



2025:DHC:467



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of order: 28th January, 2025**

+ BAIL APPLN. 3808/2024
LOVEE NARULA

.....Petitioner

Through: Mr. Siddharth Agarwal, Senior
Advocate with Mr. Piyush Sanghi,
Mr. Rohan Wadhwa, Ms. Khushbu
Sahu, Mr. Nikhil Singh, Ms.
Priyadarshi Gopal, Ms. Anushka
Ojha, Ms. Raahithya Raj. Mishra, Ms.
Arshiya Ghose and Mr. Ashish
Raghuvanshi, Advocates

versus

DIRECTORATE OF ENFORCEMENTRespondent

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 on behalf of the applicant under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter "BNSS") and/or Section 439 of the Code of Criminal Procedure, 1973 (hereinafter "CrPC") 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 22nd April, 2024 registered under Sections 3 and 4 of the PMLA, arising out of FIR No. 59/2024 dated 12th March, 2024,

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registered at Police Station - Crime Branch, Delhi for offences punishable under Sections 274, 275, 276, 420, 468, 471 read with 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 on 12th 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 of the IPC, based on a complaint by SI Gulab Singh. The complaint alleged the involvement of several accused persons in the procurement, manufacturing and sale of spurious anti-cancer medicines.

3. In the said FIR, it has been alleged that the primary accused, namely Vipphil Jain and Suraj Shat, in collusion with their several 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 11th March, 2024. During the raid at Flat No. 1101, Block-2, Eleventh Floor, CSP Units, DLF Capital Greens, Moti Nagar, New Delhi, the accused persons 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 etc.

5. It is stated that the applicant herein was allegedly in contact with the primary accused since the year 2020 and is accused of purchasing spurious

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anti-cancer injections from the co-accused Neeraj Chauhan without proper billing and documentation. It is further alleged that the applicant knowingly facilitated the sale of these counterfeit drugs, generating proceeds of crime amounting to Rs. 7,45,000/- which were allegedly deposited in various bank accounts.

6. Based on the FIR, the Directorate of Enforcement (hereinafter “ED”) initiated ECIR/DLZO-II/03/2024 dated 16th March, 2024 under Sections 3 and 4 of the PMLA. The applicant was initially included as a witness in the investigation, however, following further investigation, he was named as accused No. 9 in the first supplementary prosecution complaint dated 20th July, 2024 filed before the learned Special Judge under the allegations of money laundering.

7. Thereafter, the applicant was arrested by the ED on 22nd May, 2024 and remanded to custody. In the meanwhile, the applicant applied for interim bail before the learned Special Judge citing the ailing health of his father, however, the said interim bail application was rejected. Subsequently, the applicant applied for interim bail before this Court which was granted on 12th September, 2024. Following the same, the learned Special Judge took cognizance of the aforementioned ECIR vide order dated 21st September, 2024.

8. Pursuant to the above, the applicant filed a regular bail application before the learned Special Judge which was dismissed vide order dated 15th October, 2024. Hence, the present bail application.



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9. Mr. Siddharth Aggarwal, learned senior counsel appearing on behalf of the applicant submitted that the applicant herein is entitled to be released on regular bail as the quantum of proceeds of crime attributed to him is Rs. 7,45,000/- which is significantly below the threshold limit of Rs. 1 Crore as prescribed under the proviso to Section 45 of the PMLA. Consequently, the rigors of the twin conditions under the main provision of Section 45 of the PMLA are not applicable and the applicant is entitled to bail under the relaxed conditions laid down in the proviso. He has placed his reliance on judgements titled *Amit Katyal v. Union of India*, 2024 SCC OnLine Del 1909, *Rajeev Sharma v. Enforcement Directorate*, (2022) 1 HCC (Del) 66 and *Sidhique Kappan v. Directorate of Enforcement*, 2022 SCC OnLine All 898.

10. It is submitted that the applicant had no knowledge or intent to commit the alleged offence and is nowhere implicated in the commission of the scheduled offence under FIR No. 59/2024. The applicant was initially named as a prosecution witness, and his name appears at Serial No. 4 in the list of witnesses in the charge sheet. This clearly indicates that he was not considered an accused in the scheduled offence and had no direct role in its commission. It is further submitted that the Hon'ble Supreme Court in *Vijay Madanlal Choudhary v. Union of India*, (2023) 12 SCC 1 has held that at the stage of bail under PMLA, the primary consideration is whether the accused possessed the requisite *mens rea*, and the Court is not required to record a positive finding of guilt.



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11. It is submitted that the prosecution's case against the applicant is entirely based on the statements of the co-accused persons recorded under Section 50 of the PMLA post their arrest. These statements are inadmissible in evidence, being obtained under coercive custody and hit by Article 20(2) of the Constitution of India, as affirmed by the Hon'ble Supreme Court in ***Pavana Dibbur v. Directorate of Enforcement, 2023 SCC OnLine SC 1586***. Further, there exists no independent evidence to corroborate these statements, and as such, the prosecution cannot rely solely on these statements to indicate the applicant's alleged role in the offence.

12. It is submitted that any purchase of anti-cancer drugs, if made, was under a *bonafide* belief that they were genuine and procured through legitimate banking channels. The applicant paid Rs. 1.20 Lakhs per vial, which is indicative of a legitimate business transaction. The prosecution has failed to establish that the applicant knowingly purchased spurious drugs or intended to benefit from illegal transactions. The Karnataka High Court in ***Razorpay Software Pvt. Ltd. v. Union of India, 2024 SCC OnLine Kar 23*** has held that negligence without knowledge of the predicate offence does not constitute an offence under Section 3 of the PMLA.

13. It is submitted that the applicant's arrest was made in gross violation of Section 19 of the PMLA, which mandates that the arresting officer must have "reason to believe" that the person is guilty based on the material in his possession. In the present case, the applicant was arrested solely for his alleged failure to produce certain documents, which is not a ground for arrest under the PMLA. It is pertinent to mention that the applicant fully



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cooperated with the investigation and his statement under Section 50 of the PMLA was recorded before his arrest on 5th April, 2024, and later during custody on multiple occasions. The Hon'ble Supreme Court in ***Pankaj Bansal v. Union of India, 2023 SCC OnLine SC 1244***, held that arrest in the absence of substantive evidence to support guilt under PMLA vitiates the proceedings.

14. It is submitted that the prosecution complaint was filed on 6th June, 2024, and subsequent proceedings have been delayed, with the matter currently at the stage of compliance under Section 207 of the Cr.P.C. There is no likelihood of an early conclusion of the trial and therefore, the applicant is entitled for bail. The Hon'ble Supreme Court in ***Javed Gulam Nabi Shaikh v. State of Maharashtra and Another, 2024 SCC OnLine SC 1693***, has reiterated that prolonged incarceration during pending trials violates the fundamental right to a speedy trial under Article 21 of the Constitution.

15. It is submitted that the applicant satisfies the triple test for bail as he has roots in society and is not a flight risk, has no propensity to tamper with evidence considering that the entire evidence is documentary and in the custody of the investigating agency and the applicant is willing to abide by any conditions imposed by this Court.

16. It is submitted that the alleged violations/offence primarily fall under the Drugs and Cosmetics Act, 1940, which does not fall under the scheduled offences of the PMLA. The alleged sale of medicines without invoices is governed by Section 27 of the Drugs and Cosmetics Act, 1940 which



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prescribes specific penalties for such violations. Reliance in this regard has been placed on the judgment of the Hon'ble Supreme Court in ***Union of India v. Ashok Kumar Sharma, (2021) 12 SCC 674***, wherein, it was held that regulatory infractions should be dealt with under specialized statutes only, rather than general penal provisions.

17. It is submitted that the applicant's father is suffering from Grade IV carcinogenic brain tumor, and the applicant has been previously granted interim bail to attend to his ailing father. His grandfather, aged 94, is also suffering from severe medical conditions. The Hon'ble Supreme Court has consistently held that humanitarian considerations should be taken into account while considering bail, as reiterated in ***Manish Sisodia v. Enforcement Directorate, 2024 SCC OnLine SC 2274***.

18. In light of the above submissions, it is prayed that the instant application may be allowed and the reliefs be granted as prayed for.

19. *Per Contra*, learned counsel appearing on behalf of respondent-ED vehemently opposed the instant application submitting to the effect that the same is liable to be dismissed being devoid of any merit.

20. It is submitted that the applicant is a close associate of the principal accused namely Viphil Jain and was actively engaged in the distribution and sale of spurious anti-cancer drugs through his family-owned businesses, M/s Narula Associates and M/s Imperial Healthcare Pvt. Ltd.

21. It is submitted that the investigation has revealed financial transactions amounting to Rs. 42 Lakhs between the applicant and co-accused Viphil Jain which establishes the applicant's role in facilitating the



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supply of counterfeit medicines to unsuspecting cancer patients. The respondent contends that the applicant misused his position and reputation in the medical business to act as a conduit for the proceeds of crime generated from the illicit sale of counterfeit drugs.

22. It is emphasized that under Section 45 of the PMLA, the accused must satisfy the mandatory twin conditions to be eligible for bail, which are, that the prosecution must be given proper opportunity to oppose the bail application and when opposed, the Court has to be satisfied that there are reasonable grounds to believe that the accused is not guilty of the offence, and that the accused is not likely to commit any offence while on bail.

23. It is submitted that given the gravity of the allegations and the applicant's involvement in the systematic collaboration with the co-accused, the applicant fails to satisfy these conditions and is not entitled to the discretionary relief of bail.

24. It is submitted that the applicant had full knowledge of the illicit nature of the transactions and was actively involved in the purchase and sale of spurious drugs without proper authorization or invoices. The applicant collaborated with co-accused Vipnil Jain, Neeraj Chauhan, and Tushar Chauhan in the organized network of counterfeit drug distribution, as evidenced by bank transactions, statements, and seized records. The applicant's transactions were deliberately structured to conceal the source of illicit funds, making him complicit in the offence of money laundering.

25. It is submitted that the applicant has a history of criminal involvement, having been previously arrested in FIR No. 394/2021,



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registered at PS Punjabi Bagh under Sections 420, 384, 188, 240, 269 and 270 of the IPC read with Section 3 of the Epidemic Diseases Act, 1897 for hoarding controlled medication during the COVID-19 pandemic. Despite being on bail in that case, the applicant engaged in the present offence, demonstrating a continued propensity to commit economic crimes, thus making him ineligible for bail.

26. It is submitted that under the provisions of the PMLA, the investigation into the offence of money laundering is distinct and independent from the investigation of the predicate offence. It is not necessary for an individual to be named as an accused in the predicate offence to be prosecuted under the PMLA. The applicant's involvement in handling, concealing, and using the proceeds of crime makes him liable under the PMLA, regardless of his role in the scheduled offence.

27. It is submitted that the applicant's arrest was carried out in compliance with Section 19 of the PMLA, which mandates that "reasons to believe" for the arrest must be recorded in writing and communicated to the adjudicating authority. In the present case, the arrest was based on concrete material, and the applicant was duly informed with the grounds of arrest on 22nd May, 2024. Furthermore, the learned Special Court, after being fully satisfied with the material on record, remanded the applicant to ED custody, thereby, establishing the legality of the arrest.

28. It is submitted that the applicant being an influential individual with substantial financial resources, poses a serious risk of tampering with evidence and influencing key witnesses. Out of the 35 identified witnesses, a



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majority of them are public witnesses/private individuals, and their testimonies are critical to the prosecution's case. It is contended that granting bail to the applicant at this stage would compromise the integrity of the ongoing investigation.

29. It is submitted that the investigation and prosecution have been conducted in a timely manner. It is submitted that the learned trial court has already taken cognizance of the prosecution complaint vide order dated 21st September, 2024, and the matter is currently at the stage of compliance under Section 207 of the CrPC. It is also submitted that the procedural timeline of judicial processes cannot be a ground for bail in serious offences such as money laundering.

30. It is further submitted that the statements recorded under Section 50 of the PMLA are admissible in evidence, and the constitutional protections applicable to statements recorded by police officers under the Indian Evidence Act, 1872 do not extend to proceedings under the PMLA. ED officials conducting inquiries are not classified as police officers, therefore, statements recorded during the investigation are valid and enforceable.

31. It is submitted that the PMLA attributes liability not just to the individual but also to all the conspirators involved in the offence. Since the proceeds of crime generated from the scam benefit all the accused persons directly or indirectly, the applicant herein cannot claim immunity based on the quantum of money involved in his specific transactions as the offence in the present ECIR has been committed by a group of individuals, thereby, forming a syndicate ultimately generating proceeds of crime more than the



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prescribed threshold. The applicant, by his active participation, is liable for the entire proceeds of crime, and thus, the instant bail application may be rejected.

32. It is also submitted that the applicant herein cannot seek exemption from the rigors of Section 45 of the PMLA by stating that the proceeds of crime attributed to him is less than Rs. 1 Crore. It is further submitted that the totality of the crime and entire transactions which have been funneled among all the accused persons, have to be taken into consideration for the constitution of offence under Section 45 of the PMLA.

33. Therefore, in view of the foregoing submissions, it is prayed that the instant application may be dismissed.

34. Heard learned counsel for the parties and perused the material available on record including the compilation of judgments, written submissions and reply to the same.

35. In light of the submissions made before this Court, it is made out that the grounds contended by the applicant for grant of bail are multifold. *Firstly*, it has been contended that the applicant's arrest was not conducted in compliance with the provisions of Section 19 of the PMLA which requires 'reasons to believe' before making an arrest. *Secondly*, the statements made by co-accused Vipphil Jain, Neeraj Chauhan and Tushar Chauhan under Section 50 of the PMLA form the sole basis for the applicant's arrest which is not sufficient to justify the applicant's arrest. *Lastly*, the applicant is exempted from the twin conditions of bail under Section 45 of the PMLA. However, even if it is assumed for the sake of arguments that he is not



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exempted under the proviso, the applicant satisfies the twin conditions prescribed under the aforesaid provision.

36. This Court shall now proceed to examine the present matter.

37. Learned senior counsel for the applicant has contended that the applicant's arrest was not conducted in compliance with the provisions of Section 19 of the PMLA which requires 'reasons to believe' before making an arrest. It has been further argued that the statements made by co-accused Vipphil Jain, Neeraj Chauhan and Tushar Chauhan under Section 50 of the PMLA form the sole basis for the applicant's arrest which are not sufficient to justify the applicant's arrest.

38. The question before this court is whether the applicant's arrest was carried out in adherence to the statutory requirements under Section 19 of the PMLA which mandates that the authorized officer must have 'reason to believe' based on material evidence before arresting an individual accused of money laundering. The said provision reads as under:

"Section 19. Power to arrest

(1) If the Director, Deputy Director, Assistant Director or any other officer authorised in this behalf by the Central Government by general or special order, has on the basis of material in his possession, reason to believe (the reason for such belief to be recorded in writing) that any person has been guilty of an offence punishable under this Act, he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest.

(2) The Director, Deputy Director, Assistant Director or any other officer shall, immediately after arrest of such person under sub-section (1), forward a copy of the order along with the material in his possession, referred to in that sub-section, to



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the Adjudicating Authority in a sealed envelope, in the manner, as may be prescribed and such Adjudicating Authority shall keep such order and material for such period, as may be prescribed.

(3) Every person arrested under sub-section (1) shall, within twenty-four hours, be taken to a [Special Court or] Judicial Magistrate or a Metropolitan Magistrate, as the case may be, having jurisdiction:

Provided that the period of twenty-four hours shall exclude the time necessary for the journey from the place of arrest to the [Special Court or] Magistrate's Court."

39. The following ingredients can be culled out from the reading of Section 19(1) of the PMLA: *firstly*, the officer concerned must have some "material in his possession". *Secondly*, on the basis of such material, the officer should have a 'reason to believe' that any person has been 'guilty' of an offence punishable under the PMLA. *Thirdly*, such reasons should be recorded in 'writing' by the officer concerned and *lastly*, the person so arrested should be 'informed of the grounds of arrest'.

40. The compliance of these conditions is undoubtedly mandatory, which is also fortified by the explanation added to Section 45 of the PMLA, which provides as under:

"Section 45. Offences to be cognizable and non-bailable.

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



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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.”

41. Having examined the statutory framework governing the power of arrest under Section 19 of the PMLA, this Court shall now proceed to consider the judicial precedents that have interpreted and applied these provisions in various factual contexts.

42. In *Vijay Madanlal Choudhary (Supra)*, the Hon’ble Supreme Court had made the following observations:

“208. Section 19 of the 2002 Act postulates the manner in which arrest of person involved in money laundering can be effected. Sub-section (1) of Section 19 envisages that the Director, Deputy Director, Assistant Director, or any other officer authorised in this behalf by the Central Government, if has material in his possession giving rise to reason to believe that any person has been guilty of an offence punishable under the 2002 Act, he may arrest such person. Besides the power being invested in high-ranking officials, Section 19 provides for inbuilt safeguards to be adhered to by the authorised officers, such as of recording reasons for the belief regarding the involvement of person in the offence of money laundering. That has to be recorded in writing and while effecting arrest of the person, the grounds for such arrest are informed to that person. Further, the authorised officer has to forward a copy of the order, along with the material in his possession, in a sealed cover to the adjudicating authority, who in turn is obliged to preserve the same for the prescribed period as per the Rules.”

43. Further in the case of *V. Senthil Balaji v. State, (2024) 3 SCC 51*, the Hon’ble Supreme Court has explained the mandate of Section 19 of PMLA by observing the following:



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“40. To effect an arrest, an officer authorised has to assess and evaluate the materials in his possession. Through such materials, he is expected to form a reason to believe that a person has been guilty of an offence punishable under the PMLA, 2002. Thereafter, he is at liberty to arrest, while performing his mandatory duty of recording the reasons. The said exercise has to be followed by way of an information being served on the arrestee of the grounds of arrest. Any non-compliance of the mandate of Section 19(1) of the PMLA, 2002 would vitiate the very arrest itself. Under sub-section (2), the authorised officer shall immediately, after the arrest, forward a copy of the order as mandated under sub-section (1) together with the materials in his custody, forming the basis of his belief, to the adjudicating authority, in a sealed envelope. Needless to state, compliance of sub-section (2) is also a solemn function of the arresting authority which brooks no exception.”

44. In case of **Pankaj Bansal (Supra)**, the Hon’ble Supreme Court while reiterating the principles laid down in case of **Vijay Madanlal Choudhary (Supra)** has made the following observations on the scope of Section 19 of PMLA:

“17. At this stage, it would be apposite to consider the case law that does have relevance to these appeals and the issues under consideration. In Vijay Madanlal Choudhary [Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1 : 2022 SCC OnLine SC 929 : (2022) 10 Scale 577] , a three-Judge Bench of this Court observed that Section 65 PMLA predicates that the provisions of the Code of Criminal Procedure, 1973, shall apply insofar as they are not inconsistent with the provisions of PMLA in respect of arrest, search and seizure, attachment, confiscation, investigation, prosecution and all other proceedings thereunder. It was noted that Section 19 PMLA prescribes the manner in which the arrest of a person involved



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in money laundering can be effected. It was observed that such power was vested in high-ranking officials and that apart, Section 19 PMLA provided inbuilt safeguards to be adhered to by the authorised officers, such as, of recording reasons for the belief regarding involvement of the person in the offence of money laundering and, further, such reasons have to be recorded in writing and while effecting arrest, the grounds of arrest are to be informed to that person.”

45. The inference drawn from the above judicial pronouncements is that Section 19 of the PMLA imposes procedural safeguards on the arresting authority, thereby, ensuring that arrests are not made arbitrarily but are based on well-founded reasons which are also recorded in writing. The decisions quoted in the foregoing paragraphs reaffirm that compliance with these procedural requirements is mandatory, and any deviation from the prescribed framework could vitiate the arrest. The courts have consistently emphasized that the power to arrest under the PMLA is vested in high-ranking officials and must be exercised with due diligence, ensuring that the accused is informed of the grounds of arrest and that the requisite material is submitted to the adjudicating authority in a sealed manner.

46. In the present case, it has been argued on behalf of the applicant that his arrest was conducted in a mechanical manner without recording specific reasons for belief of guilt. The grounds of arrest, as communicated, were allegedly a verbatim reproduction of statutory language without reference to specific material evidence.

47. Conversely, the respondent argues that the arrest was made after due consideration of financial records and electronic evidence establishing the



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applicant's role in laundering proceeds of crime. It has been submitted that all statutory requirements were met and that the arrest was necessary to prevent the tampering and destruction of evidence and influence over witnesses.

48. In assessing the legality of the applicant's arrest, this Court must carefully examine the role assigned to the accused applicant herein which led to his arrest and ultimately to the present bail application.

The relevant extract of the first supplementary prosecution complaint is as under:

"...6.5 Lovee Narula (Retailer of medicine business)

On scrutiny of the bank account statement of Lavee Narula bearing account no. 194401500829 (RUD-60) maintained with ICICI Bank, it is noticed that an amount of Rs. 12,97,500/- was transferred to the bank account of Neeraj Chauhan as mentioned below:

TABLE-8

Date	Narration	Debit
03-01-2023	MMT/IMPS/300310271364/NA/Neeraj Cha/HDFC0000557,	237500
16-01-2023	MMT/IMPS/301507139046/NA/Neeraj Cha/HDFC0000557,	200000
21-02-2023	MMT/IMPS/305222805742/NA/Neeraj Cha/HDFC0000557,	100000
03-03-2023	MMT/IMPS/306218322760/NA/Neeraj Cha/HDFC0000557,	100000
15-11-2023	MMT/IMPS/331914727415/NA 526122512/Neeraj Cha/HDFC,0000557	100000
01-02-2024	MMT/IMPS/403214488969/NA 526122512/Neeraj Cha/HDFC,0000557	100000
01-02-2024	BIL/NEFT/HS92403231593662/NA/Neeraj Cha/HDFC000055,7	100000
09-03-2024	MMT/IMPS/406914883663/Neeraj Cha/HDFC0000557,	360000
TOTAL		12,97,500/-

Further, it is also noticed that an amount of Rs. 42,98,000/- was transferred to the bank account of Tushar Chauhan as mentioned below:



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**TABLE-9**

Date	Narration	Debit
05-01-2022	MMT/IMPS/200518832793/NA/Tushar Cha/SBIN0001536,	100000
14-01-2022	MMT/IMPS/201413057721/NA/Tushar Cha/SBIN0001536,	170500
20-01-2022	MMT/IMPS/202016172253/NA/Tushar Cha/SBIN0001536,	200000
24-01-2022	MMT/IMPS/202213164351/NA/Tushar Cha/SBIN0001536,	122000
03-02-2022	MMT/IMPS/203415540931/NA/Tushar Cha/SBIN0001536,	200000
08-02-2022	MMT/IMPS/203909495411/NA/Tushar Cha/SBIN0001536,	300000
11-02-2022	MMT/IMPS/204218402357/NA/Tushar Cha/SBIN0001536,	336500
17-02-2022	BIL/NEFT/000330150186/NA/Tushar Cha/SBIN0001536,	97000
24-02-2022	MMT/IMPS/205517683455/NA/Tushar Cha/SBIN0001536,	100000
28-02-2022	MMT/IMPS/205914019100/NA/Tushar Cha/SBIN0001536,	140000
07-03-2022	MMT/IMPS/206612139474/NA/Tushar Cha/SBIN0001536,	100000
08-03-2022	MMT/IMPS/206717804563/NA/Tushar Cha/SBIN0001536,	80000
28-03-2022	MMT/IMPS/208510673192/NA/Tushar Cha/SBIN0001536,	100000
04-04-2022	MMT/IMPS/209422872442/NA/Tushar Cha/SBIN0001536,	332000
19-04-2022	MMT/IMPS/210910567161/NA/Tushar Cha/SBIN0001536,	100000
19-04-2022	MMT/IMPS/210910568504/NA/Tushar Cha/SBIN0001536,	52000
02-05-2022	MMT/IMPS/212214686480/NA/Tushar Cha/SBIN0001536,	120000
17-10-2022	MMT/IMPS/229014560626/NA/Tushar Cha/SBIN0001536,	150000
18-11-2022	MMT/IMPS/232212011849/NA/Tushar Cha/SBIN0001536,	300000
27-12-2022	MMT/IMPS/236117593008/NA/Tushar Cha/SBIN0001536,	48000
28-12-2022	MMT/IMPS/236217557796/NA/Tushar Cha/SBIN0001536,	100000
31-12-2022	MMT/IMPS/236512575227/NA/Tushar Cha/SBIN0001536,	200000
31-12-2022	MMT/IMPS/236512576126/NA/Tushar Cha/SBIN0001536,	200000
21-02-2023	MMT/IMPS/305222809587/NA/Tushar Cha/SBIN0001536,	100000
21-03-2023	MMT/IMPS/308020376862/NA/Tushar Cha/SBIN0001536,	200000

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07-11-2023	MMT/IMPS/331123078440/NA 526122512/Tushar Cha/SBIN,0001536	100000
07-11-2023	MMT/IMPS/331123080067/NA 526122512/Tushar Cha/SBIN,0001536	50000
TOTAL		42,98,000/-

Further, it is also evident that an amount of Rs. 30,03,500/- was transferred to the bank account of Viphil Jain as mentioned below:

TABLE-10

Date	Narration	Debit
15-01-2022	BIL/INFT/000305110017/NA/, VIPHIL JAIN	200000
24-01-2022	BIL/INFT/000309501716/NA/, VIPHIL JAIN	175000
28-01-2022	BIL/INFT/000313504972/NA/, VIPHIL JAIN	40500
16-03-2022	BIL/INFT/000352322898/NA/, VIPHIL JAIN	40000
23-03-2022	BIL/INFT/000356872148/NA/, VIPHIL JAIN	96000
31-03-2022	BIL/INFT/000362313413/NA/, VIPHIL JAIN	28500
02-05-2022	BIL/INFT/000348559712/NA/, VIPHIL JAIN	51000
05-05-2022	BIL/INFT/000391428553/NA/, VIPHIL JAIN	100000
10-05-2022	BIL/INFT/000395763925/NA/, VIPHIL JAIN	90000
10-05-2022	BIL/INFT/000395766206/NA/, VIPHIL JAIN	17000
10-06-2022	BIL/INFT/000419437082/NA/, VIPHIL JAIN	150000
02-07-2022	BIL/INFT/000434807310/NA/, VIPHIL JAIN	98000
04-07-2022	BIL/INFT/000436049405/NA/, VIPHIL JAIN	100000
05-07-2022	BIL/INFT/000437369923/NA/, VIPHIL JAIN	48000
14-07-2022	BIL/INFT/000444920940/NA/, VIPHIL JAIN	100000
04-08-2022	BIL/INFT/000460618480/NA/, VIPHIL JAIN	93500
08-08-2022	BIL/INFT/000463919397/NA/, VIPHIL JAIN	150000
16-08-2022	BIL/INFT/000467565448/NA/, VIPHIL JAIN	224000
15-09-2022	BIL/INFT/000491691948/NA/, VIPHIL JAIN	122000
01-10-2022	BIL/INFT/000503161742/NA/, VIPHIL JAIN	32000
06-10-2022	BIL/INFT/000507891902/NA/, VIPHIL JAIN	50000
24-10-2022	BIL/INFT/000519912847/NA/, VIPHIL JAIN	100000
27-10-2022	BIL/INFT/000522359226/NA/, VIPHIL JAIN	28000
14-11-2022	BIL/INFT/000536224727/NA/, VIPHIL JAIN	100000
14-11-2022	BIL/INFT/000536225042/NA/, VIPHIL JAIN	38000
14-11-2022	BIL/INFT/000536263187/NA/, VIPHIL JAIN	56000
18-11-2022	BIL/INFT/000539491858/NA/, VIPHIL JAIN	30000
18-11-2022	BIL/INFT/000539492608/NA/, VIPHIL JAIN	32000

Signature Not Verified

Digitally Signed
By: GAURA SHARMA
Signing Date: 29.01.2025
16:51:25

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03-12-2022	BIL/TNFT/000550812189/NA/, VIPHIL JAIN	90000
14-12-2022	BIL/TNFT/000559115089/NA/, VIPHIL JAIN	27000
14-12-2022	BIL/TNFT/000559198628/NA/, VIPHIL JAIN	60000
14-12-2022	BIL/TNFT/000559216904/NA/, VIPHIL JAIN	40000
11-01-2023	BIL/TNFT/000579954393/NA/, VIPHIL JAIN	99000
18-01-2023	BIL/TNFT/000584464720/NA/, VIPHIL JAIN	100000
16-03-2023	BIL/TNFT/000605511477/NA/, VIPHIL JAIN	100000
21-04-2023	BIL/TNFT/000632272459/NA/, VIPHIL JAIN	100000
TOTAL		50,03,500/-

Further, Lovee Narula in his statement recorded during the custodial interrogation stated that he purchased spurious anticancer medicine i.e Keytruda Injection from Neeraj Chauhan at an average price of Rs. 1,20,000/- per vial and payment for the same was made in the bank accounts of Neeraj Chauhan and Tushar Chauhan. Therefore, total amount of Rs. 55,95,500/- was transferred as sale proceeds of spurious anti-cancer medicine i.e Keytruda Injection. Therefore, in total, 46 vials of spurious Keytruda Injection were purchased by Lovee Narula during the relevant period. Further Lovee Narula in his statement stated that he earned profit of Rs. 10,000/- per vial of Keytruda Injection which were purchased from Neeraj Chauhan. Therefore, in total Lovee Narula earned a profit of Rs 4,60,000/- from selling of spurious anti-cancer medicine i.e Keytruda Injection.

Further, Lovee Narula in his statement recorded during custodial interrogation stated that he purchased the spurious anti-cancer medicine i.e Opdyta Injection from Viphil Jain at an average price of Rs. 52,500/- per vial and further sold the same in open market with an average profit of Rs. 5,000/- per vial. He further stated that payments for purchase of spurious anti-cancer medicine i.e Opdyta Injection from Viphil Jain were



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made in the bank account of Vipphil Jain. Further an amount of Rs. 30,03,500/- were transferred to the bank account of Vipphil jain during 2022 and 2023. Therefore in total 57 vials of Opdyta Injection were purchased from Vipphil Jain by Lovee Nanlla and the same were sold in open market thereby earning a profit of Rs. 2,85,000/-.

Therefore, in total, Lovee Narula earned profit to the tune of Rs. 7,45,000/- from the sale of spurious anti-cancer medicines and is thereby in possession of proceeds of crime to the tune of Rs. 7,45,000/-. Further, Lovee Narula in his statement recorded during the custodial interrogation stated that he purchased spurious anticancer medicine i.e Keytruda Injection from Neeraj Chauhan at an average price of Rs. 1,20,000/- per vial and payment for the same was made in the bank accounts of Neeraj Chauhan and Tushar Chauhan. Therefore, total amount of Rs. 55,95,500/- was transferred as sale proceeds of spurious anti-cancer medicine i.e Keytruda Injection. Therefore, in total, 46 vials of spurious Keytruda Injection were purchased by Lovee Narula during the relevant period. Further Lovee Narula in his statement stated that he earned profit of Rs. 10,000/- per vial of Keytruda Injection which were purchased from Neeraj Chauhan. Therefore, in total Lovee Narula earned a profit of Rs. 4,60,000/- from selling of spurious anti-cancer medicine i.e Keytruda Injection.

Further, Lovee Narula in his statement recorded during custodial interrogation stated that he purchased the spurious anti-cancer medicine i.e Opdyta Injection from Vipphil Jain at an average price of Rs. 52,500/- per vial and further sold the same in open market with an average profit of Rs. 5,000/- per vial. He further stated that payments for purchase of spurious anti-cancer medicine i.e Opdyta Injection from Vipphil Jain were made in the bank account of Vipphil Jain. Further an amount of Rs.30,03,500/- were transferred to the bank account of Vipphil jain during 2022 and 2023. Therefore in total 57 vials of Opdyta Injection were purchased from Vipphil Jain by



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Lovee Narula and the same were sold in open market thereby earning a profit of Rs. 2,85,000/-.

Therefore, in total, Lovee Narula earned profit to the tune of Rs.7,45,000/- from the sale of spurious anti-cancer medicines and is thereby in possession of proceeds of crime to the tune of Rs. 7,45,000/-..."

49. After thorough examination of the aforesaid extracts, it becomes evident that the investigating agency has outlined specific details highlighting the applicant's involvement in the alleged offence. It is observed that upon investigation it was found by the respondent ED that the applicant herein is a close associate of Viphil Jain, who is the prime accused and that the applicant is actively involved in his family medical business, i.e., M/s Narula Associates and M/s Imperial Healthcare Pvt. Ltd. which specializes in distributing anti-cancer drugs across India.

50. The investigation further revealed various financial transactions between the applicant herein and Viphil Jain since the year 2020, including credits of approximately Rs. 42 Lakhs to Viphil Jain's account from Lovee Narula, i.e., the applicant herein. Additionally, the applicant allegedly used his industry presence and reputation to act as a conduit facilitating the supply of counterfeit anti-cancer drugs produced by Viphil Jain to unsuspecting cancer patients through indirect delivery by Neeraj Chauhan. Moreover, the arrest order dated 22nd May, 2024 was duly issued to the applicant herein.

51. It is evident from the bare reading of the role assigned to the applicant herein, that the generated proceeds of crime were allegedly transferred to the



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accounts of the associates and their family members and the applicant played a significant role. This shows the role of the applicant in money laundering and distribution of the illicit gains, and thus, the offence under the PMLA is *prima facie* committed.

52. The investigating authority has also relied on statements of Vipphil Jain, Tushar Chauhan and Neeraj Chauhan recorded under the Section 50 of the PMLA. As per the material available on record, on 5th April, 2024, the applicant, in his statement, admitted to paying Vipphil Jain from his ICICI Bank account for spurious injections without invoices which were delivered to his shop and then sold to patients. He also admitted to purchasing spurious Keytruda injections from Neeraj Chauhan without invoices, making payments to Neeraj Chauhan's accounts with Axis Bank and HDFC Bank.

53. Furthermore, on 17th April, 2024, co-accused Vipphil Jain, in his statement under Section 50 of the PMLA, claimed that the applicant herein bought unsealed vials of anticancer drugs without invoices and payment of the same was made in cash. He also mentioned about the applicant's extensive network in the medical field, including customers abroad, to whom he supplied anti-cancer medications. It was further stated by Vipphil Jain that the applicant utilized his professional reputation to assist in generating and acquiring proceeds from illegal distribution of spurious drugs, making him culpable under Sections 3 and 4 of the PMLA for money laundering.

54. As per the record available, including the first supplementary prosecution complaint dated 20th July, 2024 and the ECIR, it is also



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observed by this Court that during the custodial interrogation, the applicant admitted to dealing in Keytruda and Opdyta injections without invoices/bills, sourcing the same from Neeraj Chauhan and Tushar Chauhan to reduce costs and increase profits, instead of using authorized dealers.

55. The financial records indicate substantial money transfers among the applicant herein and the co-accused's accounts as well as other known associates involved in the counterfeit medicine syndicate. These transactions, along with the applicant's control over the business operations, substantiate the claim that he was engaged in money laundering activities.

56. This Court is satisfied that the investigating authority followed due process and substantiated the 'reason to believe' with concrete evidence rather than mere suspicion. Accordingly, the challenge to the legality of the arrest is without merit, and no relief is warranted to the applicant on this ground.

57. Having examined and determined the first issue regarding the legality of the applicant's arrest under Section 19 of the PMLA, this Court shall now proceed on to the second interconnected ground raised by the applicant, i.e., the statements made by co-accused Vipphil Jain, Neeraj Chauhan and Tushar Chauhan under Section 50 of the PMLA form the sole basis for the applicant's arrest which is not sufficient to justify the applicant's arrest.

58. In light of the observations made in the preceding paragraphs, it stands established that the investigating authority did not rely solely on the statement of any one co-accused, rather it relied upon the statement of the applicant as well as other co-accused persons namely Neeraj Chauhan,



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Tushar Chauhan and Vipnil Jain along with the documentary evidence including the Whatsapp chats etc. which shows the financial trail of the proceeds of crime in the instant matter. The same goes to show that the respondent ED has corroborating evidence on its record to justify the implication of the applicant herein.

59. This Court is satisfied that the respondent ED has considered independent material, including financial records, digital evidence, and the applicant's own communications, which substantiate the applicant's involvement in the alleged offence.

60. Having examined the factual matrix and the evidence placed on record, this Court must now turn its attention to the statutory framework of Section 50 governing the evidentiary value of statements recorded under the PMLA. The said provision reads as under:

“Section 50. Powers of authorities regarding summons, production of documents and to give evidence, etc

(1) The Director shall, for the purposes of section 13, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely: -

- (a) discovery and inspection;*
- (b) enforcing the attendance of any person, including any officer of a [reporting entity] and examining him on oath;*
- (c) compelling the production of records;*
- (d) receiving evidence on affidavits;*
- (e) issuing commissions for examination of witnesses and documents; and*
- (f) any other matter which may be prescribed.*

(2) The Director, Additional Director, Joint Director, Deputy Director or Assistant Director shall have power to summon any



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person whose attendance he considers necessary whether to give evidence or to produce any records during the course of any investigation or proceeding under this Act.

(3) All the persons so summoned shall be bound to attend in person or through authorised agents, as such officer may direct, and shall be bound to state the truth upon any subject respecting which they are examined or make statements, and produce such documents as may be required.

(4) Every proceeding under sub-sections (2) and (3) shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code (45 of 1860).

(5) Subject to any rules made in this behalf by the Central Government, any officer referred to in sub-section (2) may impound and retain in his custody for such period, as he thinks fit, any records produced before him in any proceedings under this Act:

Provided that an Assistant Director or a Deputy Director shall not-

(a) impound any records without recording his reasons for so doing; or

(b) retain in his custody any such records for a period exceeding three months, without obtaining the previous approval of the [Joint Director].”

61. A careful reading of the provision reveals that the authorities empowered under Section 50 of the PMLA possess the authority to enforce discovery and inspection, compel the attendance of individuals, examine them on oath, require the production of records, receive evidence through affidavits, and issue commissions for the examination of witnesses and documents.



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62. The provision further clarifies that any person summoned under subsection (2) is legally bound to comply, state the truth regarding matters under inquiry, and produce the requisite documents as directed by the authorities. It is pertinent to note that such proceedings are deemed to be judicial proceedings under Sections 193 and 228 of the Indian Penal Code.

63. Having examined the scope and application of Section 50 of the PMLA, the core question that now arises for consideration is whether the statements recorded under this provision are admissible as evidence and to what extent they can be relied upon to justify the applicant's arrest and continued detention.

64. The Hon'ble Supreme Court in ***Rohit Tandon v. Directorate of Enforcement, (2018) 11 SCC 46*** made the following observations regarding the admissibility of statements recorded under Section 50 of the PMLA:

*“We have independently examined the materials relied upon by the prosecution and also noted the inexplicable silence or reluctance of the appellant in disclosing the source from where such huge value of demonetised currency and also new currency has been acquired by him. **The prosecution is relying on statements of 26 witnesses/accused already recorded, out of which 7 were considered by the Delhi High Court. These statements are admissible in evidence, in view of Section 50 of the 2002 Act.** The same makes out a formidable case about the involvement of the appellant in commission of a serious offence of money laundering. It is, therefore, not possible for us to record satisfaction that there are reasonable grounds for believing that the appellant is not guilty of such offence.”*



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65. In a recent judgment, the Hon'ble Supreme Court in ***Abhishek Banerjee v. Enforcement Directorate, (2024) 9 SCC 22*** has again made similar observations which are as under:

“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.”

66. In light of the foregoing judicial pronouncements, it is evident that statements recorded under Section 50 of the PMLA hold evidentiary value and are admissible in legal proceedings. The Hon'ble Supreme Court, while



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emphasizing the legal sanctity of such statements, observed that they constitute valid material upon which reliance can be placed to sustain allegations under the PMLA.

67. In the aforesaid judgment, the Hon'ble Supreme Court also reaffirmed the admissibility of statements under Section 50 of the PMLA, distinguishing them from statements recorded under the CrPC. The Hon'ble Court further underscored that such statements, being recorded during 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. The Hon'ble Court further clarified that the provisions of Section 50 of the PMLA having an overriding effect by virtue of Sections 65 and 71 of the PMLA prevail over the CrPC in case of any contradictions.

68. Accordingly, this Court is of the considered view that statements recorded under Section 50 of the PMLA are admissible in evidence and can be relied upon to establish culpability in money laundering cases.

69. Having examined the admissibility of statements recorded under Section 50 of the PMLA, this Court shall now proceed to analyze the statutory framework governing the burden of proof in proceedings related to proceeds of crime.

“24. Burden of proof. --In any proceeding relating to proceeds of crime under this Act, -- (a) in the case of a person charged with the offence of money-laundering under section 3, the Authority or Court shall, unless the contrary is proved, presume



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*that such proceeds of crime are involved in money-laundering;
and
(b) in the case of any other person the Authority or Court, may
presume that such proceeds of crime are involved in money-
laundering.”*

70. From the bare perusal of Section 24 of the PMLA, it is evident that once a person is charged with the offence of money laundering under Section 3, the law presumes that the proceeds of crime are involved in money laundering unless the contrary is proven by the accused.

71. In the present case, as observed in the preceding paragraphs, the reliance placed by the investigating agency is not only on the statement of co-accused recorded under Section 50 of the PMLA but also on the financial records, WhatsApp chats etc., which indicate the applicant's active role in the alleged money laundering activities along with the other co-accused.

72. By virtue of Section 24 of the PMLA, the respondent is not required to conclusively establish the applicant's guilt at the pre-trial stage, rather, the applicant must demonstrate that the proceeds of crime attributed to him are not linked to money laundering. In the absence of any rebuttal by the applicant, the presumption under Section 24 of the PMLA stands in favor of the respondent, thereby, justifying his continued detention.

73. With regard to the above, this Court has referred to the judgment of the Hon'ble Supreme Court in ***Prem Prakash v. Enforcement Directorate, (2024) 9 SCC 787***, wherein, the following observations were made:

“In Vijay Madanlal Choudhary [Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1] dealing with Section 24



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PMLA, the three-Judge Bench held as under : (SCC pp. 229-31, paras 237 & 239-40)

*“237. Be that as it may, we may now proceed to decipher the purport of Section 24 of the 2002 Act. In the first place, it must be noticed that the legal presumption in either case is about the involvement of proceeds of crime in money-laundering. This fact becomes relevant, only if, the prosecution or the authorities have succeeded in establishing at least three basic or foundational facts. **First, that the criminal activity relating to a scheduled offence has been committed. Second, that the property in question has been derived or obtained, directly or indirectly, by any person as a result of that criminal activity. Third, the person concerned is, directly or indirectly, involved in any process or activity connected with the said property being proceeds of crime. On establishing the fact that there existed proceeds of crime and the person concerned was involved in any process or activity connected therewith, itself, constitutes offence of money-laundering.** The nature of process or activity has now been elaborated in the form of Explanation inserted vide Finance (No. 2) Act, 2019. On establishing these foundational facts in terms of Section 24 of the 2002 Act, a legal presumption would arise that such proceeds of crime are involved in money-laundering. The fact that the person concerned had no causal connection with such proceeds of crime and he is able to disprove the fact about his involvement in any process or activity connected therewith, by producing evidence in that regard, the legal presumption would stand rebutted.*

239. Be it noted that the legal presumption under Section 24(a) of the 2002 Act, would apply when the person is charged with the offence of money-laundering and his direct or indirect involvement in any process or activity connected with the proceeds of crime, is established. The existence of proceeds of crime is, therefore, a foundational fact, to be established by the



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prosecution, including the involvement of the person in any process or activity connected therewith. Once these foundational facts are established by the prosecution, the onus must then shift on the person facing charge of offence of money-laundering—to rebut the legal presumption that the proceeds of crime are not involved in money-laundering, by producing evidence which is within his personal knowledge. In other words, the expression “presume” is not conclusive. It also does not follow that the legal presumption that the proceeds of crime are involved in money-laundering is to be invoked by the authority or the court, without providing an opportunity to the person to rebut the same by leading evidence within his personal knowledge [Sarbananda Sonowal v. Union of India, (2005) 5 SCC 665] .

240. Such onus also flows from the purport of Section 106 of the Evidence Act. Whereby, he must rebut the legal presumption in the manner he chooses to do and as is permissible in law, including by replying under Section 313 of the 1973 Code or even by cross-examining prosecution witnesses. The person would get enough opportunity in the proceeding before the authority or the court, as the case may be. He may be able to discharge his burden by showing that he is not involved in any process or activity connected with the proceeds of crime. In any case, in terms of Section 114 of the Evidence Act, it is open to the court to presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct, and public and private business, in their relation to the facts of the particular case. Considering the above, the provision under consideration [Section 24(a)] by no standards can be said to be unreasonable much less manifestly arbitrary and unconstitutional.”

74. In light of the principles enunciated by the Hon’ble Supreme Court in **Vijay Madanlal Choudhary (Supra)** and reiterated in **Prem Prakash (Supra)**, this Court must determine whether the foundational facts necessary



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to invoke the presumption under Section 24 of the PMLA have been established by the respondent. The Hon'ble Supreme Court has categorically held that the prosecution must satisfy three essential ingredients. *First*, the commission of a scheduled offence must be established. *Second*, the property in question must be shown to have been derived or obtained, directly or indirectly, as a result of such criminal activity and *third*, the accused must be linked, directly or indirectly, to any process or activity connected with the proceeds of crime.

75. At this stage, this Court deems it imperative to refer to the statements of Lovee Narula, Neeraj Chauhan, Tushar Chauhan and Vipphil Jain. The relevant extracts are as under:

“..5.2.1 *Statements of Vipphil Jain were recorded on 08.04.2024, 10.04.2024, 11.04.2024, 12.04.2024, 13.04.2024, 14.04.2024, 16.04.2024, 17.04.2024 and 18.04.2024 under section 50 of the PMLA, 2002; wherein he stated inter-alia that (RUD- 8)*

Summons dated 08.04.2024 were issued to Vipphil Jain and statement of Shri Vipphil Jain was recorded on 08.04.2024 in the Tihar Jail premises. Thereafter, Shri Vipphil Jain was arrested u/s 19 of PMLA, 2002 on 08.04.2024. On 09.04.2024, Vipphil Jain was produced before the Hon'ble Special Judge, PMLA, 2002, the Hon'ble Court allowed ED Custody of Vipphil Jain for 14 days till 23.04.2024. During the recording of statements, Vipphil Jain stated inter alia that:

i. He had studied upto 10th Class. Thereafter, he started a medical business in the name of M/s Angel Pharmaceuticals with his partner Shri Mahesh Jain. Thereafter, Vipphil Jain started dealing in general medicines as well as anti-cancer medicines.



ii. He and Suraj Shat had rented the flat no. 1101 and 1110 and installed the capping and labeling machines for preparing fake/spurious anti-cancer medicines. They used to fill Fluconazol (FORCAN IV) in the empty vials of the anti-cancer medicine viz. Keytruda. Thereafter, they sold the same in open market through Aditya Krishna, Akshay Kumar, Neeraj Chauhan, Keshav Anand, Sneha and others.

iii. He procured empty vials of Keytruda from Pravez Khan and Neeraj Chauhan for making fake/spurious anticancer medicines and after preparing such spurious anticancer medicines, he used to sell the same in open market through Aditya Krishna and some other persons;

iv. Suraj Shat had arranged machines for preparing anticancer medicines and that he had paid money for the purchase of such machines to Suraj Shat. Further, he also stated that he had gone to Mumbai for purchasing caps for capping the spurious anti-cancer medicines in the month of October, 2023.

v. He used to get original empty vials of anti-cancer medicines (Keytruda) from Neeraj Chauhan and Pravez Khan. He and Suraj Shat also used to paste the label of empty vials on the vials which were either "not for sale" or were "short expiry vials" of anti-cancer medicines (Keytruda) provided by Neeraj Chauhan and Aditya Krishna. He also stated that Suraj Shat is an expert in the work of pasting labels on vials.

vi. He was not authorized by any law, organization to sell, purchase, re-label any anti-cancer medicines.

vii. He knew Pravez Khan @ Parvez Malik since 2014. Pravez Khan was a pharmacist in Rajiv Gandhi Cancer Hospital, New Delhi and Pravez Khan used to provide the empty vials of anti-cancer medicines viz. Keytruda to him for an amount of Rs. 500/- to Rs. 700/- per vial. Further, Vipnil Jain stated that he procured those empty vials of Keytruda from Pravez Khan for making fake/spurious anti-cancer medicines

viii. He wanted to purchase 2 flats at DLF Capital Green. For the same, he required credit entries and balance in his wife's



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bank account to make payment to the builder company. At that time, he had cash in hand of Rs. 50,00,000/- approximately. Therefore, he met Gaurav Garg and requested him to provide him credit entries in his as well in his wife's bank account in lieu of Cash. Gaurav Garg agreed to receive Cash i.e. Rs. 49,00,000/- and also agreed to provide credit entries in the bank account of his wife's bank account as well as his bank account. In lieu of the said Cash amount i.e. Rs. 49,00,000/-, Gaurav Garg provided credit entries of Rs. 34,00,000/- (inclusive of TDS) into the bank account of his wife Deepali Jain and credit entries of Rs. 15,00,000/- (inclusive of TDS) into the bank account of Vipnil Jain;

ix. He had deposited the sale proceeds of spurious anti-cancer medicines, received in cash, in the bank account of Suraj Shat and thereafter, as and when required, Suraj Shat used to transfer funds to the bank accounts provided to him by Vipnil Jain. Further, he disclosed that he had also used sale proceeds of spurious anti-cancer medicines to purchase a new Car Toyota Fortuner in the name of his wife Deepali Jain.

x. That, Vipnil Jain received funds of Rs. 42,02,100/- from Lovee Narula, Rs. 19,52,500 from Aditya Krishna and Rs. 5,40,000/- from Sneha Shivaji Kandhare in his bank account against the sale of unsealed vials of anti-cancer medicines without any bill and invoice to Lovee Narula. Further, he disclosed that Lovee Narula used to purchase these unsealed vials of anti-cancer medicines without any bill and invoice in cash from Aditya Krishna, Neeraj Chauhan, Gagan Khurana, Ayonij Jain and himself and used to sell the same to his customers in India as well as abroad.

xi. That Vipnil Jain received funds to the tune of Rs. 23,00,000/- from M/s Delhi Medicine Hub (Akshay Kumar) in the bank account of his son Sanyam Jain. He used to sell unsealed vials of anti-cancer medicines without any bill and invoice to M/s Delhi Medicine Hub mostly in cash. However, some balance funds were received in his bank account. As such, M/s Kesha



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Enterprises also paid the balance amount in the bank account of his son Sanyam Jain.

xii. He had received funds of Rs. 11.40 lacs from M/s Delhi Medicine Hub (Akshay Kumar), Rs. 95,000/- from M/s Cancer Medicine (Akshay Kumar) in the bank account number 1338104000051484, Rs. 24.46 lacs from Aditya Krishna, Rs. 7.55 lacs from M/s Popular Medicine Specialties, Rs. 13.00 lacs from Suraj Shat in the bank account of his wife Deepali Jain, which was nothing but the sale proceeds of spurious/ fake anti-cancer medicines.

xiii. He admitted that cash deposited in the bank account of his family members and himself are nothing but the sale proceeds of unsealed / spurious anti-cancer medicines to Aditya Krishna, Gagan Khurana, Karan, Saurav Garg, Akshay Kumar, Neeraj Chauhan, etc.

xiv. He stated that he used to operate the bank account of his wife Deepali Jain and he transferred Rs. 23.00 lacs in the bank account of Sheetal Pandey from the bank account of his wife Deepali Jain as a friendly loan. He stated that Sheetal Pandey is his friend and does 'Keertan & Bhajan'. He also stated that he received Rs. 10.00 lacs from Aditya Aggarwal and Rs. 10.00 lacs from Yogendra Kumar Dabas as friendly loan in bank account of his wife. Further, Vipnil Jain stated that he also used to operate the bank account of his son Sanyam Jain.

xv. He along with his family visited Dubai in December 2023 and spent approx. Rs 6.50 lacs in cash. He also visited Bangkok in October, 2023. He also organized two 'Keertan' in 2023 and spent approx. Rs 8-9 lacs rupees in cash.

xvi. He stated that he is unable to recall how many numbers of vials of anti-cancer medicines were purchased and sold by him so far. He also could not tell how much spurious/ fake anti-cancer medicines were prepared by him.

5.4.1 Statements of Neeraj Chauhan S/o Sh. Gopi Chand were recorded on 08.04.2024, 10.04.2024, 12.04.2024, 13.04.2024,



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14.04.2024, 15.04.2024, 17.04.2024, 20.04.2024 and 21.04.2024 under section 50 of the PMLA, 2002, wherein he stated inter-alia that: (RUD- 17)

Summons dated 08.04.2024 was issued to Sh. Neeraj Chauhan and statement of Sh. Neeraj Chauhan was recorded on 08.04.2024 in the Tihar Jail premises. Thereafter, Sh. Neeraj Chauhan was arrested u/s 19 of PMLA, 2002 on 08.04.2024. On 09.04.2024, Neeraj Chauhan was produced before the Hon'ble Special Judge, PMLA, 2002, the Hon'ble Court allowed ED Custody of Neeraj Chauhan for 14 days till 23.04.2024. During the statement of Neeraj Chauhan he inter alia stated :

i. That he completed his Graduation from Jat College Baraut, UP in 2001-02. After completion of his Graduation, he joined Paras Hospital, Sec - 43, Gurugram Sushant Lok, thereafter in 2009 he joined Artemis Hospital, Gurugram as Co-ordinator at Medical Oncology, thereafter worked in BL Kappor Hospital Delhi, Max Hospital. From 2019-22, he worked in Paras Hospital Gurugram as Manager Oncology. After that in 2022, he incorporated a firm named M/s Futura Global Health for the purpose of Medical Tourism, wherein his wife Shrishti is proprietor.

ii. That, he was introduced with Vipnil Jain in Jaunary 2023 as Vipnil Jain is also engaged in distribution of oncology medicines. Suraj Shat is assistant and co-worker of Vipnil Jain. He used to purchase Keytruda (anti-cancer medicine) from Vipnil Jain for Rs. 75,000-80,000/- per vial. On request of Vipnil Jain, he used to arrange empty vials & empty boxes of various anti-cancer medicines and supply the same to Vipnil Jain. Further, he disclosed that he has financial transactions with Vipnil Jain in respect of dealing of spurious anti-cancer medicine.



iii. That he knew Akshay Kumar, partner in M/s Delhi Medicine Hub, Chandigarh. He came in contact with Akshay Kuma through India Mart online application in respect of dealing & distribution of anti-cancer medicines. He also stated that h used to purchase anti-cancer medicines from Vipphil Jain, Rohit Bist, Mazid Khan, Jitendra and sell the same to M/s Delhi Medicine Hub (through Akshay Kumar & Rajesh Kumar), Mr. Lovee Narula, Aditya Krishna, Gagan Khurana, Mehtab and some more persons. He sold spurious anti-cancer medicines to M/s Delhi medicine Hub, Chandigarh without bills and received funds in his account and in the bank account of his wife Smt. Shrishti Chauhan.

iv. He used to receive empty vials / empty boxes of anti-cancer medicines from Rohit, Majid and Jitender and he supplied the same to Vipphil Jain. He was well aware that Vipphil Jain was engaged in the business of fake/ spurious medicines and for this purpose Vipphil Jain required such empty boxes/ empty vials of anti-cancer medicines. Vipphil Jain was not authorized person for sale of anti-cancer medicines, however he purchased spurious anti-cancer medicines for the monetary benefits. Vipphil Jain asked him for empty vials of anti-cancer medicines like Keytruda and Opdyta etc.

v. That, in May, 2022, when Neeraj Chauhan was working in Paras Hospital, Gurugram, Mr. Vipphil Jain introduced Mr. Aditya Krishna. Thereafter, Aditya Krishna started to deal with him. Also, In December, 2023, Aditya Krishna met him in thehouse of Vipphil Jain during a “Jagran-Keertan” and told that he wanted to purchase fake and spurious anti-cancer medicines. Neeraj Chauhan used to sell fake and spurious anti-cancer medicines like Keytruda 100 mg Darzalax 400mg etc to Mr. Aditya Krishna till end of February, 2023.

vi. That, he also used to purchase these fake and spurious anticancer medicines and sell the same to Mr Gagan Khurana through Mr Tushar Chauhan.



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vii. That, Crime Branch, Delhi Police recovered and seized Rs. 89 lacs and 18000 USD from house of Neeraj Chauhan. Apart from this, various spurious vials/ empty vials/ empty boxes of anti-cancer medicines viz. Keytruda, Opdyta etc were recovered and seized from his house during the search proceedings of Crime Branch, New Delhi. He also stated that the said spurious/ fake/ empty vials of anti-cancer medicines were procured from Sh. Rohit Bisht, Sh. Jitender Dahiya, Sh. Majid Khan and Sh. Rehan. Neeraj Chauhan could not explain source of seized forex to the tune of USD 18000/- from his house.

viii. That, he stated that end use of such recovered empty vials/ boxes was re-labeling and re-capping on anti-cancer filled medicines.

ix. That, he bifurcated the said recovered and seized 89 lacs rupees from his house – Rs 9 to 10 lacs appear outstanding amount from M/s Mamta Enterprises (partnership firm of Mohak Thadani and Neeraj Chauhan), Rs. 20 to 25 lacs from his work done by Medical Tourism, Rs. 1.90 lacs by selling of his old car, Rs. 35 to 40 lacs was pertain to Vipnil Jain (cash received by selling of fake spurious vials as anti-cancer medicines) and the same were being transferred to Vipnil Jain, Rs. 25 to 30 lacs was of selling unsealed anti-cancer vials of anti cancer medicines which were purchased by him from Rohit Bisht, Jitender Dahiya, Majid Khan.

x. That, he did not raise any invoice or any bill in respect of purchase and sale of vials of anti-cancer medicines .

xi. That, he stocked huge quantity of empty vials and boxes of anti-cancer medicines in his home, which were recovered during Crime Branch search operation, when he was asked reason for the same, he stated that he started collecting empty vials/ boxes of anti-cancer medicines for supplying them to Vipnil Jain. Neeraj Chauhan was associated with the medical field from 2009 and he was aware about the proper disposal of the empty vials/ boxes of life saving drugs, however when he



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was asked to explain the reason for not disposing the same, he could not answer.

xii. That, whats app chat related to the sale purchase of anti-cancer medicines between Akshay Chandigarh (Akshay Kumar, Delhi Medicine Hub) was shown to Neeraj Chauhan, he confirmed the same. He also stated that he used to sell unsealed vials of anti-cancer medicines without bill to Akshay Kumar. As bill was not available, therefore, he demanded payment in cash only. He also stated that he used to adopt Hawala Channels for cash transactions in respect of sale and purchase of vials of anti-cancer medicines without bill.

xiii. That, he was asked about a chat containing cash transaction details, between him and Aman (employee of his Sumit Chauhan, CA), he stated that he is unable to explain the reason or purpose of receipt of cash from his CA Sumit Chauhan.

xiv. That, he had given USD 12000 to Vipphil Jain as Vipphil Jain needed money in USD currency for his Dubai Trip. Neeraj Jain also stated that his patient used to give him money in USD and further, Neeraj Jain used to pay their medical bill in INR. He also stated that later he used to sold such exchanged USD in the open market at higher rate.

xv. That, he was shown his whatsapp chat with 'Rohit Venkateshwara' and asked to explain chats. He replied that 'Rohit Venkateshwara' is Rohit Bisht and the said chat represents that Rohti Bisht used to supply cap of vials of Keytruda, Trecentiq, Perjeta, Opdyta @ Rs. 1000/- per vial.

xvi. That, whats app chat between Neeraj Chauhan and Ayansh Sharma with regards to sale-purchase of anti-cancer medicine was shown to him, wherein he replied that he sold some anticancer medicines viz. Opdyta to Ayansh Sharma without bill.

xvii. That, whats app chat between Neeraj Chauhan and 'Narula Janakpuri Medicine', wherein he replied that Narula Janakpuri Medicine is actually the chat with Lovee Narula.



Lovee Narula is into trading medicines through Imperial Mart. Lovee Narula is also engaged in Import of medicines from Turkey, Russia, USA etc. On seeing the chat with 'Narula Janakpuri Medicine', he stated that Lovee Narula requested vials of Opdyta anticancer medicines without any bill or invoice. On demand of Lovee Narula, he sold vials of anti-cancer medicines viz. Keytruda, Opdyta, Perjeta and infanzi etc without any invoice and bill of Lovee Narula and received sale proceeds in cash. Further, he stated that sometimes he received payment in his bank account maintained with HDFC Bank.

xviii. That, he stated that there are 02 firms namely M/s Mamta Enterprises. One Mamta Enterprises at Kotla Mubarakpur, Delhi, proprietorship concern of Sh. Mohak Thadani and other Mamta Enterprises at Sec-51, Gurugram is partnership firm of his and Mohak Thadani and established in July 2023, having bank account in Axis Bank. Further, he stated that he met Sh. Mohak Thadani in 2013-14 while he was working in BL Kapoor Hospital, thereafter they are in regular touch. In year 2023, they both decided to open a partnership firm in 2023 in Gurugram for supply of medicines in Gurugram and therefore M/s Mamta Enterprises at Gurugram was opened in July 2023. He also stated that all medicines were sold from M/s Mamta Enterprises were billed and invoices were generated.

xix. That, he stated that he met Gagan Khurana through Online Portal India mart. Gagan Khurana is in contact with him through his cousin brother Tushar Chauhan and on Gagan's request, he supplied the filled vials of Keytruda to Gagan Khurana.

5.6 Lovee Narula S/o Shri Vijay Narula-Statements of Lovee Narula S/o Shri Vijay Narula Rio G-133, 2nd Floor. LIC Colony, Paschim Vihar. New Delhi- 110063 were recorded on 05.04.2024. 23.05.2024 24.05.2024. 25.05.2024. 26.05.2024 and 27.05.2024 under section 50 of the PMLA. 2002 : (RUD - 49)



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Statement of Lovee Narula was recorded on 05.04.2024, wherein he undertook that he will provide documents on 22.04.2024 and also requested to continue his further statement. Thereafter, he appeared in the office on 22.05.2024 to continue his earlier statement and he was arrested under section 19 of the PMLA on 22.05.2024 and produced before the Hon'ble Special Court, Tis Hazari, New Delhi seeking custodial interrogation of Lovee Narula Accordingly, ED custody was granted till 27.05.2024 by the Hon'ble Special Court, New Delhi vide its Order dated 22.05.2024. During course of investigation, he stated inter-alia that:

i. He has passed B.Tech (Mechanical) from Swinburn University of Technology, Melbourne, Australia in 2012. He has also done certification Pharmacology and rare medicines in 2017 from Kings College, London. He has started 01 startup viz. Your Medikart.

ii. He knew Vipphil Jain as Vipphil Jain was also working for Mis Pious tree Pharma and also working as an Operation Theatre Technician in Rajiv Gandhi Hospital.

iii. He met Neeraj Chauhan in 2016 in Mis Paras Hospital wherein he was working as an attendant. Thereafter, he and Neeraj Chauhan used to meet frequently. Neeraj Chauhan informed him that he used to supply Keytruda Injection for the cancer patients and asked him to inform him about the need for any Keytruda Injection. Thereafter, whenever he got the requirement for Keytruda Injection in his shop i.e. Mis Narula Associates, he would convey the same to Neeraj Chauhan and he used to deliver the Keytruda injection to the patient directly. He further stated that he used to pay the amounts for the said Keytruda Injection into the accounts of Vipphil Jain, Tushar Chauhan and sometimes in cash.

iv. He also knew Aditya Krishna through his friend named Sh. Sagar Mehta, Mumbai.



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v. He doesn't have any bill for the medicines purchased from Vipnil Jain as he never provided him the bills for the medicines. Also, he doesn't have any bills for the purchase of Keytruda Injection from Neeraj Chauhan.

vi. He stated that due to his greed for more and more profit, he continued his medicine business with Vipnil Jain and continued to purchase Opdyta Injection from him.

vii. On being shown account statement of Account No 194401500829 maintained with ICICI Bank containing transaction details with Tushar Chauhan, he stated that he used to purchase Keytruda vials from Neeraj Chauhan for an amount of Rs. 1,20,000/- per vial and Tushar Chauhan is cousin of Neeraj Chauhan and as per direction of Neeraj Chauhan, he transferred the purchase amount to the tune of Rs. 44,26,000/- of the said spurious anti-cancer medicine Keytruda vials in the account of Tushar Chauhan. The amount transferred in the account of Tushar Chauhan was against the purchase of spurious anti-cancer medicines Keytruda without bills.

viii. He was shown account statement of Account No 194401500829 maintained with ICICI Bank containing transactions with Vipnil Jain, wherein he stated that he used to purchase spurious Opdyta injection from him without any bill or tax invoice. Further, he stated that the said anticancer medicines purchased from Vipnil Jain were further sold to the patients in need.

ix. He was shown account statement of Account No 194401500829 maintained with ICICI Bank containing transaction details with Neeraj Chauhan, wherein he stated that he used to purchase Keytruda vials from Neeraj Chauhan and as per direction of Neeraj Chauhan for an amount of Rs. 1,20,000/- per vials and had transferred the purchase amount to the tune of Rs. 12,97,500/- of the said spurious anti-cancer Keytruda vials in the account of Neeraj Chauhan. The amount transferred in the bank account of



Neeraj Chauhan for the purchase of spurious anti-cancer medicines Keytruda without bill.

x. He stated that since 2019, he was dealing in purchase and sale of Keytruda and Opdyta injections. He further stated that complete local purchase of Keytruda Injection and Opdyta Injection was without bill and the same were further sold to the patients without bill.

xi. On being asked to explain the procedure for purchasing anti-cancer medicine Keytruda and Opdyta vials, wherein he stated that to purchase Keytruda injection in India, patient should be prescribed this injection by an oncologist who is specialized in Solid tumors and lymphomas; that this medicine is approved for 18 types of tumors in which MSD gives scheme of one plus one free injection to the patient falling under this category; there are only one or two distributors allotted by MSD in every urban state from where patient can buy these injection. The official price per 100 mg injection is Rs. 1,63,000/- whose MRP is Rs. 1,97,000/- and on buying this patient gets another free of cost as Keytruda works only when 200 mg (2 injection) is given to the patient. Once medicine is prescribed and patient buys 1 injection from authorized distributor, he/ she gets enrolled in patient assistance program where patient gets 100 mg free injection from MSD. Also the patient should be diagnosed with 16 indicated treatments and lastly he/ she should be Indian

xii. He also imported anti-cancer medicines for patients, therefore he was asked procedure for importing anti-cancer medicines, wherein he replied that he imports medicine for patients which are not available or being marketed in India or they come under rare drugs category.

xiii. He stated that he used to purchase the Keytruda Injection vial from Neeraj Chauhan and Tushar Chauhan in the price range of Rs. 1,15,000/- to Rs. 1,25,000/- per vial and sold the same for Rs. 1,25,000/- to Rs. 1,35,000/per vial. He further stated that he had earned the profit of Rs. 10,000/(approx.) per



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vial of Keytruda injection which was purchased from Neeraj Chauhan and Tushar Chauhan.

xiv. He stated that he had purchased Opdyta injection from Vipphil Jain in the price range of Rs. 50,000/- to 55,000/- per vial and sold the same for Rs. 55,000/- to Rs. 60,000/- He further stated that he had earned profit of Rs. 5,000/- (approx.) per vial of Opdyta injection which was purchased from Vipphil Jain.

xv. He stated that it is correct to say that despite knowing Neeraj Chauhan and Tushar Chauhan were not authorized dealer of Keytruda injection, he purchased the Keytruda Injection from them.

xvi. He stated that despite knowing Vipphil Jain was not authorized dealer of Opdyta injection, he purchased the Opdyta injection from him.

xvii. He usually imported Keytruda from abroad for his regular patients. However in case of any new patient's case to him, he purchased Keytruda Injection from Neeraj Chauhan and Tushar Chauhan because it costed less to him than to purchase it from the authorized dealer of Keytruda Injection.

xviii. He purchased Opdyta 40 mg injection vials from Vipphil Jain. He further stated that even after knowing the fact that Vipphil Jain was not authorized dealer of Opdyta 40 mg injection, he purchased the Opdyta 40 mg injection from Vipphil Jain as Opdyta 40 mg injection was not readily available in the open market at that time.

xix. He purchased anti-cancer medicines from Vipphil Jain and Neeraj Chauhan and sold the same to various entities and person in open market. He stated that he is unable to recall quantity of medicines and total amount of purchase of anti-cancer medicines from Vipphil Jain and Neeraj Chauhan.

xx. He purchased all anti-cancer medicines without bill from Vipphil Jain and Neeraj Chauhan and the amounts were transferred to bank accounts of Vipphil Jain and Neeraj



Chauhan. He further stated that he also paid purchase amounts to Vipnil Jain and Neeraj Chauhan in cash.

5. 7 Statement of Shri Tushar Chauhan S/o Shri Raj Kumar Chauhan was recorded on 25.06.2024 in Judicial Custody in the Tihar Jail premises and his statements recorded on 25.06.2024, 03.07.2024 and 04.07.2024 in ED Custody u/s 50 of PMLA, 2002. wherein he stated inter-alia that: (RUD-50)

i. he completed DMLT (Diploma in Medical Laboratory Technician) in 2018. He joined AIIMS hospital, Delhi as Lab Attendant in 2019 through a firm BECIL as outsourcing staff. He used to get a salary Rs. 15,000/per month from BECIL.

ii. he left this job on 25.01.2023 because his cousin Neeraj Chauhan offered him better salary i.e. Rs. 75,000/- per month. Neeraj Chauhan used to give him salary Rs. 45,000/- from Mis Futura Global Health and Neeraj Chauhan used to give him Rs. 30,000/- in cash per month.

iii. he used to work on instruction of Neeraj Chauhan. He used to call buyers as well as sellers for Neeraj Chauhan in respect of sale and purchase of anti-cancer medicines viz; Keytruda, Opdyta, Perjeta, Tricentriq, Imfinz etc. He stated that they i.e. Neeraj Chauhan and Tushar Chauhan came in contact with various sellers and buyers of anti-cancer medicines through WhatsApp groups and IndiaMart online application. As required, he used to contact with buyers of anti-cancer medicines and finalized the deal. Neeraj Chauhan used to provide him anti-cancer medicines for supply to buyers of anti-cancer medicine. Accordingly, he supplied those medicines and received sale proceeds of anti-cancer medicines in cash. He stated that Neeraj Chauhan never provided him any bill in respect of supply of anticancer medicines because Neeraj Chauhan used to sell anti-cancer medicines without bill and mostly in cash.

iv. he stated that Neeraj Chauhan used to purchase anti-cancer medicines viz; Keytruda, Opdyta, Perjeta etc. from Vipnil



Jain without bill and in cash and sold the same without bill and in cash to his buyers. He assisted Neeraj Chauhan in purchase of anti-cancer medicines from Viphal Jain and sold the same to various buyers. He also worked for M/s. Futura Global Health firm of Neeraj Chauhan. He used to accommodate patients, provide medicines and provide some other facilities as required by the patients of Futura Global Health.

v. he stated that he met Viphal Jain through Neeraj Chauhan in January, 2023. Neeraj Chauhan told him that Viphal Jain was a supplier of anticancer medicines and Neeraj Chauhan also told that they i.e. Neeraj Chauhan and Tushar Chauhan used to purchase anti-cancer medicines from Viphal Jain without bill and in cash. Therefore, as suggested by Neeraj Chauhan he used to receive anti-cancer medicines from Viphal Jain and supplied the same to the buyers of Neeraj Chauhan. He stated that Viphal Jain never gave any bill to Neeraj Chauhan and Neeraj Chauhan never gave any bill to buyers of anti-cancer medicines.

vi. Neeraj Chauhan further stated that he used to receive anti-cancer medicines from Viphal Jain at his rented house at 1412, Tower-4, DLF Capital Green, Delhi where he used to meet Viphal Jain and Suraj Shat at the said house. Suraj Shat alias Golu told him that Viphal Jain had given strict instruction to Suraj Shat to not allow anyone to enter in the Kitchen.

vii. he stated that he used to receive anti-cancer medicines viz; Keytruda, Opdyta, Perjeta etc. from Viphal Jain without bill and handed over the same to Neeraj Chauhan at his house. Thereafter, on instruction of Neeraj Chauhan he used to supply above said anti-cancer medicines to Akshay Kumar (Mis Cancer Medicine Agencies and Mis Delhi Medicine Hub), Chandigarh without bill and used to receive sale proceeds of anti-cancer medicines in cash from Akshay Kumar.

viii. On being shown bank account bearing no. 922010022896238 in the name of Tushar Chauhan maintained with Axis Bank Limited, Tushar Chauhan stated that Neeraj



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Chauhan used to deposit sale proceeds of anti-cancer medicines without bill and in cash. He stated that Neeraj Chauhan used to give details of his bank accounts to various buyers of anti-cancer medicines without bill and the said buyers used to deposit sale proceeds of anti-cancer medicines in his bank account and on instruction of Neeraj Chauhan, he used to transfer the said funds to various entities/persons.

ix. he further stated that Neeraj Chauhan used to give him Rs. 500/- for every debit transaction amount of Rs 50,000/-.

x. he stated that he received funds in his bank account from Ankush of M/s 2M Pharma, Aditya Krishna, Delhi Medicine Hub through Akshay Kumar etc.

xi. he collected more than 200 Keytruda Injections from Vipphil Jain and gave the same to Neeraj Chauhan. Neeraj Chauhan also used to collect Keytruda injections directly from Vipphil Jain. Vipphil Jain never provided any bill for purchase of anti-cancer medicines.

xii. he stated that on instruction of Neeraj Chauhan he used to supply anticancer medicines including Keytruda injection to Lovee Narula, Aditya Krishna, Akshay Kumar without bill and in cash. Neeraj Chauhan also supplied Keytruda Injection to Lovee Narula, Aditya Krishna, Akshay Kumar directly without bill.

xiii. he stated that for supply of each Keytruda Injection to Aditya Krishna, Neeraj Chauhan used to give him Rs. 1000/- (in cash) per vial of Keytruda Injection.

xiv. he used to receive Keytruda Injections seal packed and Seal opened Keytruda Injection from Neeraj Chauhan and supplied the same to various customers of Neeraj Chauhan without bill and mostly in cash and details of sale amount, he used to share with Neeraj Chauhan through WhatsApp Chat.

xv. Further, he stated that by Seal opened Keytruda meant box of the Keytruda injection were seal opened. Neeraj Chauhan used to procure filled vials from Majid, Rohit Singh Bisht,



Viphil jain and some others whom he did not know. Neeraj Chauhan also used to procure empty boxes of Keytruda injection from various persons whose name he did not know. Neeraj Chauhan used to match batch and expiry of filled vials of Keytruda procured from Majid, Rohit Singh Bisht, Viphil Jain with empty boxes and provided the same to him for further supply to the customer of Neeraj Chauhan. Tushar Chauhan saw empty boxes and empty vials of various anti-cancer medicines at the house of Neeraj Chauhan.

xvi. he stated that Neeraj Chauhan used to sell anti-cancer medicines including Keytruda Injection without bill to foreign based patients in foreign currency also.

xvii. Neeraj Chauhan used to pack filled Keytruda vials received from Viphil Jain and others, in the empty boxes of Keytruda injection, after matching their expiry date and batch number. Thereafter, Neeraj Chauhan used to give the said Keytruda vials to him for further supply of the same.

xviii. he stated that quality of medicines were compromised because Neeraj Chauhan used to manually match the batch number of filled vials and empty boxes of the anti-cancer medicines including Keytruda Injection. He knew that there was no requirement of such matching of vials and boxes in any medicine but Neeraj Chauhan used to do such matching.

xix. he further stated that on instruction of Neeraj Chauhan he transferred the fund infused by various buyers of Neeraj Chauhan to the bank accounts provided by Neeraj Chauhan. He admitted that 'to allow Neeraj Chauhan to use his bank accounts'; he used to receive 1 % of debit transaction value from Neeraj Chauhan. He used that 1 % amount in his day to day expenses. Except Lovee Narula, Akshay Kumar (Delhi Medicine Hub); he did not know persons or entities who provided credit entries in his bank accounts. As directed by Neeraj Chauhan, he also used to withdraw funds in cash from his bank accounts and handed over the same to Neeraj Chauhan.



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xx. he stated that after November, 2021 transactions done in his bank accounts pertain to Neeraj Chauhan; he had done those transaction on instruction of Neeraj Chauhan and in lieu of those transaction he received rupee 1 % of debit transactions from Neeraj Chauhan. He stated that he received Rs. 45,000/- as commission from Neeraj Chauhan.

xxi. Neeraj Chauhan started to pay Rs. 30,000/- per month in cash for the work of supply of spurious anti-cancer medicine since January, 2023 and paid the same till March, 2024 to Tushar Chauhan...
”

76. Upon perusal of the aforesaid extracts of statements, it is observed that all the accused persons have given their testimonies under Section 50 of the PMLA and analysis of the same reveals that the accused persons, to some extent, corroborate each other's testimonies.

77. It is observed by this Court that the present applicant had strong network in the medical field, and he runs his family medial business in the name of M/s Narula Associates and M/s Imperial Healthcare Pvt. Ltd., which are one of the few authorized dealers of life saving medicines in NCR. Further, the long standing business relationship of the applicant with the prime accused Vipphil Jain is revealed as it has been stated by the applicant that he knows Vipphil Jain since the year 2021. The applicant has also admitted to purchasing unsealed anti-cancer medication from Vipphil Jain and Neeraj Chauhan and has been selling the same to terminally ill cancer patients.

78. Further, the statement recorded on 23rd May, 2024 shows that the applicant accused has admitted to have transferred an amount of Rs.



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42,26,000/- for the purchase of spurious anti-cancer medicines in the account of Tushar Chauhan without any invoice. Additionally, the applicant has also admitted to transferring of Rs. 40,00,000/- (approx.) to the account of Vipnil Jain for the purchase of spurious anti-cancer medicines. Other than the above transactions, the applicant further admitted to having transferred Rs. 1,20,000/- to the account of Neeraj Chauhan and Rs. 12,97,500/- to the account of Tushar Chauhan.

79. The aforesaid observation reveals that the applicant had knowledge that Vipnil Jain, Tushar Chauhan and Neeraj Chauhan are not the authorized dealers.

80. Furthermore, the gist of statements given by Vipnil Jian, Neeraj Chauhan and Tushar Chauhan affirm to the facts and circumstances admitted by the applicant with regard to several financial transactions, sale and purchase of spurious anti-cancer medicines and laundering of money through hawala channels.

81. The aforesaid basis of arrest specifically highlight the flow of funds from the applicant's firm to accounts linked with known associates involved in the counterfeit medicine syndicate, thereby, indicating the existence of proceeds of crime and the applicant's involvement in the process of money laundering.

82. Applying the legal presumption under Section 24(a) of the PMLA, once the respondent has demonstrated these foundational facts, the onus shifts to the applicant to rebut the presumption that the proceeds of crime were not involved in money laundering. The applicant, however, has failed



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to provide any credible evidence to rebut this presumption. Moreover, mere denial of involvement or assertion of being an investor in the firm without day-to-day operational control is insufficient to discharge the burden imposed by the Statute.

83. Furthermore, as clarified by the Hon'ble Supreme Court, the presumption under Section 24(a) of the PMLA does not operate conclusively but allows the accused an opportunity to rebut through cross-examination, production of evidence, or explanations under Section 313 of the CrPC. In the absence of any such rebuttal, the presumption stands in favor of the respondent, and the applicant's continued detention is justified under the PMLA.

84. Therefore, it is observed by this Court that the respondent had sufficient material in its possession, including financial records, digital evidence, and the applicant's communications, to establish a valid 'reason to believe' that the applicant was guilty of the offence of money laundering. The procedural safeguards under the Act were duly followed, and the challenge to the legality of the arrest is without any merit.

85. Furthermore, the contention that the applicant's arrest was solely based on the statement of co-accused persons under Section 50 of the PMLA is unfounded.

86. It is observed by this Court that the respondent has presented corroborative material, including financial transactions and records such as Whatsapp chats which form the part of the chargesheet in the predicate offence and the supplementary prosecution complaint, linking the applicant



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to the proceeds of crime. Considering the presumption under Section 24 of the PMLA, the burden shifted to the applicant to disprove his involvement in the alleged offence. However, the applicant has failed to provide any credible evidence to rebut the statutory presumption.

87. Additionally, the learned senior counsel has also prayed that the respondent ED has arrested the applicant in a pick and choose manner as the individuals namely Gagan Khurana, Sneha Shivani, Ayonji Jain who had graver role than the applicant were neither made accused by the ED, nor were arrested. Regarding the same, this Court is of the considered view that in terms of the settled position of law, an accused cannot seek parity with respect to other persons while seeking bail and thus, this Court does not find any merit in the said submission which stands rejected.

88. In view of the foregoing analysis, this Court finds that the applicant's arrest was conducted in compliance with the statutory mandate of Section 19 of the PMLA.

89. Moving further, it has been argued on behalf of the applicant that the applicant is exempted from the twin conditions of bail under Section 45 of the PMLA. However, even if it is assumed for the sake of arguments that he is not exempted under the proviso, the applicant satisfies the twin conditions prescribed under the aforesaid provision.

90. In order to adjudicate the instant issue, this Court shall first peruse the text of Section 45 of the PMLA, which lays down the statutory mandate regarding the grant of bail in such cases and establishes the twin conditions that the applicant must fulfill to secure release on bail.



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“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:

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.



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[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.]”

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

92. *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) 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.

93. *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 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,



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thereby reinforcing the stringent approach adopted by the legislature in dealing with money laundering offences.

94. *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.

95. 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.

96. 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* (*Supra*), reaffirming the strict nature of bail conditions under the PMLA. In *Prem Prakash* (*Supra*), the Hon'ble Supreme Court has also delved into the principles pertaining to bail in PMAL matters. 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*



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[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 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.”



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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

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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.”

97. 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 satisfied this Court that he falls under the proviso to Section 45 of the PMLA and if not, whether he has discharged the burden of proving that he is not guilty of the alleged offence and is unlikely to commit any offence while on bail.

98. The applicant has contended that the alleged offence pertains to an amount below Rs. 1 Crore which should exempt him from the rigors of Section 45 of the PMLA in light of its proviso.





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interlinkages between the accused persons, and the fraudulent intent evidenced through sustained unlawful activity, leave no doubt that the applicant was an integral part of the broader scheme to launder proceeds of crime. At this stage, this Court has referred to the judgment of the Hon'ble Supreme Court passed in the matter of ***Saumya Chaurasia v. Enforcement Directorate, (2024) 6 SCC 401***, wherein, the Hon'ble Court extensively discussed the working of a syndicate and how the proceeds of crime are attributable to the same along with the discretion granted to the Courts under the proviso to Section 45 of the PMLA. The relevant paragraphs of the same are as under;

19. As stated hereinabove, the supplementary complaint was filed against the appellant along with the other accused on 30-1-2023, in which the summary of investigative findings against each of the accused persons have been recorded in Para 8 thereof. The details of the investigation conducted by the respondent ED have been stated in Para 9 and the role of each accused including the appellant in the commission of alleged offence of money laundering has been stated in Para 10 thereof, which reads as under:

“10. Role of accused in the offence of money laundering

A. Evidences of offence of money laundering against Smt Saumya Chaurasia—

Mrs Saumya Chaurasia is an officer of the Chhattisgarh State Civil Services who was posted as the Deputy Secretary in the Office of Chief Minister of Chhattisgarh and was working as an OSD to CM. Despite being relatively very junior in the bureaucratic hierarchy, she enjoyed unprecedented power and control because of her direct access to higher political powers. Information shared by the Income Tax Department and analysis of documents and digital devices seized during the searches



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conducted under Section 17 PMLA, 2002 revealed that Smt Saumya Chaurasia, Deputy Secretary working in the Chief Minister's Office, is one of the key persons in creation of the syndicate headed by Shri Suryakant Tiwari. An extortion racket of this magnitude and nature was possible only when multiple State agencies fell in place and everyone supported the illegal acts of Suryakant Tiwari. This was made possible by Saumya Chaurasia so that pliant officers were posted in the coal mining districts who would listen to Suryakant Tiwari. Also, it was an unwritten rule that instructions of Suryakant Tiwari meant the voice of Saumya Chaurasia and the powers to be. The fact that Suryakant Tiwari had personal and close official dealings with her and was carrying her instructions to the officers, made it possible for Suryakant Tiwari to also command senior district level officers. This illegal authority was essential for him to run his empire of illegal extortion from coal & iron pellet transportation. Without his concurrence, no NOC was issued by the district machinery. All this was made possible by the fact that he was in the good books of Mrs Saumya Chaurasia. Therefore, she has directly indulged in the offence of money laundering as defined under Section 3 PMLA, 2002 being actually involved in the process of money laundering by way of possession, concealment, use, acquisition and projecting the proceeds of crime as untainted property.

As per the findings of the investigation, it can be inferred that Saumya Chaurasia has directly acquired "proceeds of crime" as defined under Section 2(l)(u) PMLA, 2002 to an extent of more than Rs 30 crores. ED's investigation makes it evident that although all the money of extortion on coal & iron pellet transportation was collected by the syndicate of Suryakant Tiwari, he was not the final beneficiary of this scam. He did utilise large amounts of money for purchasing benami assets, but big chunks of the money were transferred to Saumya Chaurasia, spent on political funding and transferred as per the instructions of higher powers.



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Mr Manish Upadhyay, a relative of Mr Suryakant Tiwari, is a close associate of both Mrs Saumya Chaurasia & Mr Suryakant Tiwari. ED investigation has established that Mr Manish Upadhyay was inserted in as an extra layer of protection for cash dealings between Mr Suryakant Tiwari and Mrs Saumya Chaurasia. He used to transport cash from Mr Suryakant Tiwari to Mrs Saumya Chaurasia.

ED investigation has established that Mrs Saumya Chaurasia and her family went on a spree of acquiring immovable assets during the period which coincided with the coal levy scam. These assets of which she is the real beneficial owner were identified and attached by issuance of provisional attachment orders(s) as detailed in succeeding paragraphs.”

20. The evidence relating to strong relations between the appellant and Mr Suryakant Tiwari, between the appellant and Mr Manish Upadhyay, and between the appellant and Mr Anurag Chaurasia; the evidences of movement of funds acquired out of extortion syndicate run by Mr Suryakant Tiwari to Manish Upadhyay, proxy of the appellant; the utilisation of proceeds of crime and acquisition of properties by the appellant in the name of her mother Shanti Devi and cousin Mr Anurag Chaurasia along with the details of the said properties, etc. have been detailed in the said prosecution complaint, which leave no doubt in the mind of the Court that prima facie the appellant has been found involved in the commission of the offence of money laundering as defined in Section 3 of the said Act.

21. The next question that falls for consideration before the Court is whether the appellant being a woman should be granted the benefit of the first proviso to Section 45 PMLA, which reads as under:

“45. Offences to be cognizable and non-bailable.—(1)

** * **

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 own



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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: ...”

103. Moreover, it is pertinent to mention here that the word used in the proviso to Section 45 of the PMLA is ‘may’ which indicates that it is the discretion of the Court concerned and it is not a mandate. As observed by the Hon’ble Supreme Court in a catena of judgments, it is the discretion of the Court and all the other relevant factors are needed to be weighed in while adjudicating the bail application. The relevant factors include the gravity of the offence, likelihood of reoccurrence, criminal antecedents etc.

104. In view of the foregoing judgment, this Court holds that the applicant cannot claim the benefit of the monetary threshold exemption under the proviso to Section 45 of the PMLA even if the proceeds of crime alleged against the applicant is merely Rs. 7,45,000/-.

105. The entire scheme of laundering illicit funds, as uncovered by the investigation, extends far beyond the threshold of one crore rupees, and the applicant's role must be assessed in the broader context of the criminal conspiracy in which he actively participated.

106. It is evident that an entire syndicate with established network and properly defined roles exist and operates at different levels, which, when taken into consideration in entirety, clearly indicate that the proceeds of crime are more than Rs. 1 Crore, and thus, the proviso is not applicable in the present case.



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107. Now this Court shall decide as to whether the applicant satisfies the twin conditions of bail under Section 45 of the PMLA.

108. It is well settled, as reiterated by the Hon'ble Supreme Court in ***Vijay Madanlal Choudhary (Supra)*** and ***Manish Sisodia (Supra)***, 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.

109. In the present case, the respondent has placed on record material indicating the applicant's active involvement in the procurement and sale of spurious anti-cancer medicines, the proceeds of which were funneled through various channels, including formal banking and *hawala* transactions. The grounds of arrest, along with financial records and electronic evidence, establish a *prima facie* case of money laundering. The applicant's role in the laundering of illicit proceeds stands corroborated by the investigative findings, including statements under Section 50 of the PMLA and independent documentary evidence.

110. The applicant has failed to discharge the burden placed upon him under Section 45(1)(ii) of the PMLA which requires him to show that there are reasonable grounds for believing that he is not guilty of the offence. The material produced by the respondent, including financial transactions linked



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to the proceeds of crime and the applicant's own admissions, points to his direct and active involvement in the offence. Mere assertions that the applicant was a passive investor and was unaware of the illegality of the transactions do not satisfy the threshold required to overcome the presumption under the PMLA.

111. Further, the second limb of Section 45(1)(ii) of the PMLA, which mandates that the applicant must satisfy the Court that he is not likely to commit any offence while on bail, is also not met.

112. The nature of the offence in the instant case, involving a sophisticated network for the distribution of counterfeit medicines targeting vulnerable patients, demonstrates a potential for re-offending if bail is granted. The involvement of multiple entities and associates in the fraudulent scheme raises a genuine apprehension that the applicant, if released, may influence witnesses and tamper with evidence, thereby, jeopardizing the ongoing investigation.

113. In view of the facts and circumstances, this Court finds that the twin 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 and selling of spurious medicines syndicate indicate that the rigors of Section 45 of the PMLA continue to apply.

114. The present bail application has also been filed under 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



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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.

115. 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.

116. 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.

117. Applying the aforementioned 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.



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118. 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.

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

120. 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 obstruction of justice.

121. Thus, in addition to failing to fall under the proviso to Section 45 of the PMLA and 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 custody is warranted to ensure the integrity of the investigation and prevent any potential misuse of the judicial process.

122. At this stage, it is also pertinent to mention that during the course of arguments, it has been contended by the learned senior counsel for the applicant that several co-accused persons, who play a major role in the



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predicate offence, have been enlarged on bail in the predicate offence and thus, the instant applicant's bail plea may also be considered in light of the same.

123. However, this Court is unable to accept the contention put forth by the learned senior counsel for the applicant as it is a settled position of law that in order to grant bail to an accused under the PMLA, only the rigors of twin conditions of Section 45 of the PMLA are to be looked into primarily and only after satisfaction of the same, the Court may proceed to the other factors depending upon the type of crime committed.

124. In the present case, the applicant has not been charged for some minor offence that has simple economic ramifications, rather he has been charged for supplying and selling of spurious life saving anti-cancer medicines and that he is part of an established crime syndicate. This factual position does not satisfy the consciousness of this Court and there are considerable reasons to believe that there is likelihood that the applicant might commit offence while on bail as the applicant does not have clean criminal antecedents. Thus, the said argument stands rejected.

125. Having dealt with all the issues, this Court is of the view that considering the filing of the first supplementary prosecution complaint and the ongoing nature of the investigation, it 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 investigation, including financial records, electronic evidence, and statements of co-accused implicating the applicant. These materials suggest an active



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involvement in laundering proceeds of crime and a pattern of financial transactions that need further investigation.

126. 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 offence alleged herein. 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 and thus, this Court does not find any merit in the instant bail application.

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

128. 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.

129. 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



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with the matter uninfluenced by any observations made by this Court and shall decide the case strictly in accordance with law.

130. 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

Signature Not Verified

Digitally Signed
By: GAURAV SHARMA
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