IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32054 of 2025

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

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Suresh Singla @ Suresh Kumar Singla, S/o Late Panna Lal Singla, R/o G1, Jagdamba Palace, Brahamsthan Gali Shekhpura, P.S.- Shastrinagaar, Distt.- Patna.

... ... Petitioner

Versus

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

... ... Opposite Party

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Appearance :

For the Petitioner/s	:	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, Retained counsel 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

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA

CAV ORDER

13 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. 11 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 (in short 'SVU') 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 Enforcement Department (in short "ED") filed its Prosecution Complaint ("First Prosecution Complaint") against 8 named Accused Persons/Entities, before the Ld. 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 Ld. Trial Court, wherein it had named 8 additional Accused Persons/ Entities, and the petitioner herein was arraigned as Accused no. 11 therein.

ARGUMENT ON BEHALF OF THE PETITIONER

4. Mr. Aditya Wadhwa, learned counsel appearing for the petitioner submitted that prior to lodging FIR by SUV, Bihar, on 09.01.2023, an FIR being Rupaspur P.S. Case No. 18/2023 was lodged at Patna for the offences punishable under section 34, 323, 341, 376, 376(d), 420, 313, 120B, 504 of the Indian Penal Code (in short the “IPC”) against Sanjeev Hans (IAS Bihar Cadre 1997 Batch), Gulab Yadav (Ex. MLA RJD 2015-20) and others upon a complaint by one Ms. Gayatri Kumari alleging rape, sexual harassment, misuse of official position and corruption. Notably, the petitioner herein not named as an accused in the said FIR and no

allegation was leveled against him.

5. It is submitted by Mr. Wadhwa that on the basis of FIR No. 18/2023, ED registered the said ECIR on 14.03.2024 against Sanjeev Hans and Gulab Yadav. It is submitted that the proceeding arising from FIR No. 18/2023 was quashed *qua* Sanjeev Hans by this Hon'ble Court vide its order dated 06.08.2024 passed in Cr.W.J.C. No. 310/2023.

6. Mr. Wadhwa submitted that immediately after 22 days, out of oblique motive, ED exercising power under section 66(2) of the PMLA, sent a letter to the Additional Director General of Police, Special Vigilance Unit, Government of Bihar, alleging corrupt activities of Gulab Yadav and Sanjeev Hans including alleged embezzlement and manipulation of govt. tenders. In the said communication, there was an allegation that Sanjeev Hans received Kickbacks from the vendor/contractor of Water Resources Department (in short the **"WRD"**), Govt. of Bihar and that the petitioner had purchased certain properties in his own name, which were actually "*benami*" properties of Sanjeev Hans. It is submitted by Mr. Wadhwa that this is the first instance that any

allegation surfaced against this petitioner.

7. Explaining progress of implication, Mr. Wadhwa submitted that on the basis of communication dated 28.08.2024 under section 66(2) of the PMLA, sent by ED, the SVU registered one FIR bearing No. 05/2024 on 14.09.2024 under section 7 r/w 12 r/w, 13(1)(d), 13(1)(b) and 13(2) of the Prevention of Corruption Act, 1988 (in short the **"PC Act"**). The present petitioner was made accused in the aforesaid FIR.

8. It is submitted by learned counsel that FIR No. 05/2024 was pending investigation till filing of present bail application, and no final report/charge-sheet has been filed by the SVU. On account of the aforesaid FIR, ED recorded the Addendum to the ECIR based upon rape case, on 20.09.2024 while invoking section 7 r/w 12 r/w 13(1)(d), 13(1)(b) and 13(2) of the PC Act as the predicate offence. During investigation of aforesaid ECIR, ED exercised its power under section 19 of the PMLA Act and arrested the petitioner on 11.11.2024 at 23:50 hours from the ED office at Patna.

9. While arguing further, Mr. Wadhwa submitted

that with aforesaid ECIR, ED filed **its first prosecution complaint** on 16.12.2024 against eight named accused persons before the learned trial court without arraying petitioner as an accused, reason best known to the ED. Again, **second prosecution complaint** was filed on 09.01.2025 by the ED through its supplementary prosecution before the learned trial court, where additional eight accused persons/entities, and the present petitioner was arrayed as an accused no. 11 therein.

10. It is submitted further that the petitioner alleged through these prosecution complaints that during the period 2019-21, he has assisted the accused Sanjeev Hans in generation, layering, laundering and concealment of the proceeds of crime of Rs. 1.17 Crores (approx.) and projecting the same as untainted. The allegation raised in hurried manner, as in first prosecution complaint dated 16.12.2024 the proceed of crime was shown as 1.37 Crores instead of Rs. 1.17 Crore. However, at all other places (including the counter affidavit to the bail application filed before the learned trial court), the ED has maintained its stance that the alleged

proceeds of crime attributable to the petitioner to the tune of Rs. 1.17 Crores.

11. Mr. Wadhwa pointed out that substratum of allegation leveled by the ED against the petitioner is to make payment of Rs. 50 Lakhs to Mr. Kamal Kant Gupta, who is the ***Samdhi*** of the petitioner. It is further pointed out that on the basis of certain retracted statement of co-accused Pawan Kumar, ED alleges that same amount of Rs. 50 Lakhs transferred to the account of Kamal Kant Gupta was a bribe paid to Sanjeev Hans, who, at that point of time, was the Secretary of Water Resources Department, Govt. of Bihar for grant of a tender allotted to one M/s. Tribeni Construction Ltd. (in short the **"Tribeni"**) for a project near Paimar River in Biharsharif, Bihar which was subsequently sub-contracted to **M/s. Matriswa.**

12. Further, as per case of ED against petitioner, the said amount of Rs. 50 Lakhs was utilized by Kamal Kant Gupta to purchase an industrial plot worth Rs. 92.5 Lakhs admeasuring 500 sq. yards in Section 101A, IT City, Mohali. According to ED, out of a sum of Rs. 92.5 Lakhs, Rs. 50

Lakhs was paid to one Jatinder Kumar Sangari (previous owner) by Kamal Kant Gupta and Rs. 10 Lakhs was paid from the account of Smt. Harloveleen Kaur, who is the wife of Sanjeev Hans. According to the ED, this amount of Rs. 50 Lakhs was also a bribe amount given to Sanjeev Hans. Therefore, based on the amount of Rs. 10 Lakhs borrowed from Smt. Harloveleen Kaur, out of the total consideration amount of Rs. 92.5 Lakhs for purchase of the said plot, the ED alleges that the said plot is nothing but a "*Benani*" property of Sanjeev Hans.

13. It is submitted that additionally ED has sought to allege that amount of Rs. 50 Lakhs transferred from **Matriswa** to Kamal Kant Gupta was squared off by petitioner's son, namely, Varun Singla, who has also been arraigned as a co-accused by ED.

14. In addition to the aforesaid, ED further alleges that during the time when Sanjeev Hans was the secretary of WRD, a further bribe of Rs. 67 Lakhs was paid in cash to Sanjeev Hans for securing the aforementioned tender. ED alleged that this payment is evident from one Excel Sheet

recovered from **Matriswa's** office on 16.07.2024, from a pen drive, which mentioned that amount was paid to one **'S. Sir',** which as per statement of co-accused Pawan Kumar recorded under section 50 of the PMLA Act was paid to Sanjeev Hans. But, subsequently, the aforesaid statement was retracted by co-accused Pawan Kumar that **'S. Sir' as Singla Sir.** According to ED, cash was generated by inflating invoices for refueling of the trucks of **Matriswa.** In this regard, the ED has sought to place reliance upon the statements of one Gulshan Kumar Kesari, who was the pump operator of the Pragati Fuel Centre in Rajgir, Bihar. It is further alleges by ED that Matriswa was ineligible to participate in the said tender and, therefore, had procured the tender in the name of its proxy namely, Tribeni. The ED alleges that this is evident from the payment of Rs. 63.85 Lakhs, which was paid by Pawan Kumar to Tribeni and was utilized for the tender process.

15. It is further pointed out by Mr. Wadhwa that petitioner alleged to facilitate multiple real estate transaction for co-accused Sajeev Hans through Mr. Kamal Kant Gupta

i.e. two Villas at Glenview Resorts, Kasauli (Himachal Pradesh), which has been booked in the name of **Ld. Hans** (father of Sanjeev Hans) and Gurbantej Singh (brother-in-law of Sanjeev Hans). It also transpires from the first prosecution complaint that the four other cottages were booked by Varun Singla and Sri Kamal Kant Gupta (in the name of his wife Smt. Anita Gupta). It is alleged that for these four cottages, a sum of Rs.1.5 crores in advance was paid and that said amount was facilitated by the petitioner herein without levelling any specific allegation for constituting the offence under the PMLA related to facilitating aforesaid transaction but, has merely stated that these properties are suspected to be *benami* properties. Additionally, the ED also states that one property in Ghitorni village, New Delhi was purchased by Sri Kamal Kant Gupta and fund for said property was arranged by this petitioner. Even assertion of said fact by the ED does not constitute any offence.

16. Arguing further, explaining the allegation against this petitioner, Mr. Wadhwa submitted that petitioner alleged by ED that he had close ties with co-accused Sanjeev

Hans, referring various chats extracted from the mobile phone of Sanjeev Hans, which was seized vide *panchnama* dated 14.08.2024 and 16.08.2024 and secondly, on the ground that some financial transactions were made between Harloveleen Kaur, the wife of co-accused Sanjeev Hans and Kamal Kant Gupta. It is submitted that as it is evident from both prosecution complaints that entire case of the ED against petitioner is based upon confessional statement of Mr. Pawan Kumar Gupta, who is an arrested co-accused. It is pointed out that the statement made in custody is inadmissible and cannot be looked at even while deciding the bail application under Section 45 of the PMLA Act. It is also pointed out that the statement which made in the custody of ED was retracted by co-accused Pawan Kumar, immediately when coercion and force of ED custody was over.

17. Arguing further, it is pointed out by Mr. Wadhwa that the allegation against petitioner to involve in payment of bribe to Sanjeev Hans is completely unfounded and not supported by any substantial document or material. In the context, it is submitted that the entire allegation is

based upon the documents seized from the premises of "Matriswa" by the ED and further, the financial transactions undertaken by the said Company. However, it was completely ignored that the petitioner herein was neither a Director nor a Shareholder in said company. It is submitted that there is no *prima facie* direct evidence in support of allegation that any bribe was paid by petitioner to co-accused Sanjeev from his bank account or in the form of cash.

18. Mr. Wadhwa further submitted that the proceeding initiated by the ED in first ECIR against petitioner is completely vexatious and premeditated because the petitioner was completely unrelated to the core allegation in FIR No. 18/2023 dated 09.01.2023, which is related to the allegation of rape. The ED wrongly initiated investigation of alleged corruption on the basis of complaint dated 20.10.2023, which was not the predicate FIR, and, therefore the ED never actually had the authority to investigate upon receipt of such a complaint. At the first instance, the ED ought to have forwarded it to the jurisdictional investigating authorities instead of taking charge of the investigation itself.

19. Taking shelter of the legal report of Hon'ble Supreme Court as available in the matter of **Vijay Madanlal Choudhary & Ors. vs. Union of Inida & Ors.,** reported in **2022 SCC OnLine SC 929**, it is submitted that if during the course of investigation, the ED uncovers certain aspects that may indicate the commission of a separate scheduled offence, the only avenue available to the ED is to forward such information (in the present case, the Written Complaint dated 20.10.2023) to the concerned authorities u/s 66(2) of the PMLA but, ED continued investigation on the written complaint dated 20.10.2023 for around one year without having any authority under law, which is patently illegal and same was forwarded to the State Vigilance Unit EOU through communication dated 28.08.2024 to lodge FIR No. 05/2024 dated 14.9.2024 when just prior to this, the scheduled offence as alleged *qua* rape was quashed by this Court against Sanjeev Hans.

20. In support of his aforesaid submissions, learned counsel has relied upon para 282 of the legal report of **Vijay Madanlal Choudhary case** (supra), which is as under:-

"**282.** It should be noted that the authority of the Authorized Officer under the 2002 Act to prosecute any person for the offense of money laundering is triggered only if there are proceeds of a 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 authorized officer may be advised to send information to the jurisdictional police (under Section 66(2) of the 2002 Act) for registration of a scheduled offense 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 offense or as a non-cognizable offense (NC case), as the case may be. If the offense so reported is a scheduled offence, only in that eventuality, the property recovered by the authorized officer would take part in the color 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".

21. Mr. Wadhwa further submitted that it is the established law of the land that ED has no right in law to conduct an investigation of a predicate offence and its jurisdiction is restricted to the offence of Money Laundering only, which is a derivative offence and predicated on an existing Scheduled Offence. In support of his submission, a reliance was placed upon **Prakash Industries Ltd. vs. Union of India & Ors.**, reported in **2023 SCC OnLine Del 336; R. KM Powergen Private Ltd. vs. Asst. Director, Directorate of Enforcement**, reported in **W.P. 24700/2021 (Mad. HC)**; **Ashish Singh vs. State**, **Crl O.P. Nos. 30980 of 2009 (Madras High Court)**;. Mr. Wadhwa further relied upon the legal report of Hon'ble Supreme Court as available through **Prem Prakash v. Union of India through the Directorate of Enforcement**, reported in **2024 INSC 637**, in support of submission that co-accused statements cannot be relied upon to infer guilt or criminality particularly, in the absence of any other cogent and corroborative material.

22. Mr. Wadhwa further submitted that the entire case against the petitioner is based upon statement of Pawan Kumar, who was arrested on 11.11.2024, whereafter his statement was recorded on 11.11.2024, 20.11.2024, 21.11.2024 and 24.11.2024 while he was in custody of ED. Same cannot be relied upon being hit by protection under Article 20(3) of the Constitution of India and Section 25 of the Indian Evidence Act, 1972 (Section 23 of the Bhartiya Sakshya Adhiniyam, 2023).

23. In support of his submissions, an attention of this Court was drawn towards Para-431 of **Vijay Mandanlal Choudhary's case** (supra), which is as under:-

> "**431.** In the context of the 2002 Act, it must be remembered that the summons is issued by the Authority under Section 50 in connection with the inquiry regarding proceeds of crime which may have been attached and pending adjudication before the Adjudicating Authority. In respect of such action, the designated officials have been empowered to summon any person for the collection of information and evidence to be presented before the Adjudicating Authority. It is not necessarily for initiating a prosecution against the noticee as such. The power entrusted to the

designated officers under this Act, although couched as investigation in real sense, is to undertake inquiry to ascertain relevant facts to facilitate initiation of or pursuing with an action regarding proceeds of crime, if the situation so warrants and for being presented before the Adjudicating Authority. It is a different matter that the information and evidence so collated during the inquiry made, may disclose commission of offense of money-laundering and the involvement of the person, who has been summoned for making disclosures pursuant to the summons issued by the Authority. At this stage, there would be no formal document indicative of likelihood of involvement of such person as an accused of offense of money-laundering. If the statement made by him reveals the offense of money-laundering or the existence of proceeds of crime, that becomes actionable under the Act itself. To put it differently, at the stage of recording of statement for the purpose of inquiring into the relevant facts in connection with the property being proceeds of crime is, in that sense, not an investigation for prosecution as such; and in any case, There would be no formal accusation against the noticee. Such summons can be issued even to witnesses in the inquiry so conducted by the authorized officials. However, after further inquiry on the basis of other material

> and evidence, the involvement of such person (noticee) is revealed, the authorized officials can certainly proceed against him/her for his/her acts of commission or omission. In such a situation, at the stage of issuing summons, the person cannot claim protection under Article 20(3) of the Constitution. However, if his/her statement is recorded after a formal arrest by the ED official, the consequences of Article 20(3) or Section 25 of the Evidence Act may come into play to urge that the same being in the nature of confession, shall not be proved against him/her. Further, it would not preclude the prosecution from proceeding against such a person, including for consequences under Section 63 of the 2002 Act on the basis of other tangible material to indicate the falsity of his/her claim. That would be a matter of rule of evidence."

24. Besides aforesaid, it is pointed out by learned counsel that now it is established principle of law that probative value of a statement of co-accused recorded under Section 50 of the PMLA is to be taken into consideration at the stage of trial. In support of his submission, the learned counsel relied upon the legal report of **Preeti Chandra vs. Directorate of Enforcement** reported in **2023 SCC**

Online Del.3622.

25. Arguing further, it is submitted by learned counsel that how ED give colour to false implication can be gathered easily that co-accused Pawan Kumar while recording his statement on 16.07.2024, 18.07.2024 and 27.07.2024, while he was not in custody of ED stated that the bribe in issue was given by him to the public officials but, after taking into custody on 11.11.2024, he changed his instance and named this petitioner for alleged payment of bribe. Therefore, the petitioner implicated on the basis of improved statement of co-accused Pawan Kumar, which is not acceptable under the law. In support of this submission, a reliance was made on **Anil Vasantrao Deshmukh vs. State of Maharashtra** reported in **2022 SCC Online Bom 3150**.

26. It is also submitted that in connection of allegation *qua* payment of bribe of Rs.67 lacs, the alleged Excel file was said to be retrieved from a pen drive, which was seized form the office premises of "Matriswa", who was not sent for any forensic examination as to ascertain the details as to who is the owner of file, date of its creation, its version

and history, therefore, it can be safely said that no real investigation *qua* allegation as raised against petitioner was ever made by ED, suggesting the implication of petitioner purely on the basis of presumption. It is established principle of law that any document be it even electronics can only be proved by its maker, otherwise the content of such document will considered as hearsay evidence.

27. In support of aforesaid submission, reliance was made on the decision of Hon'ble High Court of Delhi as available in the matter of **L.K. Advani vs. Central Bureau of Investigation** reported in **1997 SCC Online Del 382.**

28. It is pointed out that no adverse interference can be drawn against the petitioner for the payment of Rs. 68.85 lacs made by Pawan Kumar to "Triveni" as to facilitate its participation in tender process while "Triveni" was only being used as a tool to enter into the tender process and subsequently, the entire contract work for the said tender came to the sub-contracted to "Matriswa" for the reason that this allegation is without any substantive material or evidence. Even as per the ED's prosecution complaints, no statement

from any representative of "Triveni" has been recorded in support of the said allegation, suggesting that the ED is entirely speculative *qua* said allegation.

29. In this context, it is further submitted that alleged sum of Rs.63.85 lacs was transferred to "Tribeni" on 22.04.2020 from the account of Pawan Kumar, the ED has neither alleged nor shown any material to demonstrate said payment trail leads to the petitioner herein or that the said amount was eventually paid to the petitioner or his son to Sri Pawan Kumar. It was purely bilateral transaction between Pawan Kumar and "Tribeni", who have had a business relation for years.

30. 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.

31. 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 further period.

32. 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."

33. Beside aforesaid, it is also pointed out that the present case falls under the explainable clause as proceed of crime is less than one crore in present case, in view of aforesaid submission.

ARGUMENT ON BEHALF OF ED:

34. 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 with 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."

35. Therefore, the involvement of any of such process of activity connected with the proceed of crime would constitute offence of money laundering. This offence otherwise has nothing to do with the criminal activities relating to the scheduled offence except the proceed of crime

derived or obtained as a result of the crime. Petitioner works in close association with co-accused Sanjeev Hans and thus, played an active role in laundering of money.

36. 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]**.

37. Arguing further, it is submitted by Mr. Hossain that apart from the statement under Section 50 of the PMLA, the bank account statements of "Matriswa", 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 "Matriswa" vide *panchanama* dated 16.07.2024 are the corroborative evidences in the instant prosecution complaint.

38. It is also submitted that during investigation, it appears that "Matriswa" 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 "Tribeni" 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 Tribeni, which also appear corroborated from the statement of Pawan Kumar dated 24.11.2024. The statement of Director of "Tribeni" was also recorded under Section 50 of PMLA, 2002 and during investigation, it transpired that "Tribeni" has been used as front company to award the tender to the company and later sub-contracted to "Matriswa". The alleged fund to M/s Tribeni was transferred under instruction of Suresh Singla

(petitioner) by Pawan Kumar. During investigation, it was revealed that "Tribeni" and its Director have not made any role in the processes and activities connected with money laundering.

39. It is also submitted by Mr. Hossain that it also transpired during investigation that co-accused Pawan Kumar through his entities "Matriswa" was involved in cash relation through inflation of expenses towards various sites. Thereafter, a search operation was conducted at Pragati Fuel Center, Rajgir on 28.12.2024. During search operation, the statement of Shri Gulshan Kumar Kesari, Pump Manager was recorded under Section 17 of the PMLA on 28.12.2024, wherein *inter alia* stated that Sri Pawan Kumar during his de-silting work on the Paimar River had refuelled his vehicles at their fuel station. At that time, Shri Pawan Kumar had requested the former proprietor, the late Shri Akhilesh Kumar, for cash to support his business activities. Sri Gulshan Kumar Kesari further stated that, given the cash-intensive nature of their fuel business, which required frequent deposits of collected cash from fuel sales into the bank, the

arrangement appeared mutually beneficial for both Shri Pawan Kumar and M/s Pragati Fuel Centre. Therefore, the over-invoices of fuel in the name of "Matriswa" were made and in return, difference amount of the over-invoices of fuel used to be given to Sri Pawan Kumar in cash. Shri Gulshan further stated that the entries reflected in the seized document pertaining to this arrangement only.

40. It is further argued that an amount of Rs. 50 lakhs received from the account of Matriswa had been further transferred to one Jatinder Kumar Sangari, a property dealer of Panchkula. An industrial plot, measuring 500 square yards in sector 101A, IT City, Mohali was purchased by Kamal Kant Gupta jointly with his son-in-law, i.e., Varun Singla, on 31.08.2020 for an amount of Rs. 92.50 lakhs. Investigation revealed that out of Rs. 92.50 lakhs, Rs. 10 lakhs had been paid to Sri Jatinder Kumar Sangari from account no. 913010025523731 of Smt. Harloveleen Kaur w/o Sanjeev Hans through cheque number 107782 on 24.08.2020. It is pertinent to mention here that the said transfer of property had not been completed but kept open by executing transfer

of property through general power of attorney in the name of Kamal Kant Gupta and Varun Singla so that later on at a suitable time the same can be registered in the name of Smt Harloveleen Kaur.

41. It is further submitted that all such facts revealed that Sanjeev Hans is in the practice of acquiring assets in the name of his associates as “*benami*” properties, which is clear that the payments made by “Matriswa” to Kamal Kant Gupta in the nature of bribe and the property situated at 101A, IT City, Mohali is nothing but “*benami*” property of Sanjeev Hans.

42. 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.

43. 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]**.

44. Having regard to the aforesaid submissions of both the parties and upon perusal of material available on record, it appears that the petitioner was working in close association of co-accused Sanjeev Hans, who is the main co-accused of ECIR No.4 of 2024 and SVU FIR No.5 of 2024. It also appears that the petitioner *prima facie* found involved in layering and laundering of proceed of crime by purchasing property for co-accused Sanjeev Hans, which also supported

by statement of co-accused Pawan Kumar as recorded under Section 50 of the PMLA along with several corroborative materials collected during investigation.

45. 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. PTZO/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)

Sanjeet/-

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