and few FIRs are closed by

the investigating authorities, itself. In remaining FIRs, charge sheet has not yet been filed. The prosecution has cited total of **149 prosecution witnesses**, **221 exhibits** and the documents runs into more than **13,283 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."***

17. Besides above, learned counsel has also placed reliance on **V. Senthil Balaji v. DoE**, reported in **2024 SCC OnLine 2626**.

18. Arguing further, learned counsel of petitioner submitted that as far as the statement of the petitioner recorded during custody is concerned, such statements cannot be used against the petitioner and as far as the statement of co-accused against the petitioner is concerned, they do not bear/hold substantive evidence against the petitioner and may not be considered while considering the bail application of the petitioner. In this regard, reliance can be placed on paragraph nos. 13, 14, 15, 21, 22, 23, 27, 30, 32 and 34 of **Prem Prakash v. Enforcement Directorate,** reported in **(2024)**

9 SCC 787.

19. In this context, it is also submitted that investigation against the petitioner is complete and a prosecution complaint dated 10.11.2023 pursuant to the completion of investigation has been filed, therefore custodial interrogation of the petitioner is not required. In this regard, reference can be made to Paras 39, 40, 46 of **Sanjay Chandra Vs. Central Bureau of Investigation** reported in (2012) 1 SCC 40 and Paras 86, 89 of the legal report of **Satendra Kumar Antil Vs. Central Bureau of Investigation** reported in (2022) 10 SCC 51.

20. It is pointed out that petitioner has consistently demonstrated good conduct. He scrupulously complied with all bail conditions earlier imposed, surrendered before the Learned Special Judge on 19.02.2025 in adherence to the Hon'ble Supreme Court's order, and has neither tampered with evidence nor influenced any witnesses. He thus satisfies the "triple test/tripod test" for bail, viz. (i) not being a flight risk, (ii) not tampering with evidence, and (iii) not influencing witnesses, as reiterated at para no. 81 in

P. Chidambaram v. Directorate of Enforcement, (2019) 9 SCC 24.

21. It is also submitted that the Hon'ble Supreme Court, in a *catena* of recent decisions as elucidated above, has observed that the rigors of Section 45 of PMLA must be harmonized with constitutional guarantees, especially Article 21, taking into account, factors such as prolonged incarceration, the stage of trial, and the conduct of the accused. The present case squarely falls within that category, making continued detention of the petitioner legally untenable.

22. While concluding the argument it is submitted that the petitioner has been arrested for alleged money laundering based solely on the assumption that the recovered property constitutes "proceeds of crime," without any cogent, tangible, or admissible evidence indicating involvement in a scheduled offence or its proceeds. The respondents had no reason to believe in the commission of a scheduled offence or any wrongful gain derived therefrom, and the arrest is legally unsustainable in absence of materials linking the petitioner to

such offence. It is submitted that a weak predicate offence leads to acquittal under the PMLA based on broad probabilities. It is also stated that the trial of the scheduled offence is at its initial stage and would directly affect the outcome of the money laundering case, continued custody serves no useful purpose, especially when conclusion of trial not appears in the near future. Despite these facts, the petitioner's bail application was rejected by the Learned Sessions Judge, without due consideration of these circumstances.

23. It is submitted by learned counsel for petitioner that in the facts and circumstances of the present case, the petitioner is entitled to be released on regular bail, as no *prima facie* offence is made out against him and the twin conditions under Section 45 of the PMLA stands fully satisfied. The investigation *qua* petitioner is complete; the prosecution complaint has already been filed, and other co-accused have been granted bail. However, charges are yet to be framed. With respect to the predicate FIRs, the trial has not even commenced. The prosecution has cited as many as

149 witnesses and relied upon voluminous records **exceeding 13,283 pages**, making the conclusion of trial in the near future impossible. The petitioner has already undergone nearly **12 months of incarceration** as an under-trial and in view of these circumstances, coupled with the settled principles of law, as discussed above, and also considering fundamental right qua personal liberty available under Article 21 of the Constitution of India, the petitioner deserves to be released on bail.

24. It is pointed out that upon re-consideration, by one of the learned Co-ordinate Bench the bail of co-accused Kanhaiya Prasad was granted through Cr. Misc. No. 17738 of 2024 vide order dated 22.08.2025 and, therefore, also, on the ground of parity this petitioner deserves bail.

25. On the other hand, Mr. Tuhin Shankar, learned counsel appearing on behalf of opposite party / E.D. vehemently opposed the bail petition and submitted that registration of FIR in the predicate offence is merely a condition precedent for commencement of investigation under PMLA, however it is not necessary that every person, who is

arrayed as an accused in an offence of money laundering, should also be an accused in the predicate offence, and in support of this submission, attention was drawn to the observation made by the Hon'ble Supreme Court in paragraph 15 of the case of **Pavana Dibbur vs Directorate of Enforcement** in Criminal Appeal no.2779 of 2023 wherein the Court has observed following:

> ***"15. Coming back to Section 3 of the PMLA, on its plain reading, an offence under Section 3 can be committed after a scheduled offence is committed. For example, let us take the case of a person who is unconnected with the scheduled offence, knowingly assists the concealment of the proceeds of crime or knowingly assists the use of proceeds of crime. In that case, he can be held guilty of committing an offence under Section 3 of the PMLA. To give a concrete example, the offences under Sections 384 to 389 of the IPC relating to "extortion" are scheduled offences included in paragraph - 1 of the Schedule to the PMLA. An accused may commit a crime of extortion covered by Sections 384 to 389 of IPC and extort money.***

Subsequently, a persons unconnected was the offence of extortion may assist the said accused in the concealment of the proceeds of extortion In such a case, the person who assists the accused in the scheduled offence for concealing the proceeds of the crime of extortion can be guilty of the offence of money laundering. Therefore, it is not necessary that a person against whom the offence under Section 3 of the PMLA is alleged must have been shown as the accused in the scheduled offence. What is held in paragraph 270 of the decision of this Court in the case of Vijay Madanlal Choudhary supports the above conclusion. The conditions precedent for attracting the offence under Section 3 of the PMLA are that there must be a scheduled offence and that there must be proceeds of crime in relation to the scheduled offence as defined in clause (u) of subsection (1) of Section 3 of the PMLA."

26. In this regard, Mr. Shankar further submitted that the independent nature of the offence of money laundering and its connection to scheduled offences was

explained by the Hon'ble Supreme Court in the case of **Vijay Madanlal Choudhary & Ors. v Union of India** reported in **2022 SCC OnLine SC 929**, wherein paragraph 42 reads thus:

> ***"42. 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."

27. It is further submitted that, the Hon'ble Telangana High Court, recently in the case of **Vem Krishna Keerthan vs Directorate of Enforcement, Criminal Petition No.9314 of 2022**, while dealing with a similar question of law has observed following in paragraph – 46:

> ***"46. The petitioner also contended that as the proceedings in the predicate offence are stayed by the Supreme Court, the proceedings under the PMLA shall also be stayed. The said contention cannot be accepted. As held in*** **Vijay Madanlal Chaudhary** ***(supra), unless the accused in the 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", the offence of money laundering is maintainable. In the present case, the proceedings in the predicate offence are merely stayed and such a stay cannot be extended to the proceedings under the PMLA"***

28. It is further submitted that investigation revealed that the illegal sand mining and sale operations by BSCPL were controlled by a syndicate whose members invested funds and shared profits from the proceeds of crime through both banking and non-banking channels, either in the company's books or off the books, based on their investment ratio. Documents seized by the Income Tax Department showed that monthly profits were split into two main groups (12% and 88%), and further the second group profit was divided into six parts, including a 12.5% share. Punj Kumar Singh, a former director of BSCPL (2015–2019), admitted being a syndicate member controlling sand mining operations, though falsely claiming a 12.5% share via M/s Encee Pvt. Ltd. in M/s Broadson Commodities Pvt. Ltd., despite not holding any official position or shareholding in Encee Pvt. Ltd. Also the, involvement of this petitioner was corroborated by statements from other directors and close associates, confirming his active role in managing operations, inspecting sand ghats, and taking policy decisions. Consequently, Punj Kumar Singh (petitioner) was arrested on 19.09.2024 under

the PMLA Act, 2002.

29. Learned counsel for the E.D. has relied upon a judgment of Hon'ble Supreme Court as available through **Gautam Kundu v. Directorate of Enforcement (Prevention of Money Laundering Act)**, in which, Hon'ble Supreme Court has held that the conditions specified under Section 45 of PMLA are mandatory and need to be complied with while hearing an application for bail under Section 439 Cr.P.C. In this context, learned counsel also relied upon a decision of Supreme Court in the case of **Tarun Kumar v. Enforcement Directorate,** reported in **2023 SCC OnLine SC 1486**.

30. Lastly, it is submitted that case of the petitioner cannot be equated with the case of other accused persons, who have already been enlarged on bail, on the ground that the petitioner was instrumental in actively facilitating the process of money laundering by utilizing the bank channels and other financial institutions to conceal the proceeds of crime.

31. 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. The words used in Section 45 of the PMLA are “reasonable grounds for believing” which means that the Court has to see only if there is a genuine case against the accused and the prosecution is not required to prove the charges beyond reasonable doubt, but simultaneously as discussed aforesaid certainly the right *qua* speedy trial is available to the petitioner having an overriding effect to rigors of statutory provisions as available under Section 45 of PMLA Act.

32. As in present case altogether **149 witnesses**, **221 exhibits running into 13,283 pages** 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 19.09.2024 i.e., about one year against maximum sentence of 7 years, accordingly, above named petitioner, is directed to be released on bail in connection with Special Trial (PMLA) Case No. 06 of 2024 arising out of ECIR No. PTZO/14/2023

on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge cum Special Judge (PMLA), Patna/concerned court, subject to the conditions as mentioned under Section 480(3) of the B.N.S.S.

(Chandra Shekhar Jha, J.)

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