IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2353 OF 2024

Nitin Gaur	…	Applicant
vs.		
Union of India and another	…	Respondents

Mr. Akhilesh Dubey a/w. Mr. Vagish Mishra, Mr. Amit Dubey, Mr. Rajuram Kuleriya, Mr. Shubham Sharma, Mr. Emad Khan, Mr. Alex D'souza, Mr. Uttam Dubey, Mr. Sahil Upadhyay and Mr. Sagar Wakale, i/b. Mr. Sagar Wakale for applicant.

Mr. Shreeram Shirsat a/w. Mr. Nikhil Daga and S. Mane for respondent No.1-ED.

Mr. Pankaj Deokar, APP for respondent No.2-State.

CORAM : MANISH PITALE, J.
DATE : 05th FEBRUARY, 2025

P.C. :

. The applicant is seeking bail in connection with PMLA Special Case No.5 of 2019 arising out of ECIR/MBZO-II/02/2018 dated 03.04.2018 registered by Directorate of Enforcement (hereinafter referred to as ED), for offence under Section 4 of the Prevention of Money Laundering Act, 2002 (PMLA).

2. The applicant is the brother-in-law of the co-accused Ajay Bharadwaj, who is the said to be one of the main accused persons in the present case. The applicant's sister is the wife of the said Ajay Bharadwaj. One Amit Bharadwaj, brother of the said Ajay Bharadwaj, being the director of M/s. Variabletech Private Limited (VPL), as also Ajay Bharadwaj and their father, were supposed to be actively involved in hatching a conspiracy to lure innocent investors into investing in crypto currency i.e. Bitcoin and ethereum. It is alleged that the said co-accused persons entered into Bitcoin Cloud

Mining Contracts with a number of gullible investors, promising them high returns. It is alleged that the said co-accused persons diverted such investments and the innocent investors were never given the promised returns.

3. On 24.01.2018 and 15.03.2018, two FIRs were registered. FIR No.0020 of 2018 dated 24.01.2018 was registered at Airport Police Station, Nanded for offences under Sections 406, 420, 201 and 120-B read with Section 34 of the Indian Penal Code, 1860 and FIR No.0181 of 2018 dated 15.03.2018 was registered at Nigdi Police Station, District Pune for similar offences and also for offences under the Information Technology Act, 2000, as also the provisions of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999. The said FIRs were registered against the co-accused persons. But, the applicant was neither a suspect, nor an accused in the said FIR. It is to be noted that the said FIRs were treated as predicate offences for registration of the Enforcement Case Information Report (ECIR) in the present case, which came to be registered on 03.04.2018. It is stated that subsequently, the respondent-ED added 33 FIRs registered on similar lines in various police stations in Delhi and all across India against the co-accused persons. But, the applicant was not arraigned as an accused in any of the said FIRs.

4. It is the specific case of the applicant that he was never summoned in either the predicate offences, or even in the ECIR concerning the present applicant till 29.12.2023, when he was called by the ED for recording his statement. It is alleged that the applicant had nothing to do either with the predicate offences, or the ECIR, whereby offences under the PMLA were registered. It was only when

the ED officials became upset with the applicant's sister, when she resisted their actions in her house and in that backdrop, they wanted to pressurize her, that a threat was given to applicant's sister Simpy Bharadwaj that if she did not admit to the allegations levelled against her, her brother i.e. the applicant herein, would be arrested. The said Simpy Bharadwaj was arrested on 17.12.2023 and thereafter, immediately on 29.12.2023, the applicant was called by the ED for recording his statement. On the very same day, the applicant was arrested without any material against him. The applicant has remained incarcerated since 29.12.2023. His application for bail was rejected by the Special Court and in this backdrop, the present application has been filed.

5. Mr. Akhilesh Dubey, the learned counsel appearing for the applicant submitted that in the present case, the ED has acted in a most malicious manner and the applicant has been arrested only because his sister had resisted the actions of the ED. It is highlighted that this Court, by order dated 11.10.2024, allowed the bail application of the applicant's sister i.e. Simpy Bharadwaj. It was submitted that when the applicant was arbitrarily arrested on 29.12.2023 and a transit remand application was moved before the Court of Additional District and Sessions Judge, Gurugram (Haryana), the ostensible reason given by the ED in its application for arresting the applicant, was that he had hatched criminal conspiracy with the directors of the said M/s. VPL in duping innocent investors and that the applicant had falsely projected before people that even if a small part of cloud mining space was purchased, they would get return of 10% within 18 months.

6. But, when remand application was moved, upon the applicant

being brought to Mumbai before the designated Special Court under the PMLA, completely different reasons were given for having arrested the applicant. It was submitted that in the said application, it was alleged that the applicant had assisted his brother-in-law Ajay Bharadwaj in opening an account with a crypto currency exchange platform called Binance, wherein huge amount of crypto currency i.e. ethereum worth crores of rupees was received, which was then encashed. On this basis, it was alleged that the applicant had helped in layering and concealing proceeds of crime, thereby covering the actions of the applicant under Sections 3 and 4 of the PMLA.

7. It was emphasized that a perusal of the supplementary prosecution complaint filed by the ED in respect of the applicant, would show that none of the investigation pertaining to the applicant, was conducted by the ED and that reliance was placed on alleged investigation undertaken by Pune police in respect of the aforesaid FIRs of predicate offences, registered as far back as in the year 2018. It was submitted that the said complaint placed reliance on a report of a private entity named M/s. Sarath & Associates, which was itself found later to have indulged in suspicious activities. It was emphasized that while the ED claimed that the crypto currency was transferred by a foreign national Shmuel Kaner into the Binance account of Ajay Bharadwaj i.e. the brother-in-law of the applicant, neither the statement of anyone associated with Binance, nor that of the said Shmuel Kaner, was recorded by the ED. It was submitted that the material relied upon in the supplementary prosecution complaint concerning the applicant, pertained to the years 2018 onwards upto 2022 and yet, suddenly, on 29.12.2023, the ED claims to have found material to arrest the applicant. It was submitted that even the grounds of arrest, showing satisfaction as to

why the applicant was to be arrested, have not been recorded as per the requirement of the PMLA. It was submitted that a story was cooked up by the ED only because of the fact that the officials of ED were upset with the applicant's sister, when she resisted their actions in her house and they wanted to somehow nab the applicant and put him behind bars.

8. It was further submitted that as against the applicant, there is no material with the ED to show even a *prima facie* case against him. The entire material is based on alleged statements of the applicant himself, after he was arrested and taken into custody. It was submitted that even if such statements were purportedly recorded under Section 50 of the PMLA, which can be relied upon during the course of trial, since such statements were recorded when the applicant was in custody, the same cannot have any effect. Specific reliance was placed on the judgment of the Supreme Court in the case of *Prem Prakash vs. Union of India* [**(2024) 9 SCC 787**]. It was submitted that the ED is not justified in relying upon the judgments of the Supreme Court in the case of *Vijay Madanlal Choudhary and others vs. Union of India and others* (**2022 SCC OnLine SC 929**), *Rohit Tandon vs. Directorate of Enforcement* [**(2018) 11 SCC 46**] and *Tarun Kumar vs. Assistant Director, Directorate of Enforcement* (**AIR 2024 SC 169**), simply for the reason that the aforesaid judgments do not lay down the proposition that even if the statements of the accused, like the applicant herein, are recorded under Section 50 of the PMLA, when he is in custody, the same can be relied upon by the prosecution.

9. It is further submitted that the ED cannot rely upon the pendency of the Writ Petition (Cri) No.231 of 2019 before the

Supreme Court, to claim that the investigation was in abeyance from 30.08.2019, when notice was issued in the writ petition till the same was disposed of by order dated 13.12.2023, for the simple reason that there was no stay of the investigation and the co-accused Ajay Bharadwaj i.e. the brother-in-law of the applicant, was granted anticipatory bail on a specific amount being deposited with the Registry of the Supreme Court. It was submitted that therefore, the arrest of the applicant is without any basis and malicious. On this basis, it was submitted that the application may be allowed, as the applicant undertakes to abide by the conditions that may be imposed by this Court.

10. On the other hand, the learned counsel appearing for the respondent No.1-ED heavily relied upon the statements of the applicant recorded under Section 50 of the PMLA, after he was arrested on 29.12.2023. Reliance was also placed on the statement of the applicant recorded under Section 17 of the PMLA, by stating that thereafter, the concerned officer of the ED developed satisfaction and upon communicating the grounds of arrest in writing to the applicant, he was arrested. The learned counsel for the ED elaborately referred to the supplementary prosecution complaint concerning the applicant and claimed that the applicant was actively involved in assisting his brother-in-law Ajay Bharadwaj in opening the aforesaid Binance account, wherein crypto currency in the form of ethereum worth crores of rupees, was transferred. The same was encashed, thereby demonstrating that the applicant had clearly helped the co-accused in layering and concealing of such proceeds of crime. It was submitted that the Sessions Court took into consideration such detailed analysis of the material on record, contained in the supplementary prosecution complaint to hold

against the applicant.

11. Much emphasis was placed on the twin test contemplated under Section 45(1) of the PMLA and it was submitted that in the face of the material placed before this Court, there is no question of reaching a satisfaction about the applicant having made out reasonable grounds for this Court to believe that he is not guilty of the offences under PMLA. It was submitted that the judgments of the Supreme Court in the case of **Vijay Madanlal Choudhary and others vs. Union of India and others** (*supra*), **Rohit Tandon vs. Directorate of Enforcement** (*supra*) and **Tarun Kumar vs. Assistant Director, Directorate of Enforcement** (*supra*), sufficiently demonstrate that the statements recorded under Section 50 of the PMLA, are admissible during the course of trial and they have to be taken as incriminating circumstances against the applicant herein. It was sought to be demonstrated that the judgment of the Supreme Court, in the case of **Prem Prakash vs. Union of India** (*supra*) could be said to be *per incuriam* because it does not refer to some of the earlier precedents and even judgments of the Larger Benches in the context of Section 50 of the PMLA.

12. It was submitted that the documents placed alongwith the supplementary prosecution complaint, demonstrate that the information regarding access to the Binance account was obtained in the year 2022 by the police, which was investigating into the predicate offences and it was renewed in December 2023, when the writ petition filed by the said accused Ajay Bharadwaj, was disposed of by the Supreme Court and the interim order therein was vacated. It was submitted that the allegations of malice and bias against the ED are wholly unfounded and that the same have been raised on

behalf of the applicant as he has no explanation for such direct involvement in assisting the co-accused by providing KYC details for opening the Binance account, which was eventually used for layering and concealing the proceeds of crime. It was submitted that even if the applicant is not an accused in the predicate offences, it makes no difference and the offences under the PMLA can be independently prosecuted and pursued by the ED. It was further submitted that bail being granted to the co-accused Simpy Bharadwaj i.e. the sister of the applicant and one Nikhil Mahajan, can be of no consequence, because their cases are distinguishable on facts. It is submitted that even today, the said Ajay Bharadwaj i.e. the brother-in-law of the applicant, is absconding and the applicant has not given any information about his whereabouts. On this basis, it was submitted that the application deserves to be dismissed.

13. Since the applicant is facing prosecution under the provisions of the PMLA, there is no doubt about the fact that he is required to satisfy a higher threshold for being enlarged on bail. Section 45(1) of the PMLA provides for the twin test to be satisfied by such an accused i.e. satisfaction of the Court that there exist reasonable grounds for believing that the applicant is not guilty of offences and further that he is not likely to commit any offence while on bail. Since there was no serious argument raised on behalf of ED about any criminal antecedents of the applicant, the second limb of the aforesaid twin test is satisfied by the applicant. But, this Court is required to consider the rival contentions in the backdrop of the material on record, in order to examine as to whether the applicant does satisfy the aforementioned crucial first limb of the twin test, contemplated under Section 45(1) of the PMLA.

14. The material on record shows that while the predicate offences were registered as far back as in the year 2018 and the ECIR itself was registered on 03.04.2018, till December 2023, the applicant was neither a suspect, nor an accused in the predicate offences as well as ECIR. The record shows that the applicant was never summoned in the context of the FIRs concerning the predicate offences or in the ECIR. When specific queries were put to the learned counsel appearing for the ED as to why suddenly in December 2023, the ED swung into action and found it fit to record the statement of the applicant and to arrest him on 29.12.2023 itself, an impression was sought to be given that the aforesaid Writ Petition (Cri) No.231 of 2019, filed by the applicant's brother-in-law Ajay Bharadwaj before the Supreme Court and its pendency, had the effect of suspending or putting the investigation into abeyance. An impression was sought to be given that it was only after 13.12.2023, when the said writ petition was disposed of and the interim order was vacated by the Supreme Court, that the ED could further investigate and in that backdrop, found material against the applicant to arrest him on 29.12.2023.

15. In this regard, a perusal of the order dated 30.08.2019 passed by the Supreme Court while issuing notice in the aforementioned writ petition of Ajay Bharadwaj, would show that the Supreme Court had simply granted him anticipatory bail on depositing amount of ₹ 1 crore in the registry of the Supreme Court and upon satisfying the said condition, it was directed that no coercive steps would be taken against the said Ajay Bharadwaj. There is nothing to indicate that the Supreme Court had stayed the investigation concerning the aforementioned ECIR. Eventually, the writ petition was disposed of on 13.12.2023 and the interim order was vacated. There is no

substance in the contention of the ED that the investigation was either paralyzed, suspended or kept in abeyance during the pendency of the said writ petition before the Supreme Court between 30.08.2019 and 13.12.2023. Therefore, this Court finds substance in the contention raised on behalf of the applicant that the officials of the ED were suddenly activated in December 2023 to consider the applicant as a suspect or an accused in the ECIR.

16. It is relevant to note that when the officials of the ED reached the house of the applicant's sister on 15.12.2023, it was claimed that she forcefully entered the house with an unknown person and created a ruckus, due to which her husband i.e. Ajay Bharadwaj and her father-in-law managed to escape. In the order dated 11.10.2024 passed by this Court in Bail Application No.2016 of 2024, whereby the applicant's sister Simpy Bharadwaj was granted bail, this Court found that it was unbelievable that the ED was itself unaware about the said Simply Bharadwaj being arraigned as an accused in the years 2019 and 2022 and suddenly found grounds of arrest against her on 17.12.2023, when she was arrested. In fact, this Court rendered a finding that the grounds of arrest in her case, were drafted in a hurry, without any objective test being applied. In this backdrop, there appears to be substance in the contention raised on behalf of the applicant that the officials of the ED suddenly decided to act against the applicant, on account of the fact that he is the brother of the said Simpy Bharadwaj, against whom they had a grievance about having created a huge ruckus on 15.12.2023 in her house, when the co-accused Ajay Bharadwaj and his father escaped.

17. It is relevant to note that there is variance between the reasons for arrest of the applicant stated on behalf of the ED in its transit

remand application filed before the Court at Gurugram (Haryana) on 29.12.2023 and the reasons stated in the remand application filed before the Special PMLA Court at Mumbai on 30.12.2023. While in the transit remand application filed before the Court at Gurugram, general allegations about involvement in duping innocent investors in the context of crypto currency, were raised against the applicant, but in the remand application before the Special PMLA Court at Mumbai, but it was claimed for the first time that the applicant had assisted his brother-in-law Ajay Bharadwaj to open the said Binance account for receiving ill-gotten crypto currency, which was later encashed.

18. It is relevant to note that the statements of the applicant under Section 50 of the PMLA, were all recorded after he was arrested and taken into custody on 29.12.2023. This is of crucial importance in the present case. The supplementary prosecution complaint concerning the applicant, upon which the ED has placed much reliance, filed by the ED on 14.02.2024, shows that it heavily relies upon such statements of the applicant, recorded after he was taken into custody. The learned counsel for the ED submitted that as per the settled position of law laid down by the Supreme Court in the judgments from **Vijay Madanlal Choudhary and others vs. Union of India and others** (*supra*), the statements recorded under Section 50 of the PMLA are admissible during the course of trial and therefore, the ED is certainly entitled to rely upon such statements of the applicant to resist the present application. It was also suggested that the judgment of the Supreme Court in the case of **Prem Prakash vs. Union of India** (*supra*), is *per incuriam*, as it ignores the aforementioned settled position of law laid down by Larger Benches and followed by co-equal Benches.

19. This Court is of the opinion that the said contention about the judgment in the case of **Prem Prakash vs. Union of India** (*supra*) being *per incuriam* is unsustainable, simply for the reason that the earlier judgments in the cases of **Vijay Madanlal Choudhary and others vs. Union of India and others** (*supra*), **Rohit Tandon vs. Directorate of Enforcement** (*supra*) and **Tarun Kumar vs. Assistant Director, Directorate of Enforcement** (*supra*), did not discuss a situation, where the ED was relying upon the statements recorded under Section 50 of the PMLA, when the person whose statement was recorded i.e. the accused, like the applicant herein, was himself in custody of the ED. In the case of **Prem Prakash vs. Union of India** (*supra*), the Supreme Court discussed the aforesaid aspect of the matter in great detail. This can be found from paragraph Nos.23 to 41 of the said judgment. In the said case, the Supreme Court held that the statement of the applicant accused recorded under Section 50 of the PMLA, was inadmissible against him, even when he was in custody in connection with one ECIR, while the statement was being recorded in the other ECIR. In fact, the judgment in **Prem Prakash vs. Union of India** (*supra*) specifically referred to observations of the three-Bench judgment of the Supreme Court in the case of **Vijay Madanlal Choudhary and others vs. Union of India and others** (*supra*), to hold that such statement recorded under Section 50 of the PMLA, when the maker is in custody, is hit by Section 25 of the Evidence Act. The Supreme Court, in the case of **Prem Prakash vs. Union of India** (*supra*), after referring to the earlier precedents, held as follows:

> "33. In the facts of the present case, we hold that the statement of the appellant if to be considered as incriminating against the maker, will be hit by Section 25 of the Evidence since he has given the statement whilst in judicial custody, pursuant to another proceeding instituted by the same investigating agency.

Taken as he was from the judicial custody to record the statement, it will be a travesty of justice to render the statement admissible against the appellant.

34. The appellant-accused cannot be told that after all while giving this statement: "*you were wearing a hat captioned 'ECIR 5/2023' and not the hat captioned 'ECIR 4/2022'*" .

35. A complete reading of *Vijay Madanlal Choudhary*, particularly, paras 339, 347 and 356 mandate us to ask ourselves the query: Is a reasonable inference legitimately possible that, due to the vulnerable position in which the appellant was placed and the dominating position in which the investigating agency was situated, in view of the arrest in the other proceeding that, there obtained a conducive atmosphere to obtain a confession? We certainly think so. The question is not whether it actually happened. The question is could it have been possible.

36. We are supported in this view by two old judgments of the Madras High Court. *Blukuri Seshapani Chetti, In re* Mockett, J. following the judgment of Jackson, J. in *Kodangi v. Emperor* held as under: (*Blukuri Seshapani Chetti, In re case*, SCC OnLine Mad)

"*In my judgment this is clearly a confession, as I have already said, and, as has been pointed out by Jackson, J. in Kodangi v. Emperor a confession made to the police in the course of investigating crime A, although it relates to another crime B, is equally inadmissible. The whole spirit of Section 25 of the Evidence Act is to exclude confessions to the police and, the moment a statement is found to amount to a confession, I do not think it matters in the slightest of what crime it is said to be a confession.*" (emphasis supplied).

37. We feel that the principle laid down therein is applicable. In fact, the three-Judge Bench in *Vijay Madanlal Choudhary*, in the paragraph extracted hereinabove, expressly refers to Section 25 of the

> Evidence Act while dealing with statements recorded when the person is in custody.
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> 38. We have no hesitation in holding that when an accused is in custody under PMLA irrespective of the case for which he is under custody, any statement under Section 50 PMLA to the same investigating agency is inadmissible against the maker. The reason being that the person in custody pursuant to the proceeding investigated by the same investigating agency is not a person who can be considered as one operating with a free mind. It will be extremely unsafe to render such statements admissible against the maker, as such a course of action would be contrary to all canons of fair play and justice."

20. The learned counsel for the applicant is justified in placing before this Court a subsequent judgment of Madhya Pradesh High Court in the case of Asif Hanif Thara vs. Enforcement Directorate [**(2024) SCC OnLine MP 7379**], wherein the High Court, in similar circumstances, after referring to the aforesaid judgment of the Supreme Court in the case of **Prem Prakash vs. Union of India** (*supra*), held as follows:

> "12. After considering the judgments referred above, it is apparent that in case of non-compliance of Section 19 of the PMLA, the court shall examine the material and resources whereby the authorised officer has to give reason to belief the guilt of accused and the court has to give reason to belief of not guilty of offence i.e. reason to belief becomes a *sine qua non*. It is also clear that when an accused is in custody under the PMLA irrespective of the case for which he is under custody, any statement under Section 50 of the PMLA to the same investigating agency is inadmissible against the maker. Furthermore, the arrest should be rational, fair and as per law and shall not be merely based upon guilt of accused established from inadmissible evidence. Additionally, forming of opinion of the designated officer of the guilt of accused in writing is must."

21. Thus, this Court is of the opinion that the respondent-ED cannot rely upon the statements of the applicant recorded under Section 50 of the PMLA, after he was arrested on 29.12.2023. It is significant to note that prior to the said date, the applicant was never summoned either during the investigation in the predicate offences, or even in the present case, after the ECIR was registered as far back as on 03.04.2018.

22. This leads to the question as to what was the material with the ED when it proceeded to arrest the applicant on 29.12.2023. The material on record is deficient and does not show as to what material was in the mind of the concerned official of the ED, when he developed the satisfaction on 29.12.2023 to arrest the applicant. Therefore, emphasis placed on the reasons stated in the transit remand application before the Court of Gurugram on 29.12.2023, is justified. Crucially, in the said application, the allegation levelled against the applicant was general and omnibus about having duped innocent investors in conspiracy with co-accused persons. Such allegations and material were with the ED from the year 2018 onwards, when the predicate offences were registered and the ECIR was also registered. It was only after the arrest of the applicant that the ED found material allegedly incriminating and showing the "active involvement" of the applicant in layering and concealment of proceeds of crime.

23. In this context, there is substance in the contention raised on behalf of the applicant that the contents of the supplementary prosecution complaint give an impression that the ED, on its own, did not conduct any investigation leading to the incriminating material against the applicant. On its own showing, the ED claims

that the investigation was suspended or paralyzed or in abeyance, till Writ Petition (Cri) No.231 of 2019 was disposed of by the Supreme Court on 13.12.2023. In this backdrop, this Court finds that the supplementary prosecution complaint does not reveal any material to show that the investigation which stood “revived” after 13.12.2023, gave rise to enough incriminating material for the ED to not just call the applicant for recording his statement, but to arrest him on the same day i.e. 29.12.2023.

24. In this context, there appears to be substance in the contention raised on behalf of the applicant that the supplementary prosecution complaint throughout refers to the investigation conducted by Pune police and findings given by M/s. Sarath & Associates, while there is hardly anything to indicate investigation undertaken by the ED, which unearthed incriminating material against the applicant to justify his arrest. In this context, an order dated 30.03.2023 passed in Bail Application No.3338 of 2022, granting bail to one Ravindranath Prabhakar Patil also assumes significance because the allegation against him as a person associated with the private entity, which prepared the report, was that a false and forged report of the recovery process had been prepared and that the crypto currency was misappropriated by that very person. This creates a serious shadow of doubt on the material relied upon by the ED in its supplementary prosecution complaint.

25. There is substance in the contention raised on behalf of the applicant that the supplementary prosecution complaint is based on an allegation that the said foreign national Schmuel Kaner transferred the crypto currency in the form of ethereum in the Binance account of Ajay Bharadwaj and that since the applicant gave

his KYC details to the said Ajay Bharadwaj, he had assisted the said co-accused person. There is nothing to show that any investigation was made in the context of the said crypto currency exchange platform i.e. Binance or that any effort was made to reach out to the said foreign national Schmuel Kaner. There is also lack of material to show as to in what manner the said crypto currency was encashed and ultimately found its way to the applicant.

26. Viewed from this angle, the allegations of highhandedness and malicious approach of the ED levelled by the applicant, are found to be supported by the material on record. All the material referred to in the said supplementary prosecution complaint, was throughout available with the ED from the year 2018 or at least from the year 2022 onwards and yet, suddenly in December 2023, the ED was galvanized into action to call the applicant for recording his statement and immediately to nab him and take him into custody.

27. This Court is satisfied that the applicant has made out a strong *prima facie* case in his favour and that he has satisfied the first limb of the aforesaid twin test, contemplated under Section 45(1) of the PMLA. The applicant is not shown to be having any criminal antecedents and therefore, the second limb of the aforesaid test is also satisfied.

28. In view of the above, the application is allowed in the following terms:-

“(a) The applicant shall be released on bail in connection with ECIR/MBZO-II/02/2018 concerning special case under PMLA, Mumbai i.e. PMLA Spl. Case No.5 of 2019 on furnishing P.R. Bond of ₹ 1,00,000/- with one or two sureties in the like amount to the satisfaction of the trial Court;

(b) The applicant shall cooperate with the proceedings before the trial Court and he shall attend each and every date in the said proceedings, unless specifically exempted by the trial Court for reasons to be recorded in writing;

(c) The applicant shall not tamper with the evidence of the prosecution. He shall not influence the informant, witnesses or any other person concerned with the case;

(d) The applicant shall surrender his passport, if any, to the office of the respondent No.1 - Directorate of Enforcement, Mumbai, within one week of release on bail;

(e) The applicant shall not leave India without the permission of the trial Court;

(f) Upon being released on bail, the applicant shall immediately, and in any case within a week, furnish the details of his active mobile numbers, landline numbers, email address and residential address to the respondent No.1 - Directorate of Enforcement, Mumbai and place the said details also before the trial Court.

29. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of bail. It is also clarified that the observations made in this order are limited to the question of grant of bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

30. The application is disposed of.

31. At this stage, the learned counsel appearing for respondent No.1 prayed for stay of the present order for a specified period of

time. Considering the reasons recorded in the order, this Court is not inclined to grant the aforesaid prayer. Hence, the same is rejected.

32. The learned counsel for the applicant prays for cash security, till the surety is furnished.

33. The applicant is permitted to furnish cash security of ₹ 1,00,000/- for a period of two weeks.

(MANISH PITALE, J)

Priya Kambli