IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32350 of 2025

Arising Out of PS. Case No.-4 Year-2024 Thana- E.C.I.R (GOVERNMENT OFFICIAL) District- Patna

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Varun Singla, S/o Suresh Kumar Singla, R/o H. No. 3059, Blood Donors Coopearative House Building Society Ltd. Jail Road, Sector-50-D, Chandigarh, P.S.- Sector -47, Chandigarh

... ... Petitioner

Versus

The Union of India through the Assistant Director, Zonal Office, Enforcement Directorate, Patna

... ... Opposite Party

Appearance :

For the Petitioner	:	Mr. Aditya Wadhwa, Advocate Mr.Hemant Kumar, Advocate Mr.Gaurav Prakash, Advocate Mr.Ayush Shrivastava, Advocate
For the ED	:	Mr.Zohaib Hossain, Spl. counsel for ED Mr.Tuhin Shankar, Advocate Mr.Prabhat Kr. Singh, Spl.PP ED Mr.Pranjal Tripathi, Advocate Mr.Vishal Kr.Singh, LC ED Mr.Kartik Sabharwal, Advocate Ms. Aashi Singh, LC ED

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA

CAV ORDER

14 25-09-2025 Heard learned counsel appearing on behalf of the parties.

2. The present application has been filed for grant of bail to the above-named petitioner, who has been made accused (as accused no. 12 in the supplementary prosecution Complaint dated 09.01.2025) in Special Trial (PMLA) Case No. 10/2024 instituted for the offences under section 3 & punishable under section 4 of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as the

"PMLA"), arising out of Enforcement Case Information Report (in short the **"ECIR"**) bearing no. PTZO/04/2024 dated 14.03.2024 and Addendum ECIR dated 20.09.2024.

3. **Brief case of the prosecution**

(i). DoE initiated investigation upon instituting ECIR No. PTZO/04/2024 dated 14.03.2024, on the basis of Rupaspur P.S. Case No. 18/2023 dated 09.01.2023 for offences u/s 323, 341, 376, 376D, 420, 313, 120B, 504, 506 read with 34 of IPC, against accused Sanjeev Hans (I.A.S. Bihar Cadre 1997 Batch), Gulab Yadav (ex M.L.A., RJD, 2015-2020) and Lalit (servant of Gulab Yadav), alleging rape and sexual harassment of one Gayatri Kumari, cheating, criminal conspiracy, misuse of official position and involvement in corruption. In course of investigation of the said police case, DoE came across information disclosing offences, as such, in exercise of power under Section 66(2) of PMLA, shared information vide communication dated 28.08.2024 with Special Vigilance Unit Bihar, Patna, who in turn instituted F.I.R. No. 5/2024 dated 14.09.2024, for offences under Section 61, 318(4) of Bharatiya Nyaya

Sanhita, 2023 ('BNS') and Section 7 read with 12, read with 13 (1)(a), read with 13(1)(b), read with 13(2) of the Prevention of Corruption Act, 1988 ('PC Act'), against accused Sanjeev Hans and 13 others. Thereafter, an addendum ECIR dated 20.09.2024 was recorded on the basis of predicate offence in F.I.R. No. 5/2024 dated 14.09.2024. The accused persons have indulged in the offence of cheating and dishonestly inducing delivery of property [Section 318(4) BNS], criminal conspiracy [Section 61 BNS] and misuse of official position and bribery [Section 7 r/w 12, r/w 13 (1)(a), r/w 13(1)(b), r/w 13(2) of the PC Act.

(ii) Upon investigation, it surfaced that Sanjeev Hans earned illicit money by indulging in corrupt practices while holding various prime postings in the Government of Bihar.

(iii) That on 16.12.2024, the ED filed its Prosecution Complaint ("First Prosecution Complaint") against 8 named accused persons/entities, before the Trial Court. It may be noted that while in the said prosecution complaint, ED did level certain allegations against the petitioner herein;

however, for the reasons best known to the ED, he was not arraigned as an accused in the said First Prosecution Complaint. On 09.01.2025, the ED filed its Supplementary Prosecution Complaint ("Second Prosecution Complaint") before the learned Trial Court, wherein it had named 8 additional accused persons/entities and the petitioner herein was arraigned as Accused no. 12 therein.

ARGUMENT ON BEHALF OF THE PETITIONER:

4. It is submitted by Mr. Aditya Wadhwa, learned counsel appearing for the petitioner that no specific allegation appears raised through ED prosecution against the petitioner as to pay bribe of Rs.60 lacs in cash to Sanjeev Hans. It is submitted that the name of father of petitioner transpired on the basis of improved statement and, therefore, same cannot be relied upon in view of legal report as available through **Anil Vasantrao Deshmukh vs. State of Maharashtra** reported in **2022 SCC Online Bom 3150**.

5. It is pointed out that no forensic examination was conducted for the digital records seized from the office of M/s Matriswa Infra Pvt. Ltd. Mr. Wadhwa submitted that the ED

has not carried out any investigation in relation to Tribeni Construction Ltd., the company in favour of which, the tender was awarded by Water Resources Department (in short 'WRD'). It is also pointed out that no adverse inference can be drawn against the petitioner for the payment of Rs.63..85 lacs made by Sri Pawan Kumar to Tribeni Construction Ltd., as petitioner was not even a Director of M/s Matriswa Infra Pvt. Ltd. at the time when the contract was awarded to Tribeni Construction Ltd. It is submitted that the allegation of generation of cash by M/s Matriswa used for payment of bribes by over-invoicing the fuels bills is completely baseless, as same is based upon hearsay evidence, which is not admissible.

6. In support of his aforesaid submission, reliance was made on decision of Hon'ble Supreme Court as available through **Sakatar Singh & Ors. vs. State of Haryana** as reported in **(2004) SCC OnLine SC 478**.

7. It is also pointed out that payment of Rs. 50 lacs to Kamal Kant Gupta alleged to be bribe for Sanjeev Hans is completely based upon speculation and assumption as ED has

not produced any concrete evidence. It has not shown by ED that how aforesaid amount of Rs.50 lacs paid by Matriswa to Sri Kamal Kant Gupta can be said as a bribe paid to Sanjeev Hans.

8. It is submitted by learned counsel for the petitioner that ED has alleged that father of petitioner has facilitated multiple real estate transaction for co-accused Sanjeev Hans through Mr. Kamal Kant Gupta and his relatives. The said allegation is completely frivolous, speculative and baseless and, in any event, the allegation is raised against the petitioner's father and not the petitioner. It is pointed out that merely facilitation by Sri Kamal Kant Gupta for purchase of certain properties by the family members of Sanjeev Hans cannot constitute an offence under PMLA as Kamal Kant Gupta engaged in the business of property brokerage and used to facilitate several transactions related to properties for his clients.

9. It is also pointed out by Mr. Wadhwa that even from WhatsApp chats extraction, the close relation has been surfaced between father of this petitioner and Sanjeev Hans.

There is no WhatsApp chat between Sanjeev Hans and the petitioner and moreover even aforesaid chat does not constitute any offence under PMLA.

10. It is submitted that from perusal of statement of Kamal Kant Gupta, it reveals that the amount of Rs. 20 lacs was received by him from Smt. Harloveleen Kaur as an advance for booking a property in Chandigarh and when the deal could not finalized, the amount was duly returned to Smt. Harloveleen Kaur.

11. In this context, it is submitted that non-finalization of business deal *qua* property cannot be termed as bribe particularly, when the advance payment was returned.

12. It is further submitted that as per allegation *qua* payment of Rs.50 lacs to Sri Kamal Kant Gupta alleged to be bribe for Sanjeev Hans is concerned, same is totally speculative and based on assumption. The said amount of Rs. 50 lacs utilized for the purchase of investors' plot ad-measuring 500 sq. yds. by Sri Kamal Kant Gupta jointly in his own name and in the name of Sri Varun Singla, which is apparent from the General Power of Attorney dated

31.08.2020 and still that GPA stand in the name of petitioner and Kamal Kant Gupta, which was seized by ED from custody of Kamal Kant Gupta and not from the custody of Sanjeev Hans, therefore, there is no basis to allege that the said property is the *benami* of Sanjeev Hans. It is pointed out that out of total proceeds of Rs.92.5 lacs, Rs. 10 lacs was paid by Harloveleen Kaur, the wife of Sanjeev Hans. However, no investigation was made by the ED to ascertain the details regarding balance payment of Rs.32.5 lacs, which was neither paid nor alleged to be paid by Sanjeev Hans or his family members. On the basis of allegation of the ED, none of the of the ingredients of a Benami transaction are fulfilled in the instant case, as (i) the source from which the purchase money came and which was paid by Sh. Kamal Kant Gupta; (ii) the nature and possession of the property, after the purchase, which is yet to be handed over to Sh. Kamal Kant Gupta and Sh. Varun Singla; (iii) the motive, if any, for giving the transaction a *benami* color - the ED has not been able to establish any motive; (iv) the position of the parties and the relationship, no relation whatsoever, except for the fact that being a property Broker, Sh. Kamal Kant Gupta have facilitated certain property dealings for Sh. Sanjeev Hans and his family members; (v) the custody of the title deeds after the sale, retained by Sh. Kamal Kant Gupta; and (vi) the conduct of the parties concerned in dealing with the property after the sale. It is not even the ED's case that Sri Sanjeev Hans or his wife are claiming ownership over the said land or have made any attempts to sell it. Therefore, merely a loan amount of Rs. 10 lacs borrowed by Kamal Kant Gupta to purchase the said property from the wife of Sanjeev Hans, it cannot be said that the property is a *benami* property of Sanjeev Hans. In support of these submission, Mr. Wadhwa relied upon the legal report of Hon'ble Supreme Court as available through **Jayadayal Poddar (Deceased) & Anr. vs. Mst. Bibi Hazra & Ors.,** reported in **(1974) 1 SCC 3**.

13. Taking reference of recent decision of Hon'ble Supreme Court as reported in the matter of **J. Sekar vs. Directorate of Enforcement** reported in **2022 SCC Online SC 561**, it is submitted that the offence of money laundering has to be proved beyond all reasonable doubts and

not on the basis of preponderance of probabilities.

14. In the present case, the State Vigilance Unit in the said FIR not even appears to set out a *prima facie* case against the petitioner. Registration of the said ECIR without the confirmed existence of a scheduled offence clearly indicates that the ED has acted in undue haste and there is no reason for his arraignment in the said ECIR and it is a well-settled position of law that at the stage of considering a bail application, a court is not required to determine the guilt of the accused but is only required to assess the matter on broad probabilities. In support of this submission, learned counsel relied upon Paragraph-388 of **Vijay Madanlal Choudhary case** (supra), which is as under:-

> "**388**.... The successive decisions of this Court dealing with the analogous provision have stated that the Court, at the stage of considering the application for grant of bail, is expected to consider the question from the angle of whether the accused was possessed of the requisite mens rea. The Court is not required to record a positive finding that the accused had not committed an offense under the Act. The Court ought to maintain a delicate balance between a

judgment of acquittal and conviction and an order granting bail long before the commencement of the trial. The duty of the Court at this stage is not to weigh the evidence meticulously but to arrive at a finding on the basis of broad probabilities. Further, the Court is required to record a finding as to the possibility of the accused committing a crime which is an offense under the Act after grant of bail."

15. In support of his aforesaid submission, learned counsel has also relied upon para-92 of **Vijay Madanlal Choudhary's case** (supra), which is as under:-

"**92.** It has been held by the Hon'ble Supreme Court in **Vijay Madanlal Choudhary (Supra)** that initiation and continuation of the offense of money Laundering depends on the existence of the predicate offense. As a corollary of this proposition, as well as from the above decisions of this Court, it follows that, on the basis of an objective assessment of the material on record, if it appears prima facie that the predicate offense is weak and will not hold good under the law, i.e., the accused may not ultimately be convicted of the said offense, it will be reason to believe that he is not guilty of an offense under PMLA. In other words, it will be a factor in favor of the accused in the scheme of broad probabilities."

16. Arguing further Mr. Wadhwa submitted that in view of all such aforesaid factual discussions, no *prima facie* case is made out against this petitioner and, therefore, the presumption as available under Section 24 of the PMLA is not applicable against the petitioner in view of **Vijay Madanlal Choudhary (Supra)** as discussed in para- 239, which is as under:-

> "**239.** Be it noted that the legal presumption under Section 24(a) of the 2002 Act would apply when the person is charged with the offense of money laundering and his direct or indirect involvement in any process or activity connected with the proceeds of a crime is established. The existence of the proceeds of a crime is, therefore, a foundational fact to be established by the prosecution, including the person's involvement in any process or activity connected therewith. Once these foundational facts are established by the prosecution, the onus must then shift on the person facing the charge of money laundering to rebut the legal presumption that the proceeds of a crime are not involved in money laundering, by producing evidence which is within his personal knowledge. In other words, the expression "presume" is not conclusive. It also

does not follow that the legal presumption that the proceeds of crime are involved in money laundering is to be invoked by the authority or the court, without providing an opportunity to the person to rebut the same by leading evidence within his personal knowledge **[Sarbananda Sonowal v. Union of India, (2005) 5 SCC 665]**.

17. Learned counsel further submitted that the existence of a scheduled offence must be conclusively established before alleging that the movable and immovable assets of petitioner are proceeds of crime. Reliance for the same has been placed on **V. Senthil Balaji vs. Deputy Director, Directorate of Enforcement** reported in **2024 SCC Online SC 2636**, where Hon'ble Supreme Court categorically held in para-21 as under:-

> "21. Hence, the existence of a scheduled offense 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 offense constitutes proceeds of crime. The existence of proceeds of crime at the time of the trial of the offense under Section 3 of PMLA can be proved only if the scheduled offense

is established in the prosecution of the scheduled offense. Therefore, even if the trial of the case under the PMLA proceeds, it cannot be finally decided unless the trial of scheduled offenses concludes."

18. While concluding argument, it is submitted that the petitioner being a respectable citizen of this country satisfying all pre-conditions like flight risk or likely to fleeing justice, likelihood of tampering with evidence; and all essential conditions for considering a regular bail including influencing witnesses.

19. While concluding argument, it is submitted that in view of aforesaid, the twin conditions as to refuse bail to the petitioner as available under Section 45 of the PMLA *prima facie* not made out against petitioner, who remains custody for about a year, where number of witnesses and documents are required to prove during the trial, which yet to be initiated, suggesting *prima facie* that trial may not likely to conclude in near future, which is appearing in violation of fundamental right of petitioner as available *qua* speedy trial under Article 21 of the Constitution of India. Therefore, the

petitioner deserves bail.

20. It is also pointed out by learned counsel that the present case was lodged after implementation of Bhartiya Nagrik Suraksha Sanhita, 2023 (in short 'BNSS'), where petitioner must be given an opportunity of hearing as a proposed accused under Section 223 of the BNSS, which was deprived and if any further opportunity be given to him to cover up the aforesaid illegality, it may further delay the trial for any period.

21. In support of submission of delayed trial, a reliance has been made on decision of Hon'ble Supreme Court as available through **Manish Sisodia vs. Directorate of Enforcement, [SLP (Crl.) No.8781 of 2024]** and in support of submission of violation of fundamental right under Article 21 of the Constitution of India, reliance has been made on **Prem Prakash Case (supra),** wherein the Hon'ble Supreme Court categorically held as under:-

> "All that Section 45 of PMLA mentions is that certain conditions must be satisfied. The principle that, 'bail is the rule and jail is the exception' is only a paraphrasing of Article 21 of the Constitution of India, which states that no

person shall be deprived of his life or personal liberty except according to the procedure established by law. Liberty of the individual is always a rule and deprivation is the exception. Deprivation can only be by the procedure established by law, which must be a valid and reasonable procedure. Section 45 of PMLA, by imposing twin conditions, does not rewrite this principle to mean that deprivation is the norm and liberty is the exception. As set out earlier, all that is required is that in cases where bail is subject to the satisfaction of twin conditions, those conditions must be satisfied."

ARGUMENT ON BEHALF OF ED:

22. Mr. Zohabi Hossain, learned Special Counsel for ED submitted that the entire work of co-accused Kamal Kant Gupta was supervised by co-accused Suresh Singla and this petitioner. It is submitted that chat between father of petitioner and co-accused Pawan Kumar also reveals regarding details of Rajgir work expenses. It is pointed out that Kamal Kant Gupta purchased a property jointly with this petitioner, as discussed aforesaid.

23. Mr. Zohaib Hossain, learned special counsel

appearing for the ED submitted that the offence of money laundering is not concerned with ingredients of the alleged predicate offence. It is only concerned with proceed of crime and whether the accused dealt with such proceed of crime or not. The independent nature of the offence of the money laundering and its connection scheduled offence has been explained by Hon'ble Supreme Court in **Vijay Madanlal Choudhary case** (supra), which are as under:-

> "**253.** Tersely put, it is only such property that is derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offense can be regarded as proceeds of crime. The authorities under the 2002 Act cannot resort to action against any person for money laundering on the assumption that the property recovered by them must be proceeds of crime and that a scheduled offense has been committed, unless it is registered with the jurisdictional police or pending inquiry by way of complaint before the competent forum. For example, the expression "derived or obtained" is indicative of criminal activity relating to a scheduled offense already accomplished. Similarly, in the event the person named in the criminal activity relating to a scheduled offense is finally acquitted by a court of competent

jurisdiction owing to an order of discharge. Enforce acquittal or because of quashing of the criminal case (scheduled offense) against him/her, there can be no action for money laundering against such a person or person claiming through him/her in relation to the property linked to the stated scheduled offense. 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 these provisions and disregarding the express language of the definition clause "proceeds of crime," as it obtains as of now.

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269. From the bare language of section 3 of the 2002 Act, it is amply clear that the offense of money laundering is an independent offense 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 offense. The process or activity can be in any form —be it one of concealment, possession, acquisition, or use of proceeds of crime, as much as projecting it as untainted property or claiming it to be so."

24. It is further submitted by Mr. Hossain that no

doubt statement of co-accused is generally considered weak evidence but, if it found corroborated by other circumstances or independent evidence, same can be relied upon. In support of this submission, reliance was placed on the basis of **State vs. Nalini** reported in **(1999) 5 SCC 253** [Rajeev Gandhi assassination case]. Moreover, there are various judicial precedents which laid down that statement under Section 50 of the PMLA are admissible and can be relied upon to reject bail. In support of this submission, learned counsel relied upon **Vijay Madanlal Choudhary case** (supra); **Tarun Kumar vs. Enforcement Directorate [(2023) SCC OnLine SC 1486]**; **Rohit Tandon vs. Directorate of Enforcement [(2018) 11 SCC 46]**.

25. Arguing further, it is submitted by Mr. Hossain that apart from the statement under Section 50 of the PMLA, the bank account statements of M/s Matriswa Infra Pvt. Ltd., Harloveleen Kaur, Kamal Kant Gupta, Barun Singla, the WhatsApp chats extracted from mobile phones of Sanjeev Hans, Suresh Kumar Singla and Pawan Kumar and recovery of digital evidence from the premises of M/s Matriswa Infra

Pvt. Ltd. vide *Panchanama* dated 16.07.2024 are the corroborative evidences in the instant prosecution complaint.

26. It is also submitted that during investigation, it appears that M/s. Matriswa Infra Pvt. Ltd. was ineligible to participate in the tender owing to its status being a newly established company. It facilitate the participation of a proxy entities including M/s. Tribeni Construction Ltd. by covering their participation fees, which is evident from the transaction of Rs. 63.8 lacs from the A/c No.50200019409704 of Mr. Pawan Kumar to M/s Tribeni Construction Ltd., which also appear corroborated from the statement of Pawan Kumar dated 24.11.2024. The statement of Director of M/s Tribeni Construction Ltd. was also recorded under Section 50 of PMLA, 2002 and during investigation, it transpired that M/s. Tribeni Construction Ltd. has been used as front company to award the tender to the company and later sub-contracted to M/s Matriswa Infra Pvt. Ltd. The alleged fund to M/s Tribeni Construction Ltd. was transferred under instruction of Suresh Singla (petitioner) by Pawan Kumar. During investigation, it was revealed that M/s. Tribeni Construction Ltd. and its

Director have not made any role in the processes and activities connected with money laundering.

27. It is also submitted that if the funds have been returned then also mere return of the amount does not automatically render the original transaction illegal, especially in cases involving financial crimes like money laundering, corruption or fraud. It is submitted that if the initial acquisition of the transfer of funds was illegal whether through misappropriation, fraud or money laundering the act remains unlawful regardless of whether the money was later returned, as it was held in the matter of **State of Maharashtra vs. Ishwar Piraji Kalpatri** reported in **(1996) 1 SCC 542**, where Hon'ble Supreme Court held that offence is not erased simply because an accused later attempts to reverse its consequences.

28. It is submitted that under PMLA, 2002 both the giver and receiver of the bribe can be prosecuted for money laundering. The Supreme Court has affirmed that the act of giving a bribe constitutes an offence under Section 3 of the PMLA and the bribe money is considered proceeds of crime

under Section 2(u). In support of this, reliance was made upon decision of **Directorate of Enforcement vs. Padmanabhan Kishore [(2022) SLP CRL. 2668]**.

29. It transpires form the complaint of ED and counter affidavit that the that co-accused Suresh Singla, who is father of this petitioner sent his pictures, photographs of voter I.D. and Aadhar card to co-accused Pawan Kumar, employee of WRD, Bihar, who stated that Suresh Singla sent all these documents to make petitioner as a Director in M/s. Matriswa Infra Pvt. Ltd.

30. Having regard to the aforesaid submissions of both the parties and upon perusal of material available on record, it appears that the petitioner *prima facie* was working in close association of co-accused Sanjeev Hans and other co-accused persons including his father, who is also one of the co-accused, subsequently became Director of M/s Matriswa Infra Pvt. Ltd., a company found involved in layering and laundering of money for securing tender of WRD and thereafter to earn *benami* property for co-accused Sanjeev Hans by using proceed of crime. Involvement of petitioner

also supported by confessional statement of co-accused Pawan Kumar Gupta, which is duly supported by his statement under Section 50 of PMLA.

31. Taking note of all such aforesaid facts broadly, it can not be said that this Court is satisfied that there are reasonable grounds for believing that petitioner is not guilty and would not likely to commit any offence on enlarging bail, twin conditions, which must satisfied before granting bail under Section 45 of the PMLA, 2002.

But,

As petitioner remained in custody for about **eleven months** against maximum sentence of seven years i.e. since **12.11.2024**, where during trial total **79 witness** are required to be examined and **149 documents**, which running into **26739 pages** are required to be exhibited by the trial court, suggesting *prima facie* that trial is not likely to conclude in near future, violating the fundamental right of petitioner as available under Article 21 of the Constitution of India *qua* speedy trial, which yet to initiate, therefore, the petitioner, above-named, is directed to be released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Sessions Judge-cum-Special Judge (PMLA), Patna in connection with Special Trial (PMLA) Case No.10 of 2024 arising out of ECIR No. PTZ0/04/2024, subject to the conditions as laid down under Section 437(3) of the CrPC/under Section 480(3) of the BNSS'.

(Chandra Shekhar Jha, J.)

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