



\$~55

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 2347/2025**

BHUMESH KUMAR

.....Petitioner

Through: Mr. Nimish Chib, Mr. Jatin Rana &
Arjun Choudhary, Advs.

versus

NATIONAL INVESTIGATION AGENCYRespondent

Through: Mr. Rahul Tyagi, SPP, NIA, Mr. Jatin
with DSP Ritesh CIO NIA.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN

SHANKAR

ORDER

02.05.2025

%

1. Challenge in this petition is to a Judgment dated 27.01.2025 passed by the Ld. ASJ-03, New Delhi District, Patiala House Court, Delhi (*hereinafter referred to as "Appellate Authority"*) directing the Petitioner herein not to sell the property bearing No.1333, Sector - I , Part - I, Narnaul, District Mahendergarh, Haryana (*hereinafter referred to as "Subject Property"*) without intimation to the confirming authority and without depositing adequate security equivalent to value of Rs.20 lakhs.

2. Material on record indicates that the Designated Authority, Ministry of Home Affairs, CTCR Division, New Delhi passed an Order dated 04.03.2023 stating that the Investigating Officer has reason to believe that the subject property represents proceeds of terrorism and, therefore, it is being attached. The said Order dated 04.03.2023 was challenged before the

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 09/05/2025 at 14:24:08



Appellate Authority. The Appellate Authority vide the Impugned Judgment dated 27.01.2025 has modified the Order dated 04.03.2023 by setting aside the attachment, however, the Appellate Authority directed the Petitioner not to sell the subject property without intimation to the confirming authority and without depositing adequate security equivalent to value of Rs.20 lakhs.

3. Shorn of unnecessary details, the facts leading to the filing of the present petition are that proceedings were initiated under the Unlawful Activities (Prevention) Act, 1967 (*hereinafter referred to as "UAPA"*) against the brother-in-law of the Petitioner, namely, Surendra Singh @ Chiku who is already an associate of Sandeep Jhanahariya @ Kala Jatheri and Sampat Nehra. It is stated that ill-gotten money has been channelized by them for purchase of the subject property in name of the Petitioner herein. The Petitioner herein is a serving officer in Delhi Police since 2010 and was promoted as Head Constable in 2022.

4. The Appellate Authority vide the Impugned Judgment dated 27.01.2025 has held that the burden was on the Petitioner to show that he has purchased the subject property through legitimate means. The Appellate Authority has analysed the argument of the Respondent/NIA that the salary of the Petitioner is Rs.49,552/- per month and therefore, he could not have purchased the subject property for a total sum of Rs.94.8 lakhs. The Appellate Authority found that loans for a sum of Rs.35 lakhs were taken for which EMIs have been paid. Friendly loans and personal loan were also taken and mother of the Petitioner has also contributed certain money. The Appellant Authority was of the opinion that there was still a gap of Rs.20 lakhs for which there is no explanation. The Appellate Authority has refused to accept the contention of the Petitioner that Rs.20 lakhs was taken from a

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 09/05/2025 at 14:24:08



local money lender. Paragraph No.11 of the Impugned Judgment dated 27.01.2025 passed by the Appellate Authority reads as under:

“11. Regarding the other sources of money and as far as not mentioning the loan etc. in ITR of accused and not informing or taking permission from the department concerned, may have its own consequences. But, it does not mean that property becomes such which is sourced from proceeds of terrorism. To buttress this argument of property being sourced from proceeds of terrorism, there must be material on record to connect payment of consideration towards purchase of said property from the proceeds of terrorism. In the present matter, appellant has explained sources of money by which property in question was purchased except transaction of Rs.20 lakhs as discussed above. Hence, confirmation order dated 04.03.2023 is modified to the extent that accused/appellant will not sell the property in question without prior intimation to the CIO/confirming authority and without depositing adequate security equivalent to value of Rs.20 Lakhs. Appeal stands disposed of accordingly.”

(emphasis supplied)

It is this Judgment dated 27.01.2025, passed by the Appellate Authority, which is under challenge in the present petition.

5. It is the case of the Petitioner before this Court and before the Appellate Authority that the subject property does not represent the proceeds of terrorism and has not been derived and obtained from commission of any terrorist act as the Petitioner is a serving Delhi Police official since 2010. It is stated that the Petitioner has given all the details explaining the transactions for purchase of the subject property. It is stated that for registration of the subject property, the Petitioner paid Rs.4,80,000/- for

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 09/05/2025 at 14:24:08



stamp duty for which he took loan from his mother Bimla Devi. It is stated that the Petitioner's mother had taken loan from two people in village and has explained the transaction with proof. It is stated that the Petitioner also took a loan of Rs. 9,00,000/- for purchasing the subject property and added Rs.2 lakhs from his savings. It is stated that the Petitioner and his wife sold the a property to one Ms. Veena Chauhan on 12.3.2020 for Rs. 16,00,000/- and fixtures and fittings for Rs.6,00,000/-.

6. *Vide* Order dated 04.03.2023, the competent authority passed an Order under Section 25(1) of UAPA stating that it has reason to believe that the subject property represents proceeds of terrorism. The said Order was challenged by the Petitioner by filing an Appeal under Section 25(6) of UAPA. It is also contended by the learned Counsel for the Petitioner that without there being a finding that the property is purchased by proceeds of terrorism, no order for attachment can be passed.

7. *Per contra*, learned Counsel appearing on behalf of the Respondent/NIA contends that the Petitioner has not been able to explain how the property has been purchased. He states that there are gaps in the explanation and therefore, the competent authority under Section 25 of UAPA, had reasons to believe that it is proceeds of terrorism. He further states that the order of the Appellate Court, directing that the property cannot be sold without the permission of the competent authority, cannot be interfered with as it is in consonance with the object of Section 25 of UAPA.

8. Heard the learned Counsel for the parties and perused the material available on record.

9. Section 25 of UAPA gives power to the Investigating Officer and Designated Authority to seize such property when officer investigating an

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 09/05/2025 at 14:24:08



offence committed under Chapter IV or Chapter VI, has reason to believe that any property in relation to which an investigation is being conducted, represents proceeds of terrorism. Relevant portion of Section 25 of the UAPA reads as under:

“25 (1) If an officer investigating an offence committed under Chapter IV or Chapter VI, has reason to believe that any property in relation to which an investigation is being conducted, represents proceeds of terrorism, he shall, with the prior approval in writing of the Director General of the Police of the State 1[in which such property is situated, or where the investigation is conducted by an officer of the National Investigation Agency, with the prior approval of the Director General of National Investigation Agency, make an order] seizing such property and where it is not practicable to seize such property, make an order of attachment directing that such property shall not be transferred or otherwise dealt with except with the prior permission of the officer making such order, or of the Designated Authority before whom the property seized or attached is produced and a copy of such order shall be served on the person concerned.”

10. A perusal of the abovementioned Section shows that before passing an Order or seizure, the designated authority must have reason to believe that the property represents the proceeds of terrorism. Without there being such a finding, the Order of seizure cannot be sustained.

11. In the present case, the Appellate Authority has come to the conclusion that the property in question is not proceeds of terrorism. After rendering a finding that the property in question is not a proceed of terrorism, the Order of the Appellate Authority directing the Petitioner to deposit Rs.20 lakhs and directing the Petitioner not to sell the property

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 09/05/2025 at 14:24:08



without permission of the Court is unsustainable in law.

12. Learned Counsel for the Respondent/NIA has tried to explain that the Petitioner has not given the source of funds in purchasing the property in question. The fact that the Petitioner has not been able to explain as to how the property was purchased, cannot on its own lead to a conclusion that the property represents proceeds of Terrorism without there being a finding to that effect on material available before the appropriate authority.

13. Accordingly, the Judgment dated 27.01.2025 is set aside.

14. The Petition is disposed of, along with the pending applications, if any.

SUBRAMONIUM PRASAD, J

HARISH VAIDYANATHANSHANKAR, J

MAY 02, 2025

S. Zakir

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 09/05/2025 at 14:24:08