



2025:DHC:465



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

% **Date of order: 28<sup>th</sup> January, 2025**

+ **BAIL APPLN. 3603/2024**

**AKSHAY KUMAR**

.....Petitioner

Through: Mr. Amandeep Singh, Mr. Manu  
Pratap Singh and Ms. Akanksha  
Singh, Advocates

versus

**DIRECTORATE OF ENFORCEMENT**

.....Respondent

Through: Mr. Arkaj Kumar, SC with Ms.  
Vaishnavi Bhargava, Mr. Aakash  
Mishra and Mr. Ishank Jha,  
Advocates

**CORAM:**

**HON'BLE MR. JUSTICE CHANDRA DHARI SINGH**

**ORDER**

**CHANDRA DHARI SINGH, J (Oral)**

1. The instant bail application has been filed under Section 483 along with Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (hereinafter "BNSS") read with Section 45 of the Prevention of Money Laundering Act, 2002 (hereinafter "PMLA") seeking grant of regular bail in ECIR/DLZO-II/03/2024 dated 22<sup>nd</sup> April, 2024 registered under Sections 3 and 4 of the PMLA, arising out of FIR No. 59/2024 dated 12<sup>th</sup> March, 2024, registered at Police Station Crime Branch, Delhi for offences punishable under Sections 274, 275, 276, 420, 468, 471, 120B and 34 of the Indian Penal Code, 1860 (hereinafter "IPC").

2. The brief facts that led to the filing of the instant application are that

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on 12<sup>th</sup> March, 2024, FIR No. 59/2024 was registered at Police Station – Crime Branch, Delhi under Sections 274, 275, 276, 420, 468, 471 read with 120B and 34 of the IPC, based on a complaint given by SI Gulab Singh. The complaint alleged the involvement of accused persons in the procurement, manufacturing and sale of spurious anti-cancer medicines.

3. It was alleged that the primary accused, namely Viphil Jain and Suraj Shat, in collusion with their associates, were engaged in the illegal procurement of empty vials and raw materials of anti-cancer drugs such as Keytruda and Opdyta. These counterfeit drugs were allegedly manufactured and distributed in the market to unsuspecting cancer patients.

4. Pursuant to the information received, the police formed six teams to conduct simultaneous raids across Delhi-NCR on 11<sup>th</sup> March, 2024. During the raid at Flat No. 1101, Block-2, Eleventh Floor, CSP Units, DLF Capital Greens, Moti Nagar, New Delhi, the accused were allegedly caught in the act of filling empty vials with unauthorized substances and packaging them using specialized machinery. The police seized a substantial quantity of raw materials, counterfeit vials, packaging equipment.

5. Based on the FIR, the Directorate of Enforcement (hereinafter “ED”) initiated ECIR/DLZO-II/03/2024 on 16<sup>th</sup> March, 2024 under Sections 3 and 4 of the PMLA. On 8<sup>th</sup> May, 2024, the Delhi Police filed a chargesheet before the learned Chief Metropolitan Magistrate, West, Tis Hazari under Sections 274, 275, 276, 308, 406, 420, 34 and 120B/34 IPC. Notably, the applicant was not named in the said chargesheet.

6. Pursuant to the registration of the predicate offence, the applicant was



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not named in the initial chargesheet filed by the Delhi Police. However, during the course of investigation conducted by the respondent, the applicant's name surfaced in connection with the illicit supply chain and financial transactions linked to the proceeds of crime. It is alleged that the applicant, as a proprietor of M/s Cancer Medicine Agency and a partner in M/s Delhi Medical Hub, facilitated the procurement and distribution of counterfeit medicines without required approval and requisite invoices.

7. The applicant was summoned by the investigating agency under Section 50 of the PMLA and in compliance, appeared before the investigating agency on 5<sup>th</sup> April, 2024. In his recorded statement, the applicant allegedly admitted to purchasing anti-cancer medicines from co-accused Neeraj Chauhan and Tushar Chauhan, without valid tax invoices, and acknowledged effecting payments through formal banking channels and unaccounted cash transactions via hawala operators/channels.

8. Subsequently, on 4<sup>th</sup> May, 2024, the respondent conducted search operations at the applicant's residential premises located in Chandigarh and the applicant was arrested on 22<sup>nd</sup> May, 2024 under Section 19 of the PMLA on the ground of his alleged involvement in the laundering of proceeds of crime. The applicant has remained in judicial custody since 27<sup>th</sup> May, 2024.

9. Thereafter, the respondent filed its initial prosecution complaint on 6<sup>th</sup> June, 2024, wherein the applicant was not named as an accused. However, the first supplementary prosecution complaint was filed on 20<sup>th</sup> July, 2024, wherein the applicant was formally added as an accused. It is alleged that the applicant actively participated in the process of laundering proceeds of crime

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arising from the sale of spurious anti-cancer medicines.

10. It is alleged that the applicant was an important gear in the present machine of sale of counterfeit medicines, generating proceeds to the tune of approximately Rs. 3 crores. It is further alleged that a sum of Rs. 2 crores was routed through banking channels to the accounts of various co-accused, while an additional amount of Rs. 80 lakhs was transacted through hawala networks.

11. The applicant previously preferred a regular bail application before the learned Special Judge on 18<sup>th</sup> July, 2024, which was dismissed vide order dated 20<sup>th</sup> August, 2024. The learned Special Judge noted that the applicant failed to satisfy the twin conditions prescribed under Section 45 of the PMLA and that the nature and gravity of the allegations warranted continued custody to prevent any potential tampering with the evidence.

12. Hence, the present bail application has been preferred before this Court, seeking the grant of regular bail.

13. Learned counsel appearing on behalf of the applicant submitted that the applicant has been falsely implicated in the present case and has no direct involvement in the alleged offence of money laundering under the PMLA. It is submitted that the applicant has been carrying out his business in the ordinary course without any *mala fide* intent.

14. It is submitted that the entire case of the respondent is based on mere conjectures and surmises, and no concrete evidence has been placed on record to substantiate the allegations leveled against the applicant. The prosecution has failed to demonstrate any direct link between the applicant



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and the alleged proceeds of crime.

15. It is submitted that the applicant has fully cooperated with the investigating agency by appearing when summoned and also by providing all the necessary documents and explanations sought during the investigation. It is submitted that the applicant's conduct clearly establishes his *bona fide* intentions and negates any apprehension of absconding or tampering with any evidence.

16. It is submitted that the provisions of Section 45 of the PMLA, which impose stringent conditions for grant of bail, have been met in the present case as the applicant is not guilty of the offence alleged and is not likely to commit any offence while on bail. It is also submitted that the applicant has clean antecedents and no prior criminal record.

17. It is submitted that the investigation in the matter is complete and all relevant documents have already been seized by the investigating agency. Thus, there is no possibility of the applicant interfering with the evidence or hampering the investigation in any manner.

18. It is submitted that the applicant's prolonged incarceration would serve no useful purpose and would amount to pre-trial punishment, which is against the settled principles of criminal jurisprudence.

19. It is submitted that the prosecution has failed to establish the essential ingredients of the offence under Section 3 of the PMLA, and the applicant's role, if any, is at best peripheral and does not warrant continued incarceration.

20. Therefore, in view of the foregoing submission, it is prayed that the



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instant application may be allowed and the applicant be released on bail.

21. *Per Contra*, learned counsel for the respondent submitted that the present bail application is devoid of merit and liable to be rejected in light of the gravity of the offence and the material evidence collected during the course of investigation.

22. It is submitted that the applicant is involved in a grave economic offence under the PMLA, which has far-reaching ramifications on public interest and the integrity of the financial system. It is submitted that economic offences pose a serious threat to the national economy and public confidence.

23. It is submitted that there exists sufficient material on record, including documentary evidence and statements of co-accused persons, which *prima facie* indicate the applicant's active involvement in the process and activities connected with the proceeds of crime.

24. It is submitted that the applicant has failed to satisfy the twin conditions prescribed under Section 45 of the PMLA, which mandates that the accused must demonstrate that he is not guilty of the alleged offence and that he is not likely to commit any offence while on bail. The applicant has not discharged this burden satisfactorily.

25. It is submitted that the investigation has revealed the applicant's role in laundering substantial amounts of money through complex financial transactions, including the use of shell entities and undisclosed accounts, which cannot be ignored at this stage.

26. It is submitted that the applicant's release on bail at this juncture



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would seriously prejudice the ongoing investigation, as crucial witnesses are yet to be examined, and the potential for tampering with evidence cannot be ruled out.

27. It is submitted that the prosecution has made substantial progress in the investigation, and granting bail to the applicant would obstruct the due course of law and embolden other similarly placed individuals to engage in such activities.

28. It is submitted that the applicant has not been able to rebut the presumption under Section 24 of the PMLA, which places the burden on him to establish that the alleged proceeds of crime are not tainted and have legitimate origins.

29. It is submitted that the applicant's submission that no incriminating material was recovered from his premises does not hold merit, as money laundering offences are primarily documentary in nature and do not necessarily require physical recovery of illicit assets.

30. It is, therefore, prayed that the present bail application may be dismissed.

31. Heard learned counsel for the parties and perused the material available on record.

32. It is the case of the applicant that he has been wrongfully implicated in the alleged offence under the PMLA without any direct evidence linking him to the purported crime. The applicant asserts that his business dealings were conducted in good faith, and that he had no knowledge of any illegal activities associated with the transactions in question. The applicant



emphasizes that the investigation is primarily based on conjecture and self-serving statements of co-accused individuals, and thus, there is no corroborating evidence produced by the ED. Furthermore, the applicant argues that no incriminating material was recovered from his premises, and his continued detention is unjustified, amounting to pre-trial punishment.

33. The applicant further submits that he has fully cooperated with the investigating authorities at every stage, providing necessary documentation and explanations. It has also been argued that the applicant has strong roots in society, with a permanent residence and legitimate business operations, making him neither a flight risk nor a threat to the ongoing investigation. The applicant also contends that the charges against him are primarily documentary in nature, and his continued incarceration serves no meaningful purpose.

34. The respondent, on the other hand, contends that the applicant is an integral part of a well-orchestrated money laundering operation involving substantial financial transactions aimed at disguising illicit funds. It has been submitted that the applicant's involvement has been established through financial records, transactions, and statements of co-accused persons, demonstrating a clear link to the proceeds of crime. It has been further argued that the applicant has failed to satisfy the twin conditions under Section 45 of the PMLA.

35. Additionally, the respondent submits that granting bail at this stage would severely undermine the investigation and may lead to tampering with evidence or influencing witnesses. The prosecution has also argued that the



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applicant has not provided a satisfactory explanation for the substantial financial transactions identified during the investigation.

36. In light of the submissions made before this Court and the material placed on record, the key issue which arises to adjudicate the present bail application is whether the twin conditions prescribed under Section 45 of the PMLA are satisfied in the present case?

37. It is a settled position of law that statements recorded under Section 50 of the PMLA hold evidentiary value and are admissible in legal proceedings. The Hon'ble Supreme Court, while emphasizing the legal sanctity of such statements, has time and again observed that they constitute valid material upon which reliance can be placed to sustain allegations under the PMLA. In a recent judgment, the Hon'ble Supreme Court in ***Abhishek Banerjee v. Enforcement Directorate, (2024) 9 SCC 22***, has reiterated its earlier decision and made the following observations:

*“21. ...Section 160 which falls under Ch. XII empowers the police officer making an investigation under the said chapter to require any person to attend within the limits of his own or adjoining station who, from the information given or otherwise appears to be acquainted with the facts and circumstances of the case, whereas, the process envisaged by Section 50 PMLA is in the nature of an inquiry against the proceeds of crime and is not “investigation” in strict sense of the term for initiating prosecution; and the authorities referred to in Section 48 PMLA are not the police officers as held in Vijay Madanlal [Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1].*

*22. It has been specifically laid down in the said decision that the statements recorded by the authorities under Section 50*



*PMLA are not hit by Article 20(3) or Article 21 of the Constitution, rather such statements recorded by the authority in the course of inquiry are deemed to be the judicial proceedings in terms of Section 50(4), and are admissible in evidence, whereas the statements made by any person to a police officer in the course of an investigation under Ch. XII of the Code could not be used for any purpose, except for the purpose stated in the proviso to Section 162 of the Code. In view of such glaring inconsistencies between Section 50 PMLA and Sections 160/161CrPC, the provisions of Section 50 PMLA would prevail in terms of Section 71 read with Section 65 thereof.”*

38. In the aforesaid judgment, the Hon’ble Court further underscored that such statements, being recorded in the course of an inquiry rather than an investigation, are not subject to the restrictions under Article 20(3) and Article 21 of the Constitution. Instead, they are deemed to be judicial proceedings under Section 50(4) of the PMLA and, therefore, admissible as evidence in proceedings under the PMLA.

39. Therefore, in order to adjudicate the present bail application and determine whether the applicant has satisfied the twin mandatory conditions under Section 45 of the PMLA, it is imperative to carefully examine the prosecution complaint, statements of the applicant and co-accused persons and the relevant bank statements available on record.

40. For the sake of convenience, the statement of the applicant recorded under Section 50 of the PMLA is reproduced herein under:

*“Ans. I state that after graduation, I started a medical shop namely Evergreen Medicos, at Chandigarh in 2012. Thereafter,*



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*in 2018, I started a medicine agency namely Cancer Medicine Agency at SCO No.16, Back Side Entry, 2<sup>nd</sup> Floor, Sector 11D, Chandigarh. In 2023 I started a medical shop namely Delhi Medical Hub.*

*Further, I state that Evergreen Medicos Booth No. 942 , Dadu Majra Colony, Sector-38 West Chandigarh is a sole proprietorship firm registered in the name of my brother Anil Sharma. Evergreen Medicos is a retail shop for medicine. I state that this firm is managed and controlled by my brother Anil Sharma since 2012.*

*I state that Cancer Medicine Agency is a sole proprietorship firm registered in my name. This firm is a retail and wholesale medicine shop which is specially deals in cancer medicine only. I state that this firm is managed and controlled by me since 2019. I state that this firm is running by using pharmacy license of pharmacist Shri Harprit Singh.*

*Further, I state that in 2023; I and Rajesh Kumar (House No.1407, DMC, Sector-38 West, VTC Dadu Majra, Chandigarh- 160014; Mobile No.953088999) started a partnership firm namely Delhi Medical Hub (Shop at Sector-11, Booth No.39, Chandigarh) for retail selling of specially cancer related medicines. I state that this firm is running by using pharmacy license of pharmacist Shri Pankaj Kumar. I state that I and my partner Shri Rajesh Kumar took all financial and business decision mutually; we both have control over on our business of anti-cancer medicines. “*

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*“.....On being asked I state that Tushar Chauhan and Neeraj Chauhan were managed to be availed these medicines without any bill or invoices for me. I further state that I used to sell these cancer medicines to cancer patients at Sri Guru Harkishan Hospital, Chandigarh and to various cancer patients.*

*On being specifically asked, I state that payments for the purchase of these fake and spurious cancer medicines to Tushar*



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*Chauhan and Neeraj Chauhan; we used Hawala Channel. Maximum funds were transferred to Neeraj Chauhan and Tush'ar Chauhan through Hawala Channel in cash; however, on request of Neeraj Chauhan I transferred some funds in the account of Deepali Jain W/o Vipnil Jain, Sanyam Jain S/o Vipnil Jain, Vipnil Jain, Tushar Chauhan and Neeraj Chauhan from bank account of Delhi Medicine Hub maintained with ICICI Bank Limited.*

*On being asked specially I state that I and my partner Shri Rajesh Kumar used to promote these cancer medicines in Sri Guru Harkishan Hospital, Paras Hospital, Fortis Hospital, Max Hospital, IVY Hospital all located in Chandigarh. However, all the said hospitals except Sri Guru Harkishan Hospital denied facilitating these cancer medicines to their patients as we are not registered to sell these medicines legally.”*

\*\*\*

*“.....However, we purchased these unsealed cancer medicine which were spurious from Neeraj Cahuhan and Tushar Chauhan without any bill or tax invoices.*

*Further, on being specifically asked, I state that we had sold these spurious fake cancer medicines to Sri Guru Harkishan Sahib, Chandigarh to the tune of 3 crores approx.*

*On being specifically asked, I state that approximately funds Rs. 2 Crores were transferred to Neeraj Chauhan through banking channel and approximately Rs.80 Lakhs were transferred to Neeraj Chauhan through Hawala Channel in Cash in respect of sale proceeds of aforesaid fake and spurious cancer medicine. In this connection, I submit statement of bank accounts no. 632201515747 (A/c of Rajesh Kumar), 078205001511 (A/c of Delhi Medicine Hub) and 50100384376302 (Saving A/c of Akshay Kumar). Further I submit details of payment made to Deepali Jain, Sanyam Jain and Vipnil Jain.”*

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*“Ans. I state that I do not meet with Suraj Shat till date. However, Neeraj Chauhan provided me account details of Suraj Shat and instructed me to deposit sale proceeds of aforesaid fake and spurious cancer medicines in the account of Suraj Shat. In addition to above, I state that Neeraj Chauhan also provided me account details of one Neeraj Yadav and asked me to deposit sale proceeds of fake and spurious cancer medicines in that account and I deposited as instructed by Neeraj Chauhan.*

***Q.9. Do you have WhatsApp Chat in your mobile with Neeraj Chauhan regarding sale proceeds of fake and spurious cancer medicines provided by Neeraj Chauhan and Tushar Chauhan?***

*Ans. I state that Yes; I have WhatsApp Chat in my mobile with Neeraj Chauhan in respect of sale proceeds of fake and spurious cancer medicines. However, I have deleted all these WhatsApp chats before coming to this office.”*

41. For the sake of convenience, the statement of the Rajesh Kumar (co-accused recorded under Section 50 of the PMLA is reproduced herein under:

*“v. He further stated that he used to make payment of Credit Cards and bill payments from the bank account of M/s Delhi Medicine Hub. He added that as per instruction of his partner Akshay Kumar, he used to make payment to various entities and that Akshay Kumar and him both were signatory for the bank accounts of M/s Delhi Medicine Hub.*

*vi. He stated that on instruction of Akshay Kumar, he transferred funds to the bank account of Deepali Jain and Neeraj Chauhan from the bank accounts of M/s Delhi Medicine Hub for purchase of medicines.*

*vii. Rajesh Kumar further stated that Cash deposits in and withdrawals from the accounts of M/s Delhi Medicine Hub were handled by Akshay Kumar. He stated that Akshay Kumar*



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told him that bills/ invoices from Neeraj Chauhan and Deepali Jain had been received.

viii. He further admitted that through WhatsApp, on 07.10.2023, Neeraj Chauhan sent him calculation of anti-cancer medicines including Keytruda Injection sold to M/s Delhi Medicine Hub and pending balance amount which were yet to be received by Neeraj Chauhan from Akshay Kumar and him.”

42. The bank transactions between Viphil Jain and Akshay Kumar are reproduced herein under:

| S. Viphil Jain:                       |                                                                                                                                        |             |
|---------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|-------------|
| Bank Name & A/c No                    | Transactions                                                                                                                           | Balance     |
| KICI bank Ltd.<br>A/c No 113571000702 | > 22.02.2023:- Rs. 1,00,000/-<br>Credited from the account /<br>mobile number 9717538497<br>(accused Tushar Chauhan)                   | 17,53,007/- |
|                                       | > 02.02.2023:- Rs. 25,000/-<br>Credited from the account /<br>mobile number 9717538497<br>(accused Tushar Chauhan)                     |             |
|                                       | > 25.02.2023:- Rs. 95,000/-<br>Credited from the account /<br>mobile number 9717538497<br>(accused Tushar Chauhan)                     |             |
|                                       | > 12.05.2023:- Rs. 1,00,000/-<br>Credited from the account of<br>accused Tushar Chauhan.                                               |             |
|                                       | > 04.07.2023:- Rs. 81,000/-<br>Credited from the account of<br>accused Tushar Chauhan.                                                 |             |
|                                       | > 31.07.2023:- Rs. 25,000/-<br>Credited from the account of<br>accused Tushar Chauhan.                                                 |             |
|                                       | > 04.08.2023:- Rs. 45,000/-<br>91,000/- Credited from the<br>accused Tushar Chauhan / mobile<br>9717538497 (accused<br>Tushar Chauhan) |             |
|                                       | > 24.08.2023:- Rs. 24,000/-<br>Credited from the account<br>mobile number 9717538497<br>(accused Tushar Chauhan)                       |             |
|                                       | > 13.01.2024:- Rs. 25,000/-<br>Credited from the account<br>mobile number 9717538497<br>(accused Tushar Chauhan)                       |             |
|                                       | > 26.02.2023:- Rs. 50,000/-<br>Credited from the account<br>mobile number 9717538497<br>(accused Tushar Chauhan)                       |             |
|                                       | > 14.05.2024:- Rs. 1,00,000/-<br>Credited from the account of<br>Delhi Medicine Hub                                                    |             |

43. The bank transactions between Neeraj Chauhan and Akshay Kumar are reproduced herein under:

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## 2. Neeraj Chauhan:

| Bank Name                                | Transactions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Balance     |
|------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| Axix Bank Ltd.<br>A/c No 914010052856894 | > 09.01.2023:- Rs 1,00,000/- credited from the account of accused Tushar Chauhan<br>> 10.01.2023:- Rs 1,00,000/- & Rs 1,00,000/- credited from the account of accused Tushar Chauhan<br>> 15.03.2023:- Rs 1,00,000/- & Rs 1,00,000/- credited from the account of accused Tushar Chauhan.<br>> 10.04.2023:- Cash deposited of amount Rs 42,500/-<br>> 20.09.2023:- Cash deposited of amount Rs 01,00,000/-<br>> 04.10.2023:- Cash deposited of amount Rs 01,20,000/-<br>> 03.11.2023:- Rs 3,17,000/- credited from the account of Delhi MED (Akshay, Chandigarh)<br>> 18.11.2023:- Rs 1,90,000/- credited from the account of Delhi MED (Akshay, Chandigarh)<br>> 28.11.2023:- Rs 1,60,000/- credited from the account of Delhi MED (Akshay, Chandigarh) | 24,93,272/- |

44. The bank transactions between Suraj Shat and Akshay Kumar are reproduced herein under:

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| > 49,500/- & Rs 3,500/- Cash Deposited.<br>> 21.09.2023:- Rs 47,000/-, 48,000/-, 54,000/- & Rs 500/- Cash Deposited.<br>> 28.09.2023:- Rs 7,50,000/- credited from the account of Cancer Medicine Agencies (Akshay Chandigarh)<br>> 09.10.2023:- Rs 47,000/-, & Rs 59,500/- Cash Deposited.<br>> 19.10.2023:- Rs 83,500/-, 17,000/- & Rs 1,500/- Cash Deposited.<br>> 28.10.2023:- Rs 44,500/-, & Rs 1,500/- Cash Deposited.<br>> 01.11.2023:- Rs 4,50,000/- & Rs 2,00,000/- Credited from Delhi Medicine Hub (Akshay Chandigarh).<br>> 04.12.2023:- Rs 4,50,000/- credited from Delhi Medicine Hub (Akshay Chandigarh).<br>> 06.12.2023:- Rs 3,00,000/- credited from Delhi Medicine Hub (Akshay Chandigarh). |
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45. The bank transactions between Tushar Chauhan and Akshay Kumar are reproduced herein under:

5. Tushar:

| Bank Name                                     | Transactions                                                                                                                                                                                                                                                                                                                                     | Balance    |
|-----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| Punjab National Bank<br>A/c No 04322121034662 | >                                                                                                                                                                                                                                                                                                                                                |            |
| State Bank of India<br>A/c No 38461295544     | > 22.01.2023:- Rs 1,00,000/- credited from the A/c of 24 PHARMACEUTICA.<br>> 22.01.2023:- Rs 40,000/- credited from the A/c of 24 PHARMACEUTICA.                                                                                                                                                                                                 | 1,37,999/- |
| Axis Bank Ltd.<br>A/c No 922010022896238      | > 31.05.2023:- Rs 45,000/- credited from the A/c Futura Global (Neeraj Chauhan)<br>> 31.07.2023:- Rs 45,000/- credited from the A/c Futura Global (Neeraj Chauhan)<br>> 31.08.2023:- Rs 45,000/- & 50,000/- credited from the A/c Futura Global (Neeraj Chauhan)<br>> 26.09.2023:- Rs 1,68,000/- credited from the Delhi Med (Akshay Chandigarh) | 1,48,130/- |

46. The relevant extracts of the First Supplementary Prosecution Complaint under the heading of 'Investigation with Banks' reads as under:

*"..In his statement recorded under section 50 of PMLA, 2002, Akshay stated that he purchased spurious anti-cancer medicines from Neeraj Chauhan and Tushar Chauhan at the below mentioned rates and sold the same to Sri Guru Harkrishansahib C Eye Hospital Trust.*

**TABLE-11**

| Sr. no. | Name of the drug | Purchase Price per vial from Neeraj Chauhan |
|---------|------------------|---------------------------------------------|
| 1       | Keytruda         | 1,30,000/-                                  |
| 2       | Opdyta           | 62,000/-                                    |
| 3       | Tecentriq        | 2,40,000/-                                  |
| 4       | Perjeta          | 1,25,000/-                                  |
| 5       | Bevatas          | 8,500/-                                     |

*Further, Akshay Kumar stated that he used to earn profit by selling filled vials of spurious anti-cancer medicines having details as under:-*

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TABLE-12

| Sr. no. | Description/<br>Name of anti-<br>cancer medicine | Profit earned per vial<br>of spurious anti-<br>cancer medicines. |
|---------|--------------------------------------------------|------------------------------------------------------------------|
| 1       | For Keytruda vial                                | 10,000                                                           |
| 2       | For Tecentriq vial                               | 12,000                                                           |
| 3       | For Perjeta vial                                 | 9,000                                                            |
| 4       | For Infanzi vial                                 | 10,000                                                           |

Further, Purchase Manager of Sri Guru Harkrishan sahib C Eye Hospital Trust during their statement recorded under section 50 of PMLA, 2002 provided the details of purchase price of the said anti-cancer medicines from M/s Delhi Medicine Hub (DMH) and M/s Cancer Medicine Agency (CMA) as mentioned below:

(a) M/s Delhi Medicine Hub:

TABLE-13

| Sr. no.     | Name of the drug/ anti-cancer medicine | No. of vials of anti-cancer medicines sold by DMH | Profit earned by DMH per vial | Total profit earned by DMH |
|-------------|----------------------------------------|---------------------------------------------------|-------------------------------|----------------------------|
| 1           | Keytruda                               | 38                                                | 10,000                        | 3,80,000                   |
| 2           | Tecentriq                              | 8                                                 | 12,000                        | 96,000                     |
| 3           | Perjeta                                | 5                                                 | 9,000                         | 45,000                     |
| 4           | Infinzi                                | 36                                                | 10,000                        | 3,60,000                   |
| Grand Total |                                        |                                                   |                               | 8,81,000/-                 |

TABLE-14

| Sr. no.     | Name of the drug/ anti-cancer medicine | No. of vials of anti-cancer medicines sold by CMA | Profit earned by CMA per vial | Total profit earned by CMA |
|-------------|----------------------------------------|---------------------------------------------------|-------------------------------|----------------------------|
| 1           | Keytruda                               | 28                                                | 10,000                        | 2,80,000                   |
| 2           | Tecentriq                              | 15                                                | 12,000                        | 1,80,000                   |
| 3           | Perjeta                                | 11                                                | 9,000                         | 99,000                     |
| 4           | Infinzi                                | 18                                                | 10,000                        | 1,80,000                   |
| Grand Total |                                        |                                                   |                               | 7,39,000/-                 |

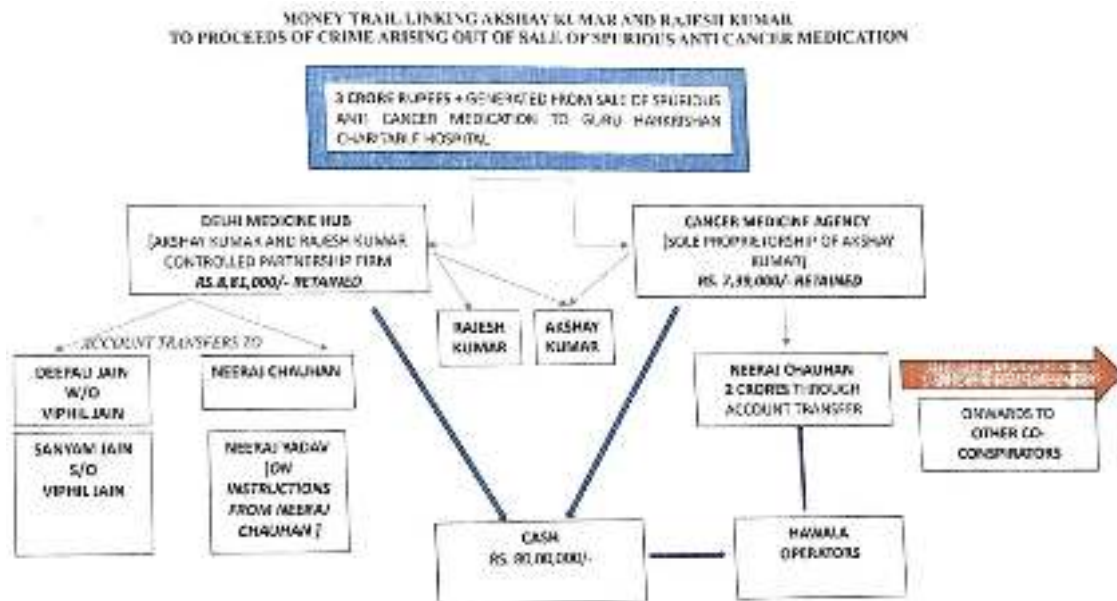
Further, M/s Delhi medicine Hub is the partnership firm of Sh. Akshay Kumar and Sh. Rajesh Kumar. The profit earned by Mis Delhi Medicine Hub by selling the spurious anti-cancer medicines purchased from Neeraj and Tushar is Rs. 8,81,000/-.



*The said profit is nothing but proceeds of crime generated out of the scheduled offence.*

*Further, M/s Cancer Medicine Agency is the proprietorship firm of Sh. Akshay Kumar. The profit earned by M/s Cancer Medicine Agency by selling the spurious anti-cancer medicines purchased from Neeraj and Tushar is Rs. 7,39,000/-. The said profit is nothing but the proceeds of crime generated out of the scheduled offence...”*

47. The respondent has also filed a detailed representation of the money trail in which the applicant is involved and the same is as under:



48. Upon the perusal of the aforesaid, including the statements of the applicant, co-accused and the relevant bank statements, the following inferences can be drawn with respect to the issues under consideration.

49. It is observed by this Court that the applicant herein was actively engaged in the procurement and sale of anti-cancer medicines through his proprietorship firm, M/s Cancer Medicine Agency, and partnership firm,



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M/s Delhi Medicine Hub.

50. The applicant's statement under Section 50 of the PMLA acknowledges that he acquired spurious and unsealed cancer medicines from co-accused persons namely Neeraj Chauhan and Tushar Chauhan without valid invoices. Furthermore, it is apparent from the records that the applicant made numerous transactions through banking channels as well as Hawala networks, thereby creating a financial trail of laundering proceeds or proceeds of crime. His admission regarding the deletion of WhatsApp conversations concerning these transactions further strengthens the interference of culpability.

51. It is further observed by this Court that the corroborative testimony of co-accused Rajesh Kumar, his business associate, reinforces the applicant's role in managing the financial affairs of M/s Delhi Medicine Hub. He stated that he executed bank transfers and cash withdrawals on the express instructions of the applicant, including payments made to co-accused persons namely Deepali Jain and Neeraj Chauhan. Furthermore, evidence derived from the supplementary prosecution complaint indicate that the profit generated from these transactions, amounting to Rs. 8,81,000/- from M/s Delhi Medicine Hub and Rs. 7,39,000/- from M/s Cancer Medicine Agency, constitutes proceeds of crime as defined under the PMLA. These financial gains, acquired through the sale of counterfeit medicines *prima facie* indicate the commission of offence of money laundering.

52. Moreover, the investigation findings also indicate that the applicant's illicit dealings were not limited to a single entity but extended to multiple



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hospitals, most of which declined to facilitate these spurious medicines except for Sri Guru Harkrishan Sahib Hospital, where transactions worth approximately Rs. 3 crores took place. The documentary trail, encompassing bank statements, and the testimonies of co-accused, establishes a clear nexus between the applicant and the proceeds of crime. The nature of these offences, coupled with the quantum of funds involved and the calculated means employed to mask illicit gains, negates any presumption of innocence at this stage. The weight of the evidence firmly supports the contention that the applicant was an integral part of a structured and deliberate scheme aimed at financial enrichment through unlawful means.

53. This Court shall now peruse the provisions of Section 45 of the PMLA, which lays down the statutory mandate regarding the grant of bail in such cases. The said provision reads as under:

***“Section 45. Offences to be cognizable and non-bailable.***

*(1) [Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no person accused of an offence 2[under this Act] shall be released on bail or on his own bond unless--]*

*(i) the Public Prosecutor has been given a opportunity to oppose the application for such release; and*

*(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:*

*Provided that a person, who, is under the age of sixteen years, or is a woman or is sick or infirm, 3[or is accused either on his own or along with other co-accused of money-laundering a sum of less than one crore rupees] may be released on bail, if the Special Court so directs:*



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*Provided further that the Special Court shall not take cognizance of any offence punishable under section 4 except upon a complaint in writing made by—*

*(i) the Director; or*

*(ii) any officer of the Central Government or a State Government authorised in writing in this behalf by the Central Government by a general or special order made in this behalf by that Government.*

*[(1A) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), or any other provision of this Act, no police officer shall investigate into an offence under this Act unless specifically authorised, by the Central Government by a general or special order, and, subject to such conditions as may be prescribed.]*

*(2) The limitation on granting of bail specified in sub-section (1) is in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.*

*[Explanation.--For the removal of doubts, it is clarified that the expression "Offences to be cognizable and non-bailable" shall mean and shall be deemed to have always meant that all offences under this Act shall be cognizable offences and non-bailable offences notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973 (2 of 1974), and accordingly the officers authorised under this Act are empowered to arrest an accused without warrant, subject to the fulfillment of conditions under section 19 and subject to the conditions enshrined under this section.]”*

54. This Court shall now proceed to analyze the statutory framework under Section 45 of the PMLA which governs the grant of bail in cases of money laundering. Section 45 of the PMLA imposes stringent conditions on



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the grant of bail. A careful reading of the provision reveals the following essential ingredients that must be satisfied before bail is granted.

55. *Firstly*, Section 45(1) of the PMLA mandates that no person accused of an offence under the PMLA shall be released on bail or on his own bond unless two cumulative conditions are satisfied, i.e., (i) the Public Prosecutor must be given an opportunity to oppose the bail application; and (ii) if the Public Prosecutor opposes the application, the Court must be satisfied that there are reasonable grounds for believing that the accused is not guilty of the offence and is not likely to commit any offence while on bail.

56. *Secondly*, Section 45(2) of the PMLA provides that the limitations on the grant of bail under sub-section (1) are in addition to the limitations imposed under the Code of Criminal Procedure, 1973 (hereinafter “CrPC”), or any other law applicable at the time. This makes it clear that the provisions of the PMLA are to be applied over and above the general principles of bail applicable to criminal offences under the CrPC, thereby reinforcing the stringent approach adopted by the legislature in dealing with money laundering offences.

57. *Thirdly*, the proviso to Section 45(1) of the PMLA carves out an exception to the rigorous twin conditions by allowing bail to be granted, at the discretion of the Special Court, to specific categories of persons, namely: (i) individuals below the age of sixteen years, (ii) women, (iii) persons who are sick or infirm, and (iv) those accused, either alone or with others, of money laundering involving a sum of less than rupees one Crore.



58. Following a perusal of the statutory provision, it becomes imperative to examine the judicial pronouncements that have interpreted and applied Section 45 of the PMLA in various factual contexts.

59. The Hon'ble Supreme Court in *Nikesh Tarachand Shah v. Union of India*, (2018) 11 SCC 1 struck down the twin conditions as unconstitutional. However, the legislature subsequently amended the provision to cure the defects, and it has since been upheld in *Vijay Madanlal Choudhary v. Union of India*, (2023) 12 SCC 1, reaffirming the strict nature of bail conditions under the PMLA. In *Prem Prakash v. Directorate of Enforcement*, (2024) 9 SCC 787, the Hon'ble Supreme Court has also delved into the principles pertaining to bail under PMLA offences. The relevant paragraphs are as under:

***“Section 45 PMLA — Contours***

*10. Considering that the present is a bail application for the offence under Section 45 PMLA, the twin conditions mentioned thereof become relevant. Section 45(1) PMLA reads as under:*

***“45. Offences to be cognizable and non-bailable. — (1)*** *Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no person accused of an offence [under this Act] shall be released on bail or on his own bond unless—*

*(i) the Public Prosecutor has been given an opportunity to oppose the application for such release; and*

*(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:*

*Provided that a person, who, is under the age of sixteen years, or is a woman or is sick or infirm or is accused either on his*



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*own or along with other co-accused of money-laundering a sum of less than one crore rupees, may be released on bail, if the Special Court so directs:*

*Provided further that the Special Court shall not take cognizance of any offence punishable under Section 4 except upon a complaint in writing made by—*

*(i) the Director; or*

*(ii) any officer of the Central Government or a State Government authorised in writing in this behalf by the Central Government by a general or special order made in this behalf by that Government.”*

*11. In Vijay Madanlal Choudhary v. Union of India [Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1] , this Court categorically held that while Section 45 PMLA restricts the right of the accused to grant of bail, it could not be said that the conditions provided under Section 45 impose absolute restraint on the grant of bail. Para 302 is extracted hereinbelow : (SCC p. 259)*

*“302. It is important to note that the twin conditions provided under Section 45 of the 2002 Act, though restrict the right of the accused to grant of bail, but it cannot be said that the conditions provided under Section 45 impose absolute restraint on the grant of bail. The discretion vests in the court, which is not arbitrary or irrational but judicial, guided by the principles of law as provided under Section 45 of the 2002 Act.”*

*These observations are significant and if read in the context of the recent pronouncement of this Court dated 9-8-2024 in Manish Sisodia v. Enforcement Directorate [Manish Sisodia v. Enforcement Directorate, (2024) 12 SCC 660 : 2024 SCC OnLine SC 1920] , it will be amply clear that even under PMLA the governing principle is that “Bail is the Rule and Jail is the Exception”. In para 52 of Manish Sisodia [Manish Sisodia v. Enforcement Directorate, (2024) 12 SCC 660 : 2024 SCC OnLine SC 1920] , this Court observed as under:*



*“52. ... From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non-grant of bail even in straightforward open-and-shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial courts and the High Courts should recognise the principle that “bail is rule and jail is exception.”*

*12. All that Section 45 PMLA mentions is that certain conditions are to 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 has to be a valid and reasonable procedure. Section 45 PMLA by imposing twin conditions does not re-write 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.*

**\*\*\***

### ***Scope of inquiry under Section 45 PMLA***

*16. Coming back to the scope of inquiry under Section 45, Vijay Madanlal Choudhary [Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1] , while reiterating and agreeing with the holding in Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra [Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra, (2005) 5 SCC 294 : 2005 SCC (Cri) 1057] , held that the court while dealing with the application for grant of bail in PMLA need not delve deep into the merits of the case and only a view of the court based on the available material*



*available on record is required. It held that the court is only required to place its view based on probability on the basis of reasonable material collected during investigation. The words used in Section 45 are “reasonable grounds for believing” which means that the court has to see only if there is a genuine case against the accused and the prosecution is not required to prove the charge beyond reasonable doubt.”*

60. Having considered the legislative intent behind Section 45 of the PMLA and the judicial precedents interpreting its application, this Court shall now proceed to apply the established principles to the facts of the present case to assess whether the applicant has successfully discharged the burden of proving that he is not guilty of the alleged offence and is unlikely to commit any offence while on bail.

61. It is well settled, as reiterated by the Hon’ble Supreme Court in ***Vijay Madanlal Choudhary (Supra)*** and ***Manish Sisodia v. Enforcement Directorate, 2024 SCC OnLine SC 2274***, that while the stringent twin conditions under Section 45 of the PMLA restrict the right to bail, they do not impose an absolute bar. The discretion of the court in granting bail remains judicial and must be exercised in accordance with the settled legal principles. The governing principle that “bail is the rule, and jail is the exception” must be harmonized with the legislative mandate that requires satisfaction of the conditions laid down under Section 45 of the PMLA before bail can be granted.

62. Now, coming back to the issue at hand, the statement of the applicant, co-accused persons and the bank records reveal significant cash deposits and



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fund transfers that align with the proceeds of counterfeit medicines, further indicating a *prima facie* case of money laundering.

63. For the second condition of Section 45 of the PMLA, the pattern of transactions and extensive network established for the distribution of spurious medicines suggests that the applicant had a well-structured setup. The involvement of multiple bank accounts, cash transactions and *hawala* channels indicate a high risk of continued engagement in similar activities if released.

64. The applicant's admission of using *hawala* channels to facilitate unaccounted transactions raises concerns about potential interference with the investigation and further commission of the offence while on bail.

65. *Secondly*, the material on record demonstrates that the accused persons operated in a highly coordinated and systematic manner, with clear understanding and collaboration among them to facilitate the offence. The evidence shows deliberate concealment of the origin of funds and the layering of transactions to evade detection by regulatory authorities. The sheer scale of operations, involving the movement of funds across multiple jurisdictions, use of *hawala* channels, and sale of counterfeit medicines to unsuspecting patients and hospitals, underscores the organized and syndicated nature of the offence.

66. The respondent has provided a detailed representation of the *modus operandi* of the accused persons in the form of a graphic illustration.





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conditions prescribed under Section 45 of the PMLA have not been satisfied. The evidence on record, the ongoing nature of the investigation, and the applicant's alleged role in the broader financial syndicate indicate that the rigors of Section 45 of the PMLA continue to apply.

69. The present bail application has been filed under Section 483 of the BNSS (earlier Section 439 of the CrPC), therefore, this Court, while considering the plea for bail, deems it necessary to evaluate the applicant's case through well-established principles governing the grant of bail under the said provision. Notwithstanding the rigors of Section 45 of the PMLA, the courts have consistently applied the 'triple test' as a guiding framework while considering bail applications under special statutes, including the PMLA.

70. The triple test, derived from Section 439 of the CrPC, consists of the various parameters. *First*, whether the accused is likely to abscond or evade the process of law if released on bail. Given the nature of offences under the PMLA, which often involve complex financial transactions and cross-border elements, the potential for absconding is a significant concern. *Second*, whether the accused, if released, is likely to influence witnesses or tamper with evidence. In money laundering cases, where the trail of proceeds of crime is intricate and dependent on multiple records and statements, the possibility of interference with ongoing investigations remains high, and *third*, whether there is a reasonable apprehension that the accused may indulge in similar offences if granted bail, thereby prejudicing the ongoing investigation and endangering public interest.



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71. In *Satender Kumar Antil v. CBI*, (2022) 10 SCC 51, the Hon'ble Supreme Court has held that while granting bail, the gravity of the allegations must be taken into account.

72. Applying the aforesaid principle to the present case, this Court finds that the gravity of the allegations against the applicant is of a serious nature, involving the alleged laundering of proceeds derived from the sale of spurious anti-cancer medicines. The offence not only entails significant financial implications but also poses a grave risk to public health and safety.

73. As observed in the foregoing paragraphs, but not being repeated for the sake of brevity, the applicant in the present case is alleged to have played an active role in the procurement, distribution, and financial management of the illicit business.

74. The evidence on record, including financial transactions and digital communications, suggests a well-orchestrated operation which demands a higher threshold of scrutiny before granting bail. The investigating agency has highlighted the potential risk of the applicant tampering with evidence and influencing witnesses, thereby, affecting the integrity of the ongoing investigation.

75. In the present case, the applicant has failed to demonstrate that his release would not pose a risk to the investigative process. The applicant's financial dealings, the intricate network of the accused persons, and the continuing investigation reinforce the respondent's concerns regarding the potential for tampering with evidence and influence of witnesses.

76. Thus, in addition to failing to satisfy the twin conditions under Section



45(1) of the PMLA, the applicant also fails to meet the general considerations under the triple test for the grant of bail. Consequently, the applicant's continued detention is warranted to ensure the integrity of the investigation and prevent any potential misuse of the judicial process.

77. Having dealt with all the grounds raised by the applicant for grant of bail, this Court is of the view that considering the filing of the supplementary prosecution complaint and the ongoing nature of the investigation, this Court is not satisfied that the applicant has fulfilled the twin conditions under Section 45 of the PMLA. The respondent has presented sufficient material to warrant further judicial scrutiny, including financial records, electronic evidence, and statements of co-accused implicating the applicant. These materials suggest an active involvement in laundering proceeds of crime and a pattern of financial transactions that need further evaluation at trial.

78. The ongoing investigation is an extensive and meticulous effort by the investigating agency to unearth a broader nexus of financial misconduct and uncover deeper layers of the alleged offence. As new evidence continues to emerge, it may further solidify the allegations against the applicant. The complexity of the financial trail and its potential societal and national ramifications require continued custodial interrogation.

79. Therefore, in view of the seriousness of the allegations and the need to ensure the integrity of the investigation, this Court is not inclined to enlarge the applicant on bail.

80. In light of the above discussions on facts and law, it is held that the



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applicant has been unable to put forth any propositions before this Court that are sufficient for grant of bail and thus, the same are rejected. In view of the same, this Court is not inclined to release the applicant on bail and the instant application, is, hereby, dismissed along with the pending applications, if any.

81. The applicant, if on interim bail, is directed to surrender before the Court concerned within a period of seven days from today and the sureties/bail bond, if any shall stand discharged. If the applicant fails to surrender as directed, the investigating agency shall take appropriate steps to take the applicant in custody to secure his presence.

82. It is made clear that any observations made herein are only for the purpose of deciding the present petition and shall not be construed as an expression on the merits of the case. The learned Trial Court shall proceed with the matter uninfluenced by any observations made by this Court and shall decide the case strictly in accordance with law.

83. The order will be uploaded on the website forthwith.

**CHANDRA DHARI SINGH, J**

**JANUARY 28, 2025**  
**rk/ryp/mk**

*Click here to check corrigendum, if any*