GAHC010224182026

2026:GAU-AS:15987

IN THE GAUHATI HIGH COURT

(HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)

Bail Application No. 3190 of 2026

Sri Deepesh Bajoria, Son of Sri Lalit Kishor Bajoria, Resident of Zoo Road, Exoctica Greens, C Block 603, Guwahati, PoliceStation-Geetanagar, District:Kamrup (M), PIN-781024

.....Accused Applicant

Versus

Union of India, through the Directorate of Enforcement representedby its Assistant Director/Authorised Officer, Guwahati Zonal Office-I, 6th Floor, Mainaak Towers, G.S. Road, Christian Basti, Guwahati, PIN-781005

.....Respondent

Advocate for the petitioner : Mr. K. N. Choudhury, Sr. Advocate
: Mr. T. Deuri, Advocate

Advocate for the Respondent : Mr. Z. Hussain, Sr. Advocate
: Mr. P. Sarmah, Standing Counsel
: Mr. P. Tripathy, Advocate

- B E F O R E –
HON'BLE MR. JUSTICE ANJAN MONI KALITA

Date on which judgment was reserved : **15.10.2026**

Date of pronouncement of judgment : **02.11.2026**

Whether the pronouncement is of the operative part of the judgment? : **Yes**

Whether the full judgment has been pronounced? : **NA**

JUDGMENT & ORDER(CAV)

Heard Mr. K. N. Chowdhury, learned Senior Counsel assisted by Mr. T. Deuri, learned counsel for the accused applicant and Mr. Z. Hossain, learned Senior Counsel/Special Counsel for the Enforcement Department, assisted by Mr. P. Sarmah, learned Standing Counsel for the Enforcement Department.

2. This is an application under Section 483 of the BNSS, 2023 read with Sections 45 and 65 of the Prevention of Money-Laundering Act, 2002, praying for grant of bail to the accused applicant, *Deepesh Bajoria*, who was arrested on 19.09.2026 in connection with ECIR No. GWZO-I/06/2023 dated 30.03.2023, registered by the Directorate of Enforcement (herein after referred to as "the ED") under the provisions of the Prevention of Money-Laundering Act, 2002 (hereinafter referred to as "the PMLA").

3. The facts of the case are summarised herein below:

3.1. An FIR dated 11.10.2021 was lodged by Sub-Inspector *Anup Pratim Narah Mipun* before the Officer-in-Charge, Crime Branch Police Station, Panbazar, Guwahati alleging, *inter-alia*, that source information was received that betting and gambling were going on in various IPL cricket matches through mobile phones using various electronic platforms, like WhatsApp, Telegram and Instagram; that raids were conducted at the residences of *Lalit Kishor Bajoria* at Exotica Greens, C Block, Flat No. 603, Zoo Road, Guwahati, and *Rajesh Jain* at Amrit Residency, Kumarpara/KRC Road, Guwahati; that three (3) persons, namely, *Deepesh Bajoria, Ronak Bajoria and Rajesh Jain* were found to have invited bets by themselves and through their agents for the outcome of the cricket matches; that during the raids, four (4) nos. of Mobile phones, four (4) nos. of ATM cards used as instruments of betting were recovered and seized; that various exchanges of texts could be traced in the mobile phones inviting bets using passwords to keep them secret; that the usernames and passwords to access online betting website platform (www.skyexchange.com) were also found in the seized mobile phones; that during interrogation of the aforesaid three (3) apprehended persons, it was revealed that they have been betting through Whatsapp calling and various other means using codes; that nearby witnesses also stated that they were involved in illegal betting and destroying the young generation which impart negative impact in the

society; that they have siphoned off money from many innocent citizens by dishonestly inducing them by various dubious means in and around Guwahati City.

Upon receipt of the aforesaid FIR, the police registered Crime Branch P.S. Case No. 12/2021 under Sections 120-B/420 of the IPC read with Sections 13/14 of the Assam Game and Betting Act, 1970.

3.2. On the basis of the information relating to the aforesaid police case and the alleged commission of scheduled offences, the ED registered ECIR No. GWZO-I/06/2023 on 30.03.2023 to investigate the alleged generation of proceeds of crime and the commission of the offence of money laundering under the PMLA. The ECIR was registered before the submission of the Charge-sheet by police and the subsequent order of taking cognizance of the offences by the learned Magistrate [JMFC, Kamrup (M)].

3.3. Thereafter, Charge-sheet No. 02 dated 31.05.2024 was submitted against the accused applicant *(Deepesh Bajoria), Ronak Bajoria, Rajesh Jain, Bikash Beria and Nitin Beria*. Although Sections 120-B/420 of the Indian Penal Code, along with Sections 13/14 of the Assam Game and Betting Act, 1970, are mentioned in the heading of the Charge Sheet, its substantive conclusion refers to the offences only under the Assam Game and Betting Act, 1970. The learned JMFC, Kamrup(M) took cognizance of the

offence u/s 13 and 14 of the Assam Game and Betting Act, 1970 on 05.11.2024 in PRC No. 2625/2024 against *Deepesh Bajoria, Ronak Bajoria, Rajesh Jain, Bikash Beria and Nitin Beria*. Other accused persons, namely, *Ajay Agarwal, Amit Jain, Amit Rara, Mayank Patni @ Mayank Jain, Alok Jain, Anup Kumar Bothra, Anil Kumar Rathi, Praveen Kumar, Manoj Kumar Jain and Ashok Kumar Jain*, were released from the case for want of sufficient evidence against them.

3.4. By an addendum dated 30.03.2026 to the ECIR No. GWZO-I/06/2023, Tinsukia P.S. Case Nos. 568/2015 dated 30.04.2015 and 122/2024 dated 19.04.2024 were incorporated into the investigation under the PMLA. The materials relating to these cases refer to persons, including *Banti Choudhury, Bikash Beria, Rohit Agarwal, Deepak Agarwal, Gourab Garg, Bikash Goyal, Nitin Beria, Binit Berelia, Pankaj Agarwal, Suprit Biswas, Sarfaraj Ahmed and Nikhil Agarwal*, amongst others. By a further addendum dated 30.06.2026 to ECIR No. GWZO-I/06/2023, Panbazar P.S. FIR No. 106/2026 dated 01.06.2026 was also incorporated into the investigation under the PMLA.

3.5. On 26.05.2026, the ED conducted a search at the residence of the accused applicant. Documents relating to properties and vehicles, including a Mercedes-Benz GLE 450 4Matic AMG Line, bearing registration No. ML-10R-0009,

were examined and seized; and a master copy of electronic data, including emails and device data, was recovered and seized. Thestatements of persons concerned were recorded under Section 17 of the PMLA. The investigation allegedly disclosed substantial transactions through the ICICI Bank account of M/s DRM Coke, which recorded credits of approximately Rs.28.12 crore and debits of approximately Rs.28.03 crore between 19.04.2022 and 15.05.2026, although the firm was stated not to have been operational. The accused applicant described the transactions as unsecured loans but did not furnish any supporting documents, while *Ronak Bajoria,* brother and partner of the aforesaid, M/s DRM Coke, stated that the business had not been carried on owing to adverse government policies.

3.6. The investigation further revealed transfers of Rs.5,51,68,657/- from *Marwet Petroleum to M/s DRM Coke* between 17.02.2026 and 26.03.2026, out of which Rs.50 lakh was returned on 23.03.2026. In his statement recorded under Section 50 of the PMLA on 29.05.2026, *Bimal Kumar Sarawgi* of *Marwet Petroleum* allegedly stated that the accused applicant had approached him for funds to be used in IPL betting and had promised good returns or commission. However, he stated that neither the principal amount nor any returns were paid to him by *Deepesh Bajoria*. He also stated that on instructions of *Deepesh Bajoria*, he had transferred Re. 75 lakhs to M/s.

Genil Projects LLP, Rs.1 crore to *Thakkar Minaxiben Jaydeep Kumar* and Rs.50 lakh to *M/s Nandivan Warehouse LLP* on the instructions of *Deepesh Bajoria.* The aggregate amount stated to have been transferred to *M/s DRM Coke* and other entities was Rs.7,76,68,657/-, out of which only Rs.50 lakh was returned. The accused applicant explained that the transactions involving *M/s DRM Coke* represented loans carrying an expected return of 16% to 20% and offered certain similar explanations for the other transfers as well.

3.7. The investigation also revealed transactions involving *Rishab Fulfagar*, who allegedly invested approximately Rs.10 crores to Rs.11 crores in *M/s DRM Coke* and money was transferred to the bank account of *M/s DRM Coke*as well asin the personal bank account of the accused applicant without any formal documentation. It was further alleged that, after the search conducted on 26.05.2026, an attempt was made on 29.05.2026 to prepare a backdated loan agreement through *Ronak Bajoria*. The accused applicant stated that he had known *Rishab Fulfagar* for approximately 10 to 12 years and that they had engaged in mutual financial dealings. He further stated that he knew *M/s Genil Projects LLP, Nandivan Warehousing LLP and M/s Genil Barter LLP* through one *Pramod Kumar Baid* and had arranged approximately Rs.2.25 crore at *Mr. Baid's* request without knowing the owners or the nature

of the businesses concerned. He also explained that Rs.1 crore was transferred to *Minaxiben Jaydeep Kumar Thakkar* at the request of *Pintu Soni* through *Bimal Kumar Sarawgi*.

3.8. *Mr. Rahul Das*, a partner of M/s Pure Spirit, allegedly stated that the accused applicant and *Ronak Bajoria* had invested Rs. 2 crores in Roycee Club, Guwahati, formerly known as Playboy and Rs.2.20 crores in a club in Kolkata. The investigation also revealed allegations of a connection with a bookie based in Delhi and the generation of seasonal income from betting activities. *Alok Jain,* an accused in the FIR no.0106 dated 01.06.2026, allegedly stated that he had been involved in betting activities for five to six years. The investigation further revealed the alleged acquisition of a luxury bungalow at Club Nirvana, Sonapur and a proposed acquisition of a tea garden by the accused applicant. The accused applicant explained that certain properties belonged to his wife, *Mridula Bajoria*, that the property at Exotica Greens belonged to his late father, *Lalit Kishor Bajoria*, and that a plot at Jorhat was associated with his brother's wife. He denied having any property in Meghalaya.

3.9. The digital evidence collected during the investigation allegedly contains WhatsApp communications exchanged between January and May 2026 concerning IPL betting, including matches involving Mumbai Indians and

Hyderabad, and references to the platform winner 7.io. The materials also refer to a Sri Lankan Baccarat operation in which the accused applicant allegedly had a 33% share along with persons identified as "Vikash" and "Jugal" though the deal seemed to have been cancelled later. Certain chats allegedly refer to *Ronak Bajoria* having a 70% share in a syndicate. A worksheet contains the entry *"NEED TO PAY DIPESH SIR 158531"*, while other communications refer to a loss of approximately Rs. 2.8 crores in one event and to a person identified as *"Happy"* in connection with settlement of betting accounts.

3.10. The investigation also revealed materials concerning NELC, Meghalaya and an SBI account at Laitumkhrah, Shillong, associated with Joanne June Sohtun. The materials refer to a cash entry of Rs.24 lakhs dated 06.03.2026 in the accounts of *B.R. Infrastructures and Projects* and an image of an ICICI Bank cheque. A GST invoice issued by *Disha Unitech* for Rs.3.79 lakh to Sapphire House, stated to be situated adjacent to a casino event, was also recovered. The call detail records allegedly disclose frequent communications between the accused applicant and persons considered material witnesses or persons under investigation. These communications were cited as giving rise to concerns regarding possible influence over witnesses and coordination of accounts.

3.11. The accused applicant was arrested on 19.09.2026 under Section 19(1) of the PMLA. The Reasons to Believe for arrest was handed over to the accused applicant on 19.09.2026 itself. The allegations against him concern the generation, acquisition, possession, concealment, layering, transfer and use of proceeds of crime, as well as the alleged projection of such proceeds as untainted property. His custodial interrogation was stated to be necessary for the investigation.

3.12. Tinsukia P.S. Case No. 568/2015 was registered in connection with allegations under Sections 120-B/294-A/420 of the IPC. Charge Sheet No. 128 dated 20.04.2022 was submitted and charges were framed on 02.04.2024 in PRC No. 1040/2023 against *Bikash Beria, Nitin Beria* and others. Tinsukia P.S. Case No. 122/2024 concerns allegations under Sections 120-B/406/420 of the IPC. Cash amounting to Rs.83,64,830/- was seized, including Rs.10,76,300/- from *Bikash Beria* and Rs.8,50,000/- from *Nitin Beria*. Panbazar P.S. FIR No. 106/2026 was also under investigation against *Alok Jain* and others.

3.13. In his statement recorded under Section 50 of the PMLA on 20.09.2026, the accused applicant allegedly stated that he collected cash bets and passed the amounts to bookies, retaining 10% of the losing amount. He also referred to *Alok Jain* as a person involved in IPL betting activities. The digital materials allegedly contain chats

referring to losses of Rs.2,51,000/- and Rs.1,96,000/-, and the statement includes the words, *"I was doing the betting under Alok Jain"*. *Alok Jain's* statements dated 12.07.2026 and 21.07.2026 allegedly refer to the involvement of the accused applicant and *Ronak Bajoria* in betting activities for five to six years. Certain chats also refer to *Bikash Beria and Nitin Beria*. The accused applicant, however, described *Alok Jain* as a friend and referred to their association in poker activities.

3.14. The learned Special Judge, Assam, CBI, Additional Court No. 3, Chandmari, Guwahati, rejected the accused applicant's bail application by order dated 01.10.2026 in Bail Petition No. 1120/2026, filed on 25.09.2026, along with the connected Rejoinder No. 1135/2026, filed on 28.09.2026. The order considered Section 45 of the PMLA, the statements recorded under section 50 of the PMLA, 2002 and materials placed before the Court.

4. Being aggrieved by the rejection of his bail application by the learned Special Judge, Assam, CBI, Additional Court No. 3, Chandmari, Guwahati, vide order dated 01.10.2026, the accused applicant has preferred the present application seeking grant of bail.

5. Mr. K. N. Choudhury, learned Senior Counsel for the accused applicant, submits that the prosecution under the PMLA in the instant case is founded upon the allegations that the accused

applicant was involved in betting activities and had dealt with the funds allegedly generated from such activities. He submits that, for an offence under Section 3 of the PMLA to be attracted, the properties in question must constitute *"proceeds of crime"* within the meaning of Section 2(1)(u) of the PMLA, i.e., properties derived or obtained, directly or indirectly, as a result of criminal activities relating to a scheduled offence. Learned Senior Counsel submits that the existence of financial transactions, substantial deposits or withdrawals or dealings with different entities cannot, by themselves, dispense with the statutory requirement of establishing the requisite connection with criminal activities relating to a scheduled offence.

6. Mr. Choudhury, learned Senior Counsel has placed reliance upon the decision of the Hon'ble Supreme Court in ***Vijay Madanlal Choudhary and Others v. Union of India and Others***, reported in ***(2023) 12 SCC 1***, wherein the Hon'ble Supreme Court explained the scope of the expression *"proceeds of crime"* and the essential ingredients of the offence of money-laundering under Section 3 of the PMLA. It is submitted that the existence of criminal activities relating to a scheduled offence is a prerequisite for treating any property as proceeds of crime. Learned Senior Counsel, therefore, submits that the allegations concerning the bank accounts of *M/s DRM Coke*, *Marwet Petroleum* and other entities as well as the transfers allegedly made to different persons and entities, must be examined in the light of the aforesaid statutory requirements. The mere magnitude

of the transactions or the alleged absence of supporting documents, according to learned Senior Counsel, would not by itself establish that the funds constitute "*proceeds of crime*".

7. Mr. Choudhury, learned Senior Counsel submits that in the present case, although Sections 120-B and 420 IPC are mentioned in the heading of Charge Sheet No. 02 dated 31.05.2024, the substantive portion of the Charge Sheet as well as the order dated 05.11.2024 taking cognizance in PRC No. 2625/2024, refers to Sections 13 and 14 of the Assam Game and Betting Act, 1970 only. He submits that the remaining three FIRs neither name the accused applicant as an accused nor there are any allegations against him. He submits that since there is no predicate offence pending against the accused applicant, no proceeding under the PMLA could be initiated against him and therefore, his detention under the PMLA is illegal requiring him to be released at once. He submits that Charge Sheet has been submitted only under section 13 and 14 of the Assam Game and Betting Act, 1970 which are not scheduled offences under the PMLA. Mr. Choudhury, learned Senior Counsel further relies upon the decision of the Hon'ble Supreme Court in ***Pavana Dibbur vs. Directorate of Enforcement***, reported in ***(2023) 15 SCC 91***. He submits that the Hon'ble Supreme Court while relying on the decision in the case of ***Vijay Madanlal Choudhury (Supra)*** wherein the Hon'ble Supreme Court held that in the event the person named in the criminal activity relating to a scheduled offence is finally absolved by a court of competent jurisdiction owing to an order of

discharge, acquittal or because of quashing of the criminal case (scheduled offence) against him/her, there can be no action for money laundering against such person or person claiming through him in relation to the property linked to the stated scheduled offence. He submits that since the accused applicant has been cleared of any scheduled offence after investigation by the Police by filing the aforesaid Charge Sheet dated 31.05.2024, no proceeding under the PMLA could be sustained against the accused applicant.

8. Mr. Choudhury, learned Senior Counsel, further submits that the accused applicant's name does not appear in the addendum dated 30.03.2026 referred to in the prosecution materials. It is contended that the subsequent incorporation of other police cases, namely, Tinsukia Police Station Case Nos. 568/2015, 122/2024 and Panbazar Police Station Case No. 106/2026, cannot, merely by reason of their inclusion in the investigation, establish the involvement of the accused applicant in the commission of the alleged offence of money-laundering. Learned Senior Counsel submits that the prosecution must demonstrate the connection between the accused applicant, the alleged criminal activity relating to a scheduled offence and the property alleged to constitute proceeds of crime. The accused applicant's liability, it is submitted, cannot be inferred merely from the existence of other cases or the involvement of other persons in the alleged betting activities.Mr. Choudhury, learned Senior Counsel submits that the statements recorded under Section 50 of the PMLA and relied

upon by the ED must be considered in their proper evidentiary context. He submits that the statements recorded during the custody of the accused applicant are confessional statements having no evidentiary value and the same are non-admissible being hit by Article 20 (3) of the Constitution of India and Section 23 of the BSA, 2023. He further submits that statements of the so called co-accused under section 50 of PMLA cannot be a basis to start a proceeding under the PMLA against the accused applicant in the instant case. In this regard, he has referred to the decision of the Hon'ble Supreme Court in ***Prem Prakash vs. Union of India through the Directorate of Enforcement***, reported in ***(2024) 9 SCC 787*** wherein the Hon'ble Supreme Court held that the statement of an accused if to be considered as incriminating against the maker, the same will be hit by section 25 of the Evidence Act (section 23 of BSA) since he has given the statement while in judicial custody.

9. Mr. Choudhury, learned Senior Counsel submits that the twin conditions under Section 45 of the PMLA must be applied consistently with the constitutional protection of personal liberty under Article 21 of the Constitution of India. Learned Senior Counsel, therefore, submits that the application for bail must be considered on the basis of the materials available on record, the nature of the allegations and the statutory requirements governing the offence and not merely on the basis of the seriousness of the allegations. In view of the aforesaid submissions, Mr. Choudhury,

learned Senior Counsel for the accused applicant, prays that the accused applicant be enlarged on bail.

10. Mr. Z. Hossain, learned Senior Counsel for the Enforcement Department, opposes the prayer for bail and submits that the present application proceeds on an incorrect interpretation of the provisions of PMLA and fails to appreciate the materials collected during investigation. It is submitted that the ECIR bearing No. ECIR/GWZO-I/06/2023 dated 30.03.2023 was registered on the basis of Crime Branch Police Station Case No. 12/2021 dated 11.10.2021, registered under Sections 120-B and 420 of the IPC read with Sections 13 and 14 of the Assam Game and Betting Act, 1970. He submits that the investigation has disclosed an organised betting syndicate operating through mobile phones and online platforms, involving principal operators, bookies, sub-bookies, agents and that the investigation has revealed the alleged movement and layering of funds through several bank accounts and business entities.

11. Learned Senior Counsel submits that the investigation also concerns other predicate offences, including Tinsukia Police Station Case Nos. 568/2015 and 122/2024 and Panbazar Police Station Case No. 106/2026. It is submitted that the ECIR was supplemented by an addendum dated 30.03.2026 incorporating the additional cases and that the subsequent FIR registered at Panbazar Police Station was also incorporated into the investigation by an addendum dated 30.06.2026. He submits that the investigation relates to connected allegations of illegal IPL

betting and the movement of funds and the materials pertaining to the different cases must be considered together. It is further submitted that the accused applicant's contention that he is not named in a particular addendum does not, by itself, negate the materials collected against him in the course of the investigation.

12. In response to the contention that no scheduled offence exists in the present case, learned Senior Counsel submits that Charge Sheet No. 02 dated 31.05.2024 in Crime Branch Police Station Case No. 12/2021 was submitted under Sections 120-B and 420 IPC read with Sections 13 and 14 of the Assam Game and Betting Act, 1970. It is submitted that, although cognizance was taken by the learned JMFC, Kamrup (M), on 05.11.2024 under Sections 13 and 14 of the Assam Game and Betting Act, the Charge Sheet also refers to Sections 120-B and 420 IPC and neither charge has been framed nor has the accused applicant been discharged from those allegations. He, therefore, submits that the accused applicant's contention that no scheduled offence exists cannot be accepted merely by referring to the provisions mentioned in the order taking cognizance, without examining the complete Charge Sheet and the status of the predicate proceedings.

13. Mr. Hossain, learned Senior Counsel relies upon the decision of the Hon'ble Supreme Court in ***Vijay Madanlal Choudhary and Others vs. Union of India and Others*, 2022 SCC OnLine SC 929**, in support of the submissions relating to the scope of the offence of money-laundering and the statutory

requirements governing the grant of bail under Section 45 of the PMLA. It is submitted that the offence under Section 3 of the PMLA encompasses the processes and activities connected with proceeds of crime, including their concealment, possession, acquisition, use, projection as untainted property or claiming them as untainted property. He submits that the ED has not relied merely upon the existence of financial transactions but upon the alleged pattern of transactions, statements recorded during investigation, electronic communications and documents recovered during searches. He submits that the materials collected disclose a *prima facie* case of money-laundering and must be considered cumulatively.

14. Learned Senior Counsel submits that the twin conditions prescribed under Section 45 of the PMLA must be satisfied before the accused applicant can be enlarged on bail. Reliance is placed upon ***Vijay Madanlal Choudhary and Others v. Union of India and Others, 2022 SCC OnLine SC 929; Union of India through the Assistant Director v. Kanhaiya Prasad, 2025 SCC OnLine SC 306; Saumya Chaurasia v. Directorate of Enforcement, 2023 SCC OnLine SC 1674; Tarun Kumar v. Directorate of Enforcement, 2023 SCC OnLine SC 1486; and Gautam Kundu v. Directorate of Enforcement (Prevention of Money-Laundering Act), Government of India through Manoj Kumar, Assistant Director, Eastern Region, (2015) 16 SCC 1***. Learned Senior Counsel further relies upon ***Ram Niwas Surjakhera alias Ram Niwas v. Directorate of***

Enforcement, CRM-M-55190-2025, in support of the contention that the statutory conditions governing the grant of bail under Section 45 of the PMLA require consideration. It is submitted that the accused applicant must satisfy the requirements prescribed under the said provision.

15. With regard to the evidentiary value of statements recorded under Section 50 of the PMLA, learned Senior Counsel submits that such statements are admissible in evidence and constitute material relevant to the investigation of the alleged offence of money-laundering. Reliance is placed upon ***Tarun Kumar v. Directorate of Enforcement, 2023 SCC OnLine SC 1486; Satender Kumar Jain v. Directorate of Enforcement, 2024 INSC 217; Rohit Tandon v. Directorate of Enforcement, (2018) 11 SCC 46; and Amanatullah Khan v. Directorate of Enforcement, 2024 SCC OnLine Del 1658.***

16. Mr. Hossain, learned Senior Counsel submits that the incorporation of additional FIRs into the ECIR and the continuation of the investigation are permissible in law. In this regard, reliance is placed upon ***Dharam Singh Chokker and Another v. Directorate of Enforcement, CRM-M-37710-2023, and Arvind Walia v. Directorate of Enforcement and Another, CRWP No. 8667 of 2025***. He submits that three (3) FIRs incorporated in the ECIR bearing No. ECIR/GWZO-I/06/2023 dated 30.03.2023 are still alive wherein chargesheets have been submitted in two against the accused persons. Learned Senior

Counsel further submits that the bank transactions, statements recorded under Section 50 of the PMLA, electronic communications and property-related materials collected during investigation are required to be considered cumulatively.

17. In view of the nature of the allegations, the materials collected during investigation and the statutory requirements under Section 45 of the PMLA, learned Senior Counsel prays that the bail application be dismissed.

18. I have heard the submissions advanced by the learned counsel appearing for the respective parties, considered the cases relied upon and have carefully perused the materials available on record.

19. The case of the accused applicant, in substance, is that the allegations levelled against him do not satisfy the essential ingredients of the offence of PMLA. It is contended that the Charge Sheet filed in the predicate case and the order taking cognizance thereon relate to offences under Sections 13 and 14 of the Assam Game and Betting Act, 1970 and that the mere reference to Sections 120-B and 420 of the IPC in the heading of the Charge Sheet would not, by itself, establish the existence of a scheduled offence for the purpose of the PMLA. The accused applicant has further contended that his name does not find any place in the addendum to the ECIR dated 30.03.2026 and that the subsequent inclusion of other police cases does not establish his involvement in the alleged offence of money laundering.

20. In the case of ***Vijay Madanlal Choudhary (Supra)***, the Hon'ble Supreme Court while referring to the Preamble to the PMLA, 2002 has emphasized the fact that the Act has been enacted to prevent money laundering and to provide for confiscation of property derived from or involved in money laundering and for matters connected therewith or incidental thereto. It further underscores that it is an amalgam of several facets essential to address the scourge of money laundering as such. It is a *sui generis* legislation, meaning thereby that the legislation is a standalone type of legislation covering special offence of money laundering. However, under the scheme of the Act, the power to investigate under the Act has not been vested in the Police rather the same has been given to an officer as authorized by the Central Government under section 48 of the PMLA. Under the PMLA, a scheduled offence is a *sina qua non* for a proceeding under the PMLA. This pre-condition is the most important fact which requires consideration for initiating a proceeding under the PMLA. I shall consider this aspect later in the context of the instant case.

21. As far as applicability of twin conditions under section 45 (1) of the PMLA is concerned, the same has already been settled in the case of ***Vijay Madanlal Choudhary (Supra)***, wherein the Hon'ble Supreme Court held that the provision in the form of Section 45 of the PMLA is reasonable and has direct nexus with the purposes and objects sought to be achieved by the PMLA to combat the menace of money-laundering having trans-national

consequences, including impacting the financial systems and sovereignty and integrity of the countries. The Hon'ble Supreme Court at paragraph 412 of the aforesaid judgement has held as follows:

> *"As a result, we have no hesitation in observing that in whatever form the relief is couched including the nature of proceedings, be it under Section 438 of the 1973 Code or for that matter, by invoking the jurisdiction of the Constitutional Court, the underlying principles and rigors of Section 45 of the 2002 must come into play and without exception ought to be reckoned to uphold the objectives of the 2002 Act, which is a special legislation providing for stringent regulatory measures for combating the menace of money laundering."*

A similar view has been taken by the Hon'ble Supreme Court in the case of ***Union of India through the Assistant Director Vs. Kanhaiya Prasad***, reported in ***2025 SCC OnLine 306***, wherein the Hon'ble Supreme Court held as follows:

> *"12. It is well settled position of law that Section 45 of the PMLA starting with a non-obstante clause has an overriding effect on the general provisions of the Code of Criminal Procedure in case of conflict between them. Section 45 imposes two conditions for the grant of bail to any person, accused of an offence punishable for a term of imprisonment of more than 3 years under Part A*

of the Schedule. The two conditions are that (i) the prosecutor must be given an opportunity to oppose the application for bail; and (ii) the Court must be satisfied that there are reasonable grounds for believing that the accused person is not guilty of such offence and that he is not liable to commit any offence while on bail. As well settled, these two conditions are mandatory in nature and they need to be complied with before the accused person is released on bail.

****

21. As well settled, the offence of money laundering is not an ordinary offence. The PMLA has been enacted to deal with the subject of money laundering activities having transnational impact on financial systems including sovereignty and integrity of the countries. The offence of money laundering has been regarded as an aggravated form of crime world over and the offenders involved in the activity connected with the Proceeds of Crime are treated as a separate class from ordinary criminals. Any casual or cursory approach by the Courts while considering the bail application of the offender involved in the offence of money laundering and granting him bail by passing cryptic orders without considering the seriousness of the crime and without considering the rigours of Section 45, cannot be vindicated."

In view of the aforesaid position as settled by the Hon'ble Supreme Court, I do not want to delve more into the issue of applicability of rigors of section 45 of the PMLA, 2002. There is no exception to the applicability of twin conditions under section 45 of PMLA in consideration of a bail prayer.

22. In the instant case, though Charge Sheet has been filed and cognizance has been taken in Crime Branch P.S. Case No. 12/2021 wherein, cognizance has been taken only under section 13 and 14 of the Assam Game and Betting Act, 1970, which are not "scheduled offence" under the PMLA, three (3) more FIRs have been added by the EDin ECIR No. GWZO-I/06/2023 on 30.03.2023 and 30.06.2026 respectively. By an addendum dated 30.03.2026, Tinsukia P.S. Case Nos. 568/2015 and 122/2024 were incorporated into the investigation under the PMLA. By a further addendum dated 30.06.2026, Panbazar P.S. FIR No. 106/2026 dated 01.06.2026 was also incorporated into the investigation. It may be relevant herein to provide the respective status of the aforesaid four (4) cases. They are as follows:

(a) In FIR No. 12/2021, Charge Sheet No. 02 dated 31.05.2024 was submitted under Sections 120-B and 420 IPC read with Section 13 and 14 of the Assam Game and Betting Act, 1970 in the form of the FIR, but in the detailed portion, no mention of Sections 120-B and 420 of IPC. It mentioned only Sections 13 and 14 of the Assam Game and Betting Act, 1970. Subsequently, cognizance has also been taken by the JMFC, Kamrup (M) under Sections 13 and 14 of

the Assam Game and Betting Act, 1970. No charge has yet been framed.

(b) In FIR No. 568/2015, Charge Sheet No. 128 dated 20.04.22 was submitted under Sections 120-B/294A/420 IPC and charges were framed on 02.04.2024 in PRC No. 1040/2023 before the leaned CJM, Tinsukia under Sections 120-B/294A/420/34 IPC against Nine (9) persons including Bikash Beria and Nitin Beria, who are co-accused of the accused applicant in FIR No. 12/ 2021.

(c) In FIR No. 122/2024 under Sections 120-B/406/420 IPC, no Chargesheet has been filed as yet.

(d) FIR No 106/2026 filed in Panbazar Police Station stands registered as PRC No. 2768/2026 against nine (9) accused persons, including Alok Jain before the learned ACJM No. 3, Kamrup (M). Section 318(2) of BNS, 2023 was added by the order of the learned CJM dated 16.06.2026.

23. From the above, it is seen that three (3) FIRs which have been subsequently incorporated in ECIR No. GWZO-I/06/2023, scheduled offences are still alive there. However, the question arises as to how the accused applicant is concerned with those FIRs as the accused applicant has not been named in any of the aforesaid three (3) FIRs and whether the FIRs are inter-linked and connected.

24. It is seen that in his statements recorded under Section 50 of the PMLA on 20.09.2026, the accused applicant stated that he collected cash bets and passed the amounts to bookies, retaining 10% of the losing amount. He also named *Alok Jain* amongst the bookies under whom he conducted the betting activities during 2021. The digital materials allegedly contain chats referring to losses of Rs.2,51,000/- and Rs.1,96,000/-, and the statement includes the words, *"I was doing the betting under Alok Jain"*. *Alok Jain's* statements dated 12.07.2026 and 21.07.2026 allegedly refer to the involvement of the accused applicant and *Ronak Bajoria* in betting activities for five to six years. Certain chats also refer to *Bikash Beria and Nitin Beria*. It is seen that the recovered materials including the whatsapp chats reveal business connections between the accused applicant and *Alok Jain*, the main accused in FIR No 106/2026 filed in Panbazar Police Station. From the statements under Section 50 of the PMLA of the accused applicant and *Alok Jain,* it is clear that the accused applicant and *Alok Jain* knew each other and both were involved in game and betting activities during the IPL matches. It is also seen that the accused applicant was carrying on betting activities under *Alok Jain.*

25. Now, the question arises as to whether statements made by an accused person under section 50 of PMLA are admissible in evidence or not.

Article 20(3) of the Constitution of India provides that no person accused of any offence shall be compelled to be a witness against himself.This constitutional safeguard is imbedded in the Latin legal maxim "*nemo teneturprodereaccusaseipsum*", which means that no man is bound to accuse himself. However, the protection granted under Article 20(3) is conditioned upon certain facts as have been held by the Hon'ble Supreme Court in catena of decisions. To claim protection under Article 20(3), three mandatory conditions must be fulfilled simultaneously. **Firstly,** the person must stand formally as an accused of a crime at the time of making the statement. Meaning thereby, the person making the statement has to be named in an FIR or a formal complaint lodged. **Secondly**, the factor of compulsion, i.e., there must be presence of physical or mental force, duress, or coercion to extract information. **Thirdly**,the statement or information must explicitly be self-incriminating to the accused person.

Similarly, **Section 23** of the BSA (formerly Section 25 and 26 of the Evidence Act) lays down a strict bar that no confession made to a police officer, or by any person while in police custody, shall be proved against him. This means that if the incriminatory statement was made to a police officer while in custody, it is completely inadmissible and cannot be used against the maker or even the co-accused person. Therefore, the aforesaid two provisions provide a much-required shield to an accused person if he makes a self-incriminating statement before the Police. Article 20(3) of the Constitution of India provides the fundamental right

against self-incriminating statement whereas Section 23 of the BSA (Section 25 of Evidence Act) grants the evidentiary bar to enforce the protection under Article 20(3) of the Constitution in the criminal procedure.

26. Adding to the aforesaid, another important question arises as to whether the aforesaid protections under Article 20(3) of the Constitution of India and Section 23 of BSA will be similarly applicable to statements made by an accused person under section 50 of the PMLA since in the case of ***Vijay Madanlal Choudhary (Supra)***, the Hon'ble Supreme Court held that the authorities under PMLA are not police officers. In this regard, the Hon'ble Supreme Court in the case of ***Prem Prakash (Supra)*** had a detailed discussion in that regard considering the principles and law laid down in the case of ***Vijay Madanlal Choudhary (Supra)*** and has come to the following findings:

> *"33. In the facts of the present case, we hold that the statement of the appellant if to be considered as incriminatingagainst the maker, will be hit by section 25 of the Evidence Act since he has given the statement whilst in judicial custody, pursuant to another proceeding instituted by the same investigating agency. Taken as he was from the judicial custody to record the statement, it will be a travesty of justice to render the statement admissible against the appellant."*

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

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

From the above, it is clear that the Hon'ble Supreme Court after taking into account the Scheme of Section 50 of the PMLA has come to the finding that if an accused person is under judicial

custody or ED custody, his confessional statements recorded under section 50 of the PMLA made before the authorities under PMLA will be hit by Article 20(3) of the Constitution of India as well as the same shall be hit by Section 23 of BSA.

27. As far as the issue of admissibility of the statements of the co-accused persons under section 50 of PMLA are concerned, it has been held by the Hon'ble Supreme Court in the case of ***Prem Prakash (Supra)*** that the law laid down under section 30 (section 24 of BSA) of the Evidence Act by the Hon'ble Supreme Court while dealing with the confession of the co-accused will continue to apply. In this connection, the observation of the Hon'ble Supreme Court in the case of ***Prem Prakash (Supra)*** being relevant are extracted herein below:

> *"We hold that, in such a situation, the law laid down under Section 30 of the Evidence Act by this Court while dealing with the confession of the co-accused will continue to apply. In* ***Kashmira Singh vs. State of Madhya Pradesh, [1952] 1 SCC 275****, this Court neatly summarized the principle as under:*
>
> > *"11. …… The proper way to approach a case of this kind is, first, to marshal the evidence against the accused excluding the confession altogether from consideration and see whether, if it is believed, a conviction could safely be based on it. If it is capable of belief independently of the*

confession, then of course it is not necessary to call the confession in aid. But cases may arise where the judge is not prepared to act on the other evidence as it stands even though, if believed, it would be sufficient to sustain a conviction. In such an event the judge may call in aid the confession and use it to lend assurance to the other evidence and thus fortify himself in believing what without the aid of the confession he would not be prepared to accept."

Therefore, in a given case, the investigating agency is required to gather evidences independent of the statement of the co-accused first and then to look into the evidence of the co-accused to lend assurance to other evidence. A statement made by a co-accused under section 50 of the PMLA can only be used as a corroborative piece of evidence, not as primary or substantive evidence to prove guilt independently. It means that the prosecution authority cannot start its case against an accused person primarily based on the confession or incriminating statement of a co-accused.

28. Coming back to the facts of the instant case, it is seen that an FIR No. 12/2021 dated 11.10.2021 was lodged alleging illegal betting in IPL cricket matches through electronic platforms, including WhatsApp, Telegram and Instagram against the accused applicant and others. On the basis of the information relating to the aforesaid police case and the alleged commission of scheduled

offences, the ED registered ECIR No. GWZO-I/06/2023 on 30.03.2023 to investigate the alleged generation of proceeds of crime and the commission of the offence of money laundering under the PMLA. Thereafter, Charge Sheet No. 02 dated 31.05.2024 was submitted against the accused applicant and other persons, namely, *Ronak Bajoria, Rajesh Jain, Bikash Beria and Nitin Beria*. Although Sections 120-B/420 of the Indian Penal Code, along with Sections 13/14 of the Assam Game and Betting Act, 1970, are mentioned in the heading of the Charge Sheet, its substantive conclusion refers to the offences under the Assam Game and Betting Act, 1970. The learned JMFC, Kamrup (M) took cognizance of the offences on 05.11.2024 in PRC No. 2625/2024 under sections 13/14 of the Assam Game and Betting Act, 1970. Therefore, as on today, there is no scheduled offence pending against the accused applicant in terms of the aforesaid Charge Sheet as well as the cognizance order of the learned JMFC in respect of the aforesaid FIR No. 12/2021 dated 11.10.2021. Therefore, the foundational ground of initiating the PMLA proceeding against the accused applicant is missing in the instant case as there is no scheduled offence pending against the accused applicant in view of the filing of the Charge Sheet and the subsequent cognizance order as far as the FIR No. 12/2021 dated 11.10.2021 is concerned. The Hon'ble Supreme Court in the case of ***Vijay Manadnlal Choudhary (Supra)***, observed as follows:

"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 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.

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."

(Empasis Supplied)

29. In the instant case, ED has filed an Affidavit-in-opposition to oppose the bail application of the accused applicant and relied heavily on the statements of the accused applicant, other accused persons in other three FIRs where the accused applicant is not named as an accused and some of the witnesses. Since Charge Sheet has already been filed in the FIR No. 12/2021 dated 11.10.2021 and cognizance has been taken under non-scheduled offences, the statements recorded by ED under the aforesaid FIR

No. 12/2021 will not carry any value as no scheduled offence is pending against the accused applicant. Though the ED has relied upon the confessional statements of the accused applicant recorded under Section 50 of PMLA, the same will have no evidentiary value at this stage due to their inadmissibility, as discussed above. The statement of *Bimal Kumar Sarawagi* was recorded by the ED under section 50 of the PMLA on 29.05.2026 whereas the statement of *Rishab Fulfagar* was recorded on 16.09.2026. Charge Sheet No. 02 in the FIR was submitted 31.05.2024 clearing the accused applicant of any charge against any scheduled offence under PMLA. Therefore, those statements wherein though there are certain facts about investments made by the above two persons in the IPL betting run by the accused applicant are present, the same became irrelevant due to the Charge Sheet filed by the police and subsequent cognizance order passed by the learned JMFC, Kamrup (M). This is due to the fact the proceeding by ED under PMLA itself becomes invalid due to non-existence of any scheduled offence against the accused applicant as regards the FIR No. No. 12/2021 is concerned.

30. The ED has contended that three (3) live FIRs are still there in the same ED registered ECIR No. GWZO-I/06/2023 dated 30.03.2023. Arguments have been made to the effect that if it is taken that no predicate offence has been found in FIR No. 12/2021, the other three (3) remaining FIRs are still in existence wherein predicate offences are present and since, the whole crime has been allegedly committed by a syndicate, of which the

accused applicant is also a party, bail should not be granted to the accused applicant at this stage. Primary reliance has been placed by the ED on the statements of other accused persons in the other FIRs as well as statements of two witnesses under section 50 of the PMLA before the authorities of ED under the PMLA.

31. This Court has minutely examined the FIRs, the Charge Sheets and the statements made by the accused persons in the other FIRs under section 50 of PMLA, brought on record in the Affidavit-in-Opposition filed by the ED in the instant bail application. Status of the remaining three FIRs have already been discussed above.

In FIR No. 568/2015, Charge Sheet No. 128 dated 20.04.22 was submitted under Sections 120-B/294A/420 IPC and charges were framed on 02.04.2024 in PRC No. 1040/2023 before the leaned CJM, Tinsukia under Sections 120-B/294A/420/34 IPC against Nine (9) persons including Bikash Beria and Nitin Beria, who are co-accused of the accused applicant in FIR No. 12/ 2021. There are no allegations, whatsoever, are present either in the FIR or in the Charge Sheet filed in the FIR No. 568/2015 (PRC No. 1040/2023) before the CJM, Tinsukia.

In FIR No. 122/2024 under Sections 120-B/406/420 IPC, no Charge Sheet has been filed as yet. In this case, one Suprit Biswas was found involved in betting and gaming activities during IPL and on the basis of statements of accused and other witnesses, various materials including bank passbooks, account details of other co-

accused persons as well as persons linked with the aforesaid activities were seized. Statements of witnesses and accused persons have been recorded by police. However, none of the statements reveal the name of the accused applicant to be involved in any of the offences charged in the FIR. No materials could also be placed by the ED to show any prima facie involvement of the accused applicant in the FIR as on today. No record is produced before this court regarding any prima-facie involvement of the accused applicant in any proceeds of the crime till date.

The ED has heavily relied on the fourth FIR. FIR No 106/2026 filed in Panbazar Police Station stands registered as PRC No. 2768/2026 against nine (9) accused persons, including Alok Jain before the learned ACJM No. 3, Kamrup (M). Section 318(2) of BNS, 2023 was added by the order of the learned CJM dated 16.06.2026.

32. The ED has relied on the statements of *Alok Jain*, who is the prime accused in FIR No 106/2026 filed in Panbazar Police Station on 01-06-2026 against nine (9) accused persons, including *Alok Jain*. It is seen that the accused applicant is not a named accused in the FIR. Statements of *Alok Jain* were recorded on different dates by the ED under section 50 of PMLA.

In his statement under Section 50 of PMLA on 12.07.2026 within the premises of Central Jail, as per the permission granted by the learned Addl. Chief Judicial Magistrate, Kamrup (M), he

stated that other persons involved in betting activities includes the accused applicant.

In the statement made under section 50 of PMLA on 21.07.2026 under the ED Custody granted by the Special Court (PMLA), *Alok Jain*, on a question put by the ED about the details of other persons involved in IPL betting, he answered that the accused applicant, his brother *Ronak Bajoria* and one *Rajesh Bajaj* have been involved in IPL betting activities in Guwahati for last 5-6 years. He also stated that *Bikash Beria, Nitin Beria* and *Durga Prasad Beria* have been actively involved in IPL betting activities in Tinsukia. He named another person, namely, *Vikash Agarwal* to be involved in IPL betting in Guwahati.

In his statement under Section 50 of PMLA on 05.09.2026 within the premises of Central Jail, as per the permission granted by the learned Addl. Chief Judicial Magistrate, Kamrup (M), he stated that other persons involved in betting activities includes the accused applicant.

In the statement made under section 50 of PMLA on 22.07.2026 under the ED Custody granted by the Special Court (PMLA), *Alok Jain* did not state anything about the accused applicant and he provided the details of his various movable and immovable properties. However, no material was placed about any involvement of the accused applicant in any proceeds of the crime from any predicate offence.

Similarly, in the statement made under section 50 of PMLA on 23.07.2026 as well as 24.07.2026 under the ED Custody granted by the Special Court (PMLA), *Alok Jain* did not state anything about the accused applicant.

33. From the settled law as has already been discussed above and taking into account of the fact that aforesaid *Alok Jain* was either in judicial custody or the custody of the ED when the statements of his were recorded by the ED, the same in respect of the accused applicant shall not carry any substantive value. A close examination of the statements shows that nothing substantial have been stated about the accused applicant except the statement regarding the accused applicant's involvement in IPL betting in Guwahati for the last 5-6 years. No materials could be located regarding any proceeds of crime from any of the predicate offences alleged in any of the remaining three FIRs, especially the FIR No 106/2026 filed in Panbazar Police Station, which has been heavily relied upon by the ED.

34. A contention has been raised by the ED that the offence of money laundering is an independent offence and the person accused in the offence of money laundering need not be an accused in the scheduled offence. It is contended that the relevant consideration is his involvement in a process or activity connected with the proceeds of crime derived from criminal activity relating to a subsisting scheduled offence. Reliance has also been placed in the case of ***Vijay Madanlal Choudhary (Supra).*** In this

connection, the following paragraphs of ***Vijay Madanlal Choudhary (Supra)*** have been relied on***:***

> *"269. From the bare language of Section 3 of the 2002 Act, it is amply clear that the offence of money-laundering is an independent offence regarding the process or activity connected with the proceeds of crime which had been derived or obtained as a result of criminal activity relating to or in relation to a scheduled offence. The process or activity can be in any form — be it one of concealment, possession, acquisition, use of proceeds of crime as much as projecting it as untainted property or claiming it to be so. Thus, involvement in any one of such process or activity connected with the proceeds of crime would constitute offence of money-laundering. This offence otherwise has nothing to do with the criminal activity relating to a scheduled offence — except the proceeds of crime derived or obtained as a result of that crime.*
>
> **********
>
> *As aforesaid, in this backdrop the amendment Act 2 of 2013 came into being. Considering the purport of the amended provisions and the experience of implementing/enforcement agencies, further changes became necessary to strengthen the mechanism regarding prevention of money-laundering. It is not right in assuming that the attachment of property*

(provisional) under the second proviso, as amended, has no link with the scheduled offence. Inasmuch as Section 5(1) envisages that such an action can be initiated only on the basis of material in possession of the authorised officer indicative of any person being in possession of proceeds of crime. The precondition for being proceeds of crime is that the property has been derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence. The sweep of Section 5(1) is not limited to the accused named in the criminal activity relating to a scheduled offence. It would apply to any person (not necessarily being accused in the scheduled offence), if he is involved in any process or activity connected with the proceeds of crime. Such a person besides facing the consequence of provisional attachment order, may end up in being named as accused in the complaint to be filed by the authorised officer concerning offence under Section 3 of the 2002 Act.

35. A bare perusal of the aforesaid paragraphs, it is seen that the Hon'ble Supreme Court has in clear terms expressed that ***the offence of money-laundering is an independent offence regarding the process or activity connected with the proceeds of crime which had been derived or obtained as a result of criminal activity relating to or in relation to a scheduled offence.*** However, in absence of any scheduled offence itself, there cannot be a proceeding under money

laundering. It is settled law that there has to be a predicate offence and if there is no predicate offence itself, no proceeding of money laundering can happen in terms of PMLA as there shall be no proceeds of crime from a scheduled offence. Therefore, proceeds of crime in terms of PMLA can happen only when a scheduled crime exists, irrespective of one is an accused or not in the FIR or Complaint. In the instant case, the ED has relied on certain statements of witnesses, namely, *Bimal Kumar Sarawgi* and *Rishab Fulfagar* under section 50 of PMLA and one *Rahul Das* under section 17 of PMLA wherein both *Bimal Kumar Sarawgi* and *Rishab Fulfagar* stated that certain amounts have been invested by them in a company, namely M/s DRM Coke. Similarly, *Rahul Das* has also stated that the accused applicant and his brother, *Ronak Bajoria* invested amounts in Pure Spirit & Pure Spirits, a company owned by *Rahul Das* and one other partner. It has also been stated that the accused applicant and his brother have been involved in betting activities during IPL matches. However, as discussed above, in the connected FIR No. 12/2021, chargesheet has already been filed without any predicate offence against the accused applicant. Therefore, non-existence of a predicate offence, the aforesaid statements shall carry no evidence regarding proceeds of crime. Moreover, no evidence is on record to show that there is a link between the invested amount with any proceeds of crime as alleged. Further, the proceeds of crime must come from a predicate offence /scheduled offence for a proceeding under PMLA. Therefore, in the instant case in hand, materials available before this Court, *prima facie*do not suggest

any proceeds of crime linked with the activity as alleged to have been committed by the accused applicant.

36. After the above discussions in details regarding the facts and laws involved in the instant case, now, the question comes about the consideration of the prayer of the accused applicant for bail who is in judicial custody since his arrest on 19-09-2026. Section 45 of the PMLA prescribes specific conditions governing the grant of bail to a person accused of an offence punishable under the PMLA. The provision requires consideration of whether there are reasonable grounds for believing that the accused is not guilty of the alleged offence and whether he is unlikely to commit any offence while on bail, subject to the applicable statutory framework and the principles laid down by the Hon'ble Supreme Court. In this connection, the observation of the Hon'ble Supreme Court in the case of ***Prem Prakash (Supra)*** being relevant is extracted herein below:

> *"All that Section 45 of 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 of 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."

37. In consideration of the factual matrix involved in the case together with the law laid down by the Hon'ble Supreme Court, this Court is not hesitant to say that the accused applicant in the instant case has been able to satisfy the twin conditions under section 45 of the PMLA. This Court on the basis of the materials brought on record, is satisfied that there are reasonable grounds for believing that the accused applicant is not guilty of the offence of money laundering as alleged under Sections 3 and 4 of the PMLA, 2002. This Court has also considered the probability or likelihood of committing any offence by the accused applicant while on bail and is satisfied that the accused applicant is not likely to commit any offence, if enlarged on bail. Nothing adverse in that regard about the accused applicant has been brought on record.

38. Accordingly, the instant bail application is allowed. The accused applicant is directed to be released immediately on bail in connection with ECIR No. GWZO-I/06/2023 dated 30.03.2023, registered by the Directorate of Enforcement under the provisions of the Prevention of Money-Laundering Act, 2002 on furnishing of a bail bond of Rs. 5 lakhs with two sureties of like amount to the satisfaction of the learned Special Judge, Assam, CBI, Addl. Court No. 3, Guwahati, subject to the following conditions:

i) that the accused applicant shall appear before the trial court as and when required;

ii) that the accused applicant shall surrender his passport with the trial court;

iii) that the accused applicant shall cooperate with the authority in connection with ECIR No. GWZO-I/06/2023 dated 30.03.2023 and make himself available before the authority of ED as and when called for;

iv) that the accused applicant shall not try to influence the witnesses and tamper with the evidence in whatsoever manner;

39. It is made clear nothing observed in this order shall be read to the prejudice of either side at the trial. The facts, settled laws and provisions of laws have been considered and examined only for the purpose of considering the merit of the bail application of the accused applicant. The learned trial court shall take its independent view on the basis of the facts and evidence available before it while proceeding with the trial.

40. In terms of the aforesaid directions, the instant bail application is disposed of as allowed.

JUDGE

Miriam Degu
(SPA)