IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Revision No.208 of 2025

Alamgir Alam, aged about 75 years, son of late Sanaul Haque, resident of Sector-2, Dhurwa, PO Dhurwa, PS Jagarnathpur, District Ranchi, 834002. … … **Petitioner**

Versus

The Directorate of Enforcement, Union of India represented through the Assistant Director, Ranchi Zonal Office, Plot No. 1502/B, Airport Road, Hinoo, PO Hinoo, PS Doranda, District Ranchi, Jharkhand 834002.

… … **Respondent**

With

Cr. Revision No. 120 of 2026

Alamgir Alam, aged about 74 years, son of late Sanaul Haque, resident of Sector-2, Dhurwa, PO Dhurwa, PS Jagarnathpur, District Ranchi, (Jharkhand) … … **Petitioner**

Versus

The Directorate of Enforcement, Union of India represented through Assistant Director, Ranchi Zonal Office, Plot No. 1502/B, Airport Road, Hinoo, PO Doranda, PS Doranda, District Ranchi (Jharkhand)

… … **Respondent**

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD

For the Petitioner(s) : Mr. Samir Saurabh, Advocate;
Ms. Preeti Kumari, Advocate;
Mrs. Divya, Advocate
Ms. Isha Kaushik,Advocate;
Mr.Vishal Kumar, Advocate

For the Respondent(s) : Mr. Amit Kumar Das, Advocate;
Mr.Zohab Hussain, Advocate (Through V.C.)
Mr.Saurabh Kumar,Advocate;
Mr. Pranjal Tripathi, Advocate

C.A.V. on:8th April, 2026 **Pronounced on: 6th May, 2026**

1. Since these matters are interlinked and, as such, both are heard together and being disposed of by a common order.

2. Both of these Criminal Revision petitions have been filed under sections 438 & 442 of Bhartiya Nagarik Suraksha Sanhita, 2023.

3. Criminal Revision No.208 of 2025 is directed against the order dated 03.12.2024 passed by the Special Judge, PML Act, Ranchi in

M.C.A. No. 2964 of 2024, arising out of ECIR-02/2023 by which discharge petition filed by the petitioner for the offence under section 3 punishable under section 4 of Prevention of Money Laundering Act, 2002(in short PMLA, 2002) has been rejected.

4. Criminal Revision No. 120 of 2026 is directed against the order dated 07.12.2024 passed by the learned Special Judge, PML Act, Ranchi in connection with ECIR Case No. 02 of 2023 registered for the offence under sections 3 and 4 of the Prevention of Money Laundering Act, 2002, whereby and whereunder, the charge has been framed against the petitioner.

Factual Matrix:

7. The brief facts of the case as per the pleadings made in the instant petitions which require to be enumerated herein, read as under:

(i) An ECIR bearing No. ECIR/RNSZO/16/2020 was registered on 17.09.2020 and investigation under the provisions of Prevention of Money Laundering Act (PMLA) was initiated on the basis of FIR bearing No. 13 of 2019 dated 13.11.2019 registered by the ACB Jamshedpur for the offence under section 7(a) of the Prevention of Corruption,2018 and on completion of investigation charge-sheet No. 01/2020 dated 11.01.2020 was filed by ACB Jamshedpur against Suresh Prasad Verma and Alok Ranjan under section 7(b) of the P.C Act, 2018 for the offence under section 120B and 201 of IPC which are scheduled offences under Part-A, Paragraph No.1 of PML Act, 2002.

(ii) During investigation upon Veerendra Kumar Ram and his close associates, several searches were conducted on 21-02-2023 at various places across India and it was found that part of the Proceeds of crime acquired in the form of taking commission/bribe in lieu of allotment of tenders by Veerendra Kumar Ram, Chief Engineer in Rural Works Department, Jharkhand was getting routed by a Delhi based CA Mukesh Mittal to the bank accounts of family members of Veerendra Kumar Ram with the help of bank accounts of Mukesh Mittal's employees/relatives. It is also alleged that Veerendra Kumar Ram used to give cash to his CA Mukesh Mittal who with the help of entry providers used to make entries in the bank accounts of his employees and relatives and then such fund was transferred by him into the bank accounts of Rajkumari (Wife of Veerendra Ram) and his father Shri Genda Ram.

(iii) It is also alleged that some bank accounts were opened in Delhi on the basis of forged documents. Therefore, information related to the same was shared with the Delhi Police under Section 66(2) of the PMLA. Further on the basis of the said information an FIR No. 22/2023 was registered by Economic Offence Wing (EOW), Delhi on 03.03.2023 against (1) Shri Veerendra Kumar Ram, (ii) Mukesh Mittal, and (iii) unknown others under Sections 419, 420, 465, 466, 468, 471, 473, 474, 476, 484, and 120 B

of IPC, 1860, and Section 7 and 5 of Specified Bank Notes(Cessation of Liabilities) Act, 2017.In light of the additional facts emerging out of the investigation, FIR No. 22/2023 registered by EOW, Delhi was merged with the investigation of present ECIR/RNSZO/16/2020 dated 17-09-2020.

(iv) A prosecution complaint vide ECIR Case Number 02/2023 under Section 45 of PMLA, 2002 was filed before the Learned Special Court (PMLA), Ranchi 21.04.2023 against Veerendra Kumar Ram, Alok Ranjan, Rajkumari and Genda Ram and the cognizance of the same was taken by the Special Judge, PMLA, Ranchi on 29-04-2023.

(v) Further, a supplementary prosecution complaint vide ECIR Case Number 02/2023 under Section 45 of PMLA, 2002 was filed before the Learned Special Court (PMLA), Ranchi on 20.08.2023 against Veerendra Kumar Ram, Alok Ranjan, Rajkumari, Genda Ram, Mukesh Mittal, Tara Chand, Neeraj Mittal, Ram Prakash Bhatia, Harish Yadav and Hirdya Nand Tiwari and the cognizance of the same is taken on 22.08.2023.

(vi) During further course of investigation searches were conducted on 06-05-2024, 07-05-2024, 08-05-2024, 09-05-2024, 10-05-2024 and 24-05-2024 under section 17 of the PMLA, 2002 in the premises of Sanjeev Kumar Lal, Jahangir Alam, Munna Singh, Kuldip Kumar Minz, Vikash

Kumar, Raj Kumar Toppo, Ajay Tirkey,Rajiv Kumar Singh, Amit Kumar and Santosh Kumar at various places.

As a result of the search, huge cash was recovered and seized from the residential premises of Jahangir Alam situated at Flat No. 1A, Sir Syed Residency, Kumhartoli, Ranchi.

(vii) Further, huge cash have been recovered and seized from the residential premises of Munna Singh situated at Flat No. 1A, Kashmiri Gali, PP Compound, Ranchi. Munna Singh stated that he used to collect cash from the engineers/contractors on the instruction of Sanjeev Lal. Searches were also conducted at the residences of Rajiv Kumar, Santosh Kumar, Rajkumar Toppo, Ajay Tirkey and Amit Kumar.

(vii) Accordingly, on 07-05-2024 Sanjeev Kumar Lal and Jahangir Alam were arrested for the commission of the offence under sections 3 and 4 of the PMLA, 2002.

(viii) Alamgir Alam being the minister of Department of Rural Works (RWD) and all the departments under it, he is at the top in the syndicate of commission collection. Sanjeev Kumar Lal used to collect the share of 1.35 % of minister Alamgir Alam on his behalf from Asst. Engineers/Executive Engineers via Chief Engineers. Accordingly, Sanjeev Kumar Lal has instructed departmental engineers to hand over the petitioner's

commission to Munna Singh and/or his brother Santosh Kumar alias Rinku Singh. Further Munna Singh has stated that he has collected a total of Rs. 53 crores of commission from such engineers/contractors and handed over Rs.50 crores approx, to Sanjeev Lal through Jahangir Alam.

(ix) Thus, the same amount of POC was acquired by the petitioner through Sanjeev Kumar Lal, out of this Rs. 53 crores, an amount of Rs.35 crores approx, was seized during the search proceedings. Further, it is alleged that the petitioner also acquired a commission amount of Rs. 3 crores from Veerendra Kumar Ram through one engineer of the department and same transaction was also assisted by Sanjeev Kumar Lal in September 2022. It is also alleged that the petitioner is found to be directly indulged and actually involved in possession and concealment of at least Rs. 35 crores of the Proceeds of Crime through Sanjeev Kumar Lal and he has also been found to be directly indulged and actually involved in acquisition and concealment of at least Rs. 56 crores of the proceeds of crime.

(x) Accordingly, Sanjeev Kumar Lal has instructed departmental engineers to hand over the petitioner's commission to Munna Singh and/or his brother Santosh Kumar alias Rinku Singh. Further Munna Singh has stated that he has collected a total of Rs. 53 crores of commission

from such engineers/contractors and handed over Rs.50 crores approx. to Sanjeev Lal through Jahangir Alam. Thus, the same amount was acquired by the petitioner through Sanjeev Kumar Lal, out of this Rs.53 crores, an amount of Rs.35 crores approx. was seized during the search proceedings.

(xi) Further, it has been alleged that the petitioner also acquired a commission amount of Rs. 3 crores from Veerendra Kumar Ram through one engineer of the department and same transaction was also assisted by Sanjeev Kumar Lal in September 2022.

(xii) It is also alleged that the petitioner is found to be directly indulged and actually involved in possession and concealment of at least Rs 35 crores of the Proceeds of Crime through Sanjeev Kumar Lal and he has also been found to be directly indulged and actually involved in acquisition and concealment of at least Rs. 56 crores of the Proceeds of Crime.

(xiii) A supplementary prosecution complaint vide ECIR Case Number 02/2023 under Section 45 of PMLA, 2002 is filed before the Learned Special Court (PMLA), Ranchi on 04.07.2024 against Veerendra Kumar Ram, Alok Ranjan, Rajkumari, Genda Ram, Mukesh Mittal, Tara Chand, Neeraj Mittal, Ram Prakash Bhatia, Harish Yadav, Hirdya Nand Tiwari, Alamgir Alam, the present petitioner,

Sanjeev Kumar Lal and Jahangir Alam and the cognizance of the same is taken on 12.07.2024.

(xiv) Thereafter, the present petitioner preferred Misc. Cri. Application No. 2190 of 2024 for grant of bail but the same was rejected vide order dated 09.08.2024 by the court of learned Additional Judicial Commissioner-XVIII-cum Special Judge, PML Act, Ranchi.

(xv) Consequent thereto present petitioner has preferred bail application being B.A.No.9548 of 2024 before this Court but vide order dated 11.07.2025 the said application was rejected by this Court.

(xvi) Subsequent to filing of said ECIR/ Complaint, the learned Special Judge, PML, Act, Ranchi, vide an order dated 12.07.2024, has been pleased to take cognizance of offences defined under Section 3 of PML Act, 2002 and punishable under Section 4 of the said Act against the aforesaid accused persons including the present petitioner and directed for issuance of summon to the petitioner.

(xvii) Thereafter, the petitioner filed a discharge petition praying for discharge as there was no sufficient ground for proceeding against the petitioner under Section 3 of the PMLA, 2002 and punishable under Section 4 of the Act, 2002.

(xviii) It is the case of the petitioner that the learned Special Judge, PML Act, Ranchi without appreciating the

materials available on record, has rejected the discharge petition preferred by the petitioner vide order dated 03.12.2024 and vide order dated 07.12.2024 has framed the charge for the offence under Section 3 of the PMLA punishable under Section 4 of the PMLA against the petitioner.

(xix) Being aggrieved with the aforesaid orders dated 03.12.2024 and 07.12.2024 the instant revision applications have been preferred by the present petitioner.

Arguments advanced on behalf of the petitioner:

8. The learned counsel appearing on behalf of the petitioner(s) has submitted that the learned Special Judge, PML Act, Ranchi has failed to appreciate that the prosecution has not produced material whichwould show that the petitioner has in any manner dealt with "proceeds of crime".

9. It is further stated that the said case instituted against Suresh Prasad Verma, a Junior Engineer, for accepting illegal gratification of Rs. 10,000/- for which Jamshedpur P.S. Case No.13 of 2019 was registered and there is no allegation against the petitioner in the said case.

10. It is further submitted that the petitioner is not an accused in the schedule offence and has no role to play in the offence as alleged in FIR No.13/2019 and FIR No. 22/2023 and the case against the petitioner accused being beneficiary of a syndicate has been manufactured based on false and fabricated statements and documents and the charges

against him are politically motivated and based on suspicion rather than concrete evidence.

11. It is further submitted that the petitioner accused is not named in the first supplementary prosecution complaint vide ECIR No. 02/2023 which was filed against other co-accused persons and second supplementary prosecution complaint in which petitioner herein has been arrayed as an accused by the ED.

12. It is further submitted that Section 197 of Cr.P.C. provides that when any public servant is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence, except with previous sanction of the competent authority.

13. It has been contended that in terms of section 5 and 8 of PMLA, 2002 the provisions relating to attachment of the property, which has been seized under section 17 of Prevention of Money Laundering Act, 2002. The Adjudicating Authority pass the order of attachment if it has reason to believe that any person has committed an offence under section 3 of PMLA, 2002 or is in possession of Proceed of Crime. In the instant case neither any provisional attachment order has been passed under section 5 of PMLA nor any attachment proceeding is pending against the petitioner relating to Proceed of Crime. In such situation continuation of instant proceeding relating to money laundering is abuse of the process against the petitioner and he is liable to be discharged only on this ground alone.

14. It has further been submitted that the section 8 of PMLA, 2002, no prayer has been made by the complainant to attach the seized cash amount, knowing fully well that the recovery of cash not comes under the definition of Money Laundering.

15. It is further submitted that nothing incriminating was recovered from the petitioner or his family members and he is in no way connected to the proceeds of crime. There is a complete lack of evidence demonstrating any link or association between the petitioner and the proceeds of crime and no money trail has been identified that implicates the petitioner.

16. It is further submitted that there is no predicate offence established against the petitioner under the P.C. Act. The prosecution has failed to present any evidence that would substantiate the charge of money laundering u/s 3 of the PMLA and without a predicate offence, there is no established source of the proceeds of crime and the very basis for alleging money laundering i.e. 3 is absent. The lack of a formal charge against the petitioner for a scheduled offence renders the invocation of Section 3 of the PMLA legally untenable and unsustainable and the charge of money laundering cannot be legally maintained.

17. It is further submitted that none of the witnesses in their statements recorded u/s 50 of PMLA have provided any details regarding how the proceeds of crime were laundered by the petitioner, either directly or indirectly. The statements recorded by the prosecuting agency, which allege that the petitioner received 1.35% commission u/s

50 of PMLA, 2002, fail to satisfy the requirements of Section 3 of the PMLA, 2002, these statements are made by individuals who themselves are in the role of co-accused in this case. The statements are unsupported by any substantive evidence, they are inadmissible and cannot be used against the petitioner accused.The statements of co-accused persons recorded u/s 50 of the PMLA are not an admissible piece of evidence and these statements can only be used to corroborate other evidence that the prosecution might have.There is no other evidence in the possession of prosecuting agency to lend corroboration to the statements being relied upon.

18. There is no documentary evidence on record direct or indirect which establish that the petitioner had received commission of Rs. 3 Crore on one instance in September, 2002 and charges cannot be framed without any material evidence or recovery to support the allegations against the petitioner. There is no evidence linking the present petitioner with the alleged proceeds of crime.

19. It is further submitted that the alleged documents seized from the premises of Jahangir Alam pertaining to Sanjeev Kumar Lal including several torn pages of few diaries and notes with abbreviations cannot be read as evidence against the petitioner. The code names written on the torn pages cannot be connected with the petitioner by any means and those code words are based on the respondent agency's assumptions and manipulations.

20. It is further submitted that the prosecution has failed to prove the foundation facts regarding the involvement of the petitioner in any

process or activity related to the proceeds of crime, therefore, no presumption u/s 24 of the PMLA, 2002 can be triggered against the petitioner. The entire prosecution complaint is without any iota of evidence or credible allegation supported by any proof to show that the petitioner accused was deliberately assisting in any activity related to money laundering directly or indirectly.

21. In support of his contentions, he relied upon the observation made in the matter of **Director of Enforcement vs. Bibhu Prasad Acgharya and Others, MANU/SC/1176/2024**.

22. It has further been contended that the learned court below has also not considered the fact that after institution of ECIR on 17.9.2020 investigation was started by the opposite party and in course of that it transpired that Mukesh Mittal was involved in transfer of fund of Veerendra Kumar Ram into the bank accounts of Rajkumar and Genda Ram for which an information under section 66(2) of PMLA was given by Joint Director, Directorate of Enforcement, to the Commissioner of Police, Delhi for which an FIR vide Economic Offence Wing PS, case no. 22/2003 was registered by Economic Offence Wing (EOW), Delhi on 03.03.2023 against (1) Veerendra Kumar Ram, (ii) Mukesh Mittal, and (iii) unknown others under Sections 419, 420, 465, 466, 468, 471, 473, 474, 476, 484, and 120 (B) of IPC, 1860, and Section 7 and 5 of Specified Bank Notes (Cessation of Liabilities) Act, 2017.The said case although registered after ECIR case but the same has been treated as a predicate offence of the instant case. In the said FIR also, there is no

allegation against the petitioner and none of the transaction as alleged in the said FIR is remotely related with the petitioner.

23. It is stated that after registration of the ECIR investigation was conducted and it was found that Rs. 2.67 Crores seized by Anti-Corruption Bureau, Jamshedpur from the premises of Alok Ranjan was actually belongs to Veerendra Kumar Ram, Chief Engineer Rural Works Department and, accordingly a complaint under section 45 of Prevention of Money Laundering Act, 2002 (hereinafter referred as PMLA, 2002) was filed on 21.04.2023 before the Learned Special Judge, P.M.L. Act, 2002, Ranchi,with the allegation that Veerendra Kumar Ram and his family members have acquired movable and immovable property amounting to Rs. 39,28,82,578/-, in which cognizance was taken on 29.04.2023 for the offence defined u/s 3 punishable u/s 4 of PMLA, 2002 against Veerendra Kumar Ram and three others and further a supplementary complaint was filed against Veerendra Kumar Ram and nine others on 20.08.2023 with the allegation that Mukesh Mittal is involved in Proceeds of Crime worth of Rs. 35,77,117.94/-.

24. It is stated that till the submission of complaint dated-21.04.2023 and supplementary complaint dated-20.08.2023 no involvement of the petitioner was surfaced even after recording of the statement of Veerendra Kumar Ram.

25. Learned counsel for the petitioner, on the aforesaid grounds, has submitted that no case of Money Laundering as defined under section 3 and punishable under section 4 of the PMLA, 2002 is made out

against the petitioner and as such he is liable to discharge from the instant case.

Arguments advanced on behalf of the Respondent:

26. Ld. Counsel for respondent-E.D. has opposed the prayer for discharge and submitted that there are ample evidence against the petitioner regarding his involvement in the offence of money laundering.

27. It is submitted that a total of 18 searches were conducted u/s 17 of PMLA in Ranchi, at the premises of Sanjeev Kumar Lal, Jahangir Alam, some Engineers and other persons on different dates. As a result of the search huge amount of cash to the tune of Rs. 37.55 Crore, digital devices, records and various incriminating documents were recovered which gave details with regard to the various individuals involved in the process of generation and distribution of proceeds of crime.

28. Sanjeev Kumar Lal during his ED Custody interrogation also stated that the commission in the range of 3 to 4% of the total tender amount is collected in cash by the Asst. Engineers/Executive Engineers of the respective departments. He further stated that he used to collect the share of 1.35 % of minister Alamgir Alam on his behalf from Asst. Engineers/Executive Engineers via Chief Engineers. He further stated that first of all, the Asst. Engineers/Executive Engineers used to inform him regarding handing over the share of Alamgir Alam and they requested Sanjeev Kumar Lal to send some person to collect cash i.e. commission. Thereafter, Sanjeev Kumar Lal used to instruct Munna

Singh who was his close friend, and/or his brother (Santosh Kumar) to collect cash from the said engineers. Sanjeev Kumar Lal further instructed Jahangir Alam to stand near Abhinandan Marriage Hall, near Rani Hospital and Deendayal Nagar, Ranchi with his Aprilia scooter bearing Registration No. JH01ES8402, where Rinku alias Santosh Kumar (brother of Munna Singh) handed over bags filled with currency/note bundles, and after receiving those bags, he used to park the said bags beneath bed and almirah at his Flat No. IA, Sir Syed Residency, Kumhartoli, Ranchi safely. Thus, it is ascertained that Sanjeev Kumar Lal takes care of the collection of commission on behalf of Minister Alamgir Alam.

29. Statements of various Chief Engineers/Engineers of RWD, JSRRDA and RDSD were recorded u/s 50 of PMLA, 2002 wherein they have inter alia stated that commission is collected by the engineers/officials from contractors/companies/firms against tender allocation in the RWD, JSRRDA and RDSD departments. The commission of 3% of the total amount mentioned in LOA (Letter of Acceptance) is fixed for tender allotment, the distribution of which among the Ministers, bureaucrats, engineers and other officials is as under:

(a) 1.35%- Minister, Alamgir Alam (through his PS Sanjeev Kumar Lal)

(b) 1.65%-Top bureaucrats and other engineers/officials

30. They also stated that the collection of commission for minister Alamgir Alam has been done by Sanjeev Kumar Lal through his person/agent and for other persons the commission has been collected by Chief Engineer, JSRRDA himself and, through his selected persons.

31. It has been contended that the co-accused Veerendra Kumar Ram during his statement made u/s 50 of PMLA stated that in one of the instances crores of commission were handed over to the co-accused Sanjeev Kumar Lal, PS of the present petitioner, in September 2022.

32. The petitioner Alamgir Alam is Minister of (i) Department of Rural Works (RWD), (ii) Department of Panchayati Raj and (iii) Department of Rural Development (RDD) Jharkhand State Rural Road Development Authority (JSRRDA) and Rural Development Special Division (RDSD) are the part of the Department of Rural Works (RWD). RWD, JSRRDA and RDSD constructs the roads and bridges in the state of Jharkhand, for which tenders are floated by these departments, against which 3% commission has been collected. He being the minister of these departments, is all in all and at the top echelon in the syndicate of commission collection. He has pressurized and compelled the Chief Engineer under his portfolio to collect commission and give him his share through his PS Sanjeev Kumar Lal.

33. It has further been contended that he has instructed Sanjeev Kumar Lal to collect his 1.35% share in total commission which is 3% of total tender value accordingly, Sanjeev Kumar Lal has instructed departmental engineers to hand over the commission part of Alamgir Alam to Munna Singh and/or his brother Santosh Kumar alias Rinku

Singh. Further Munna Singh has stated that he has collected a total of Rs. 53 crores of commission from such engineers/contractors and handed over Rs.50 crores approx to Sanjeev Lal through Jahangir Alam. Thus, the same amount of POC was acquired by Alamgir Alam through Sanjeev Kumar Lal, out of this Rs.53 crores, an amount of Rs.35 crores approx. was seized during the search proceeding.

34. It has been contended that it is ascertained from the statement of Veerendra Kumar Ram and Sanjeev Kumar Lal that Alamgir Alam also acquired a commission amount of Rs. 3 crores from Veerendra Kumar Ram through one engineer of the department and same transaction was also assisted by Sanjeev Kumar Lal in September 2022.

35. Thus, the petitioner Alamgir Alam is found to be directly indulged and actually involved in possession and concealment of at least Rs 35 crores of the Proceeds of Crime through Sanjeev Kumar Lal and he has also found to be directly indulged and actually involved in acquisition and concealment of at least Rs. 56 crores of the Proceeds of Crime.

36. It is further argued by the prosecution that the misdeeds of the accused may not be covered u/s 197 Cr.P.C. as its operation has to be limited to those duties which are discharged in course of official duty and collection of commission or bribe can’t be considered as official duty of the petitioner. In order to substantiate this limb of argument the learned counsel for respondent ED has relied upon the decision of Hon’ble Supreme Court of India rendered in the case of **Shadakshari vs State of Karnatka& others, 2024 LiveLaw (SC) 42**.

37. Learned counsel for the Opposite Party-ED, on the aforesaid grounds, has submitted that it is, therefore, not a fit case where the impugned orders to be interfered with.

Analysis

38. This Court has heard the learned counsel for the parties at length and has also gone through the finding recorded by the learned trial Court in the impugned orders as also the counter affidavit.

39. In the background of the factual aspect as referred hereinabove in the preceding paragraphs, the issues which require consideration are that:

(i) Whether the orders dated 03.12.2024 and 07.12.2024 by which the application for discharge filed by the petitioner has been dismissed and charges have been framed respectively, can be said to suffer from an error?

(ii) Whether on the basis of the evidence which has been collected in course of investigation, prima facie case against the petitioner is made out or not?

40. Since both the issues are interlinked as such, they are taken up together.

41. This Court, before appreciating the argument advanced on behalf of the parties deems it fit and proper to discuss herein some of the

provisions of law as contained under the Act, 2002 with its object and intent.

42. The Act 2002 was enacted to address the urgent need to have a comprehensive legislation inter alia for preventing money-laundering, attachment of proceeds of crime, adjudication and confiscation thereof including vesting of it in the Central Government, setting up of agencies and mechanisms for coordinating measures for combating money laundering and also to prosecute the persons indulging in the process or activity connected with the proceeds of crime.

43. It is, thus, evident that Act 2002 was enacted in order to answer the urgent requirement to have a comprehensive legislation inter alia for preventing money-laundering, attachment of proceeds of crime, adjudication and confiscation thereof for combating money-laundering and also to prosecute the persons indulging in the process or activity connected with the proceeds of crime.

44. It needs to refer herein the definition of “proceeds of crime” as provided under Section 2(1)(u) of the Act, 2002 which reads as under:

> *“2 (1) (u) “proceeds of crime” means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property 3[or where such property is taken or held outside the country, then the property equivalent in value held within the country] 4[or abroad]; [Explanation.—For the removal of doubts, it is hereby clarified that "proceeds of crime" include property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence;]”*

45. It is evident from the aforesaid provision that “proceeds of crime” means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property or where such property is taken or held outside the country, then the property equivalent in value held within the country or abroad.

46. In the explanation it has been referred that for removal of doubts, it is hereby clarified that "proceeds of crime" include property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence. The aforesaid explanation has been inserted in the statute book by way of Act 23 of 2019. It is, thus, evident that the reason for giving explanation under Section 2(1)(u) is by way of clarification to the effect that whether as per the substantive provision of Section 2(1)(u), the property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property or where such property is taken or held outside the country but by way of explanation the proceeds of crime has been given broader implication by including property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence.

47. The “property” has been defined under Section 2(1)(v) which means any property or assets of every description, whether corporeal or

incorporeal, movable or immovable, tangible or intangible and includes deeds and instruments evidencing title to, or interest in, such property or assets, wherever located.

48. The schedule has been defined under Section 2(1)(x) which means schedule to the Prevention of Money Laundering Act, 2002. The "scheduled offence" has been defined under Section 2(1)(y) which reads as under: "21(y) "scheduled offence" means— (i) the offences specified under Part A of the Schedule; or (ii) the offences specified under Part B of the Schedule if the total value involved in such offences is [one crore rupees] or more; or (iii) the offences specified under Part C of the Schedule."

49. It is evident that the "scheduled offence" means the offences specified under Part A of the Schedule; or the offences specified under Part B of the Schedule if the total value involved in such offences is [one crore rupees] or more; or the offences specified under Part C of the Schedule.

50. The offence of money laundering has been defined under Section 3 of the Act, 2002, which reads as under:

> *"3. Offence of money-laundering.—Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the [proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming] it as untainted property shall be guilty of offence of money-laundering. [Explanation.— For the removal of doubts, it is hereby clarified that,— (i) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following processes or activities connected with proceeds of crime,*

namely:— (a) concealment; or (b) possession; or (c) acquisition; or (d) use; or (e) projecting as untainted property; or (f) claiming as untainted property, in any manner whatsoever; (ii) the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever.]"

51. It is evident from the aforesaid provision that "offence of money laundering" means whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property shall be guilty of offence of money-laundering.

52. It is further evident that the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever.

53. The punishment for money laundering has been provided under Section 4 of the Act, 2002.

54. The various provisions of the Act, 2002 along with interpretation of the definition of "proceeds of crime" has been dealt with by the Hon'ble Apex Court in the case of ***Vijay Madanlal Choudhary and Ors. Vs. Union of India and Ors., (2022) SCC OnLine SC 929*** wherein the Bench comprising of three Hon'ble Judges of the

Hon'ble Supreme Court has decided the issue by taking into consideration the object and intent of the Act, 2002.

55. It is evident that the purposes and objects of the 2002 Act for which it has been enacted, is not limited to punishment for offence of money laundering, but also to provide measures for prevention of money laundering. It is also to provide for attachment of proceeds of crime, which are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceeding relating to confiscation of such proceeds under the 2002 Act. This Act is also to compel the banking companies, financial institutions and intermediaries to maintain records of the transactions, to furnish information of such transactions within the prescribed time in terms of Chapter IV of the 2002 Act.

56. The predicate offence has been considered in the aforesaid judgment wherein by taking into consideration the explanation as inserted by way of Act 23 of 2019 under the definition of the "proceeds of crime" as contained under Section 2(1)(u), whereby and whereunder, it has been clarified for the purpose of removal of doubts that, the "proceeds of crime" include property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence, meaning thereby, the words "any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence" will come under the fold of the proceeds of crime.

57. In the judgment rendered by the Hon'ble Apex Court in ***Vijay Madanlal Choudhary and Ors. Vs. Union of India and Ors. (supra)*** it has been held that the Authority under the 2002 Act, is to prosecute a person for offence of money-laundering only if it has reason to believe, which is required to be recorded in writing that the person is in possession of "proceeds of crime". Only if that belief is further supported by tangible and credible evidence indicative of involvement of the person concerned in any process or activity connected with the proceeds of crime, action under the Act can be taken forward for attachment and confiscation of proceeds of crime and until vesting thereof in the Central Government, such process initiated would be a standalone process.

58. Now, after having discussed the judgments passed by the Hon'ble Apex Court on the issue of various provisions of the Act, 2002, this Court, is proceeding to discuss the principle governing discharge and framing of charge.

59. Section 250 of Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS' for brevity) provides for discharge in sessions cases, which reads as follows:

> *"250.Discharge (1) The accused may prefer an application for discharge within a period of sixty days from the date of commitment of the case under section 232 (BNSS). (2) If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for doing so."*

60. Section 227 of Code of Criminal Procedure ('CrPC' for brevity) contemplates discharge by the Court of Session. The trial Judge is required to discharge the accused if the Judge considers that there is no sufficient ground for proceeding against the accused. Section 250(2) BNSS corresponds to section 227 CrPC. Section 250(1) BNSS stipulates a time limit of 60 days from the date of committal of the case within which an application for discharge should be filed by the accused.

61. Section 239 CrPC provides for discharge of accused in warrant cases instituted upon a police report. The power under section 239 Cr.P.C. is exercisable when Magistrate considers the charge against the accused to be groundless. Section 262(2) BNSS is similar to section 239 CrPC but section 262 BNSS provides an opportunity to the learned Magistrate to examine the accused either physically or through audio – video electronic means. Section 262(1) BNSS stipulates a time limit of 60 days from the date of supply of documents under section 230 BNSS within which an application should for discharge should be filed by the accused.

62. Section 245 Cr.P.C. deals with warrant cases instituted otherwise than on a police report. Section 245 CrPC corresponds to section 268 of BNSS. The power under section 245 (1) Cr.P.C. is exercisable when the Magistrate considers that no case against the accused has been made out which, if unrebutted would warrant his conviction. The Magistrate has the power of discharging the accused at any previous stage of the case under section 245 (2) Cr.P.C. Sections 227 and 239 Cr.P.C. provide for discharge before the recording of evidence

on the basis of the police report, the documents sent along with it and examination of the accused after giving an opportunity to the parties to be heard. But the stage of discharge under section 245 Cr.P.C., on the other hand, is reached only after the evidence referred in section 244 is taken. Despite the difference in the language of the provisions of sections 227, 239 and 245 Cr.P.C. and whichever provision may be applicable, the Court is required to see, at the time of framing of charge, that there is a prima facie case for proceeding against the accused. The main intention of granting a chance to the accused of making submissions as envisaged under sections 227 or 239 of Cr.P.C. is to assist the Court to determine whether it is required to proceed to conduct the trial.

63. The issue of discharge was the subject matter before the Hon'ble Supreme Court in the case of ***State of Tamilnadu, by Inspector of Police in Vigilance and Anti-Corruption v. N. Suresh Rajan, (2014) 11 SCC 709,*** wherein, at paragraphs no.29, 32.4, 33 and 34, the Hon'ble Apex Court has observed as under:—

> *"29. We have bestowed our consideration to the rival submissions and the submissions made by Mr. Ranjit Kumar commend us. True it is that at the time of consideration of the applications for discharge, the court cannot act as a mouthpiece of the prosecution or act as a post office and may sift evidence in order to find out whether or not the allegations made are groundless so as to pass an order of discharge. It is trite that at the stage of consideration of an application for discharge, the court has to proceed with an assumption that the materials brought on record by the prosecution are true and evaluate the said materials and documents with a view to find out whether the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. At this*

stage, probative value of the materials has to be gone into and the court is not expected to go deep into the matter and hold that the materials would not warrant a conviction. In our opinion, what needs to be considered is whether there is a ground for presuming that the offence has been committed and not whether a ground for convicting the accused has been made out. To put it differently, if the court thinks that the accused might have committed the offence on the basis of the materials on record on its probative value, it can frame the charge; though for conviction, the court has to come to the conclusion that the accused has committed the offence. The law does not permit a mini trial at this stage.

32.4. While passing the impugned orders [N. Suresh Rajan v. Inspector of Police, Criminal Revision Case (MD) No. 528 22 of 2009, order dated 10-12-2010 (Mad)], [State v. K. Ponmudi, (2007) 1 Mad LJ (Cri) 100], the court has not sifted the materials for the purpose of finding out whether or not there is sufficient ground for proceeding against the accused but whether that would warrant a conviction. We are of the opinion that this was not the stage where the court should have appraised the evidence and discharged the accused as if it was passing an order of acquittal. Further, defect in investigation itself cannot be a ground for discharge. In our opinion, the order impugned [N. Suresh Rajan v. Inspector of Police, Criminal Revision Case (MD) No. 528 of 2009, order dated 10-12-2010 (Mad)] suffers from grave error and calls for rectification.

33. Any observation made by us in this judgment is for the purpose of disposal of these appeals and shall have no bearing on the trial. The surviving respondents are directed to appear before the respective courts on 3-2-2014. The Court shall proceed with the trial from the stage of charge in accordance with law and make endeavour to dispose of the same expeditiously.

34. In the result, we allow these appeals and set aside the order of discharge with the aforesaid observations.

64. It is further settled position of law that defence on merit is not to be considered at the time of stage of framing of charge and that cannot be a ground of discharge. A reference may be made to the judgment as

rendered by the Hon'ble Apex Court in ***State of Rajasthan v. Ashok Kumar Kashyap, (2021) 11 SCC 191***. For ready reference, paragraph no. 11 of the said judgment is being quoted hereinbelow: —

> *"11. While considering the legality of the impugned judgment [Ashok Kumar Kashyap v. State of Rajasthan, 2018 SCC OnLine Raj 3468] and order passed by the High Court, the law on the subject and few decisions of this Court are required to be referred to.*
>
> *11.1. In P. Vijayan [P. Vijayan v. State of Kerala, (2010) 2 SCC 398 : (2010) 1 SCC (Cri) 1488], this Court had an occasion to consider Section 227 CrPC What is required to be considered at the time of framing of the charge and/or considering the discharge application has been considered elaborately in the said decision. It is observed and held that at the stage of Section 227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. It is observed that in other words, the sufficiency of grounds would take within its fold the nature of the evidence recorded by the police or the documents produced before the court which ex facie disclose that there are suspicious circumstances against the accused so as to frame a charge against him. It is further observed that if the Judge comes to a conclusion that there is sufficient ground to proceed, he will frame a charge under Section 228 CrPC, if not, he will discharge the accused. It is further observed that while exercising its judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution, it is not necessary for the court to enter into the pros and cons of the matter or into a weighing and balancing of evidence and probabilities which is really the function of the court, after the trial starts.*
>
> *11.2. In the recent decision of this Court in M.R. Hiremath [State of Karnataka v. M.R. Hiremath, (2019) 7 SCC 515 : (2019) 3 SCC (Cri) 109 : (2019) 2 SCC (L&S) 380], one of us (D.Y. Chandrachud, J.) speaking for the Bench has observed and held in para 25 as under : (SCC p. 526) "25. The High Court [M.R. Hiremath v. State, 2017 SCC OnLine Kar 4970] ought to have been cognizant of the fact that the trial court was dealing with an application for discharge under the provisions of Section 239 CrPC. The parameters which govern the*

exercise of this jurisdiction have found expression in several decisions of this Court. It is a settled principle of law that at the stage of considering an application for discharge the court must proceed on the assumption that the material which has been brought on the record by the prosecution is true and evaluate the material in order to determine whether the facts emerging from the material, taken on its face value, disclose the existence of the ingredients necessary to constitute the offence. In State of T.N. v. N. Suresh Rajan [State of T.N. v. N. Suresh Rajan, (2014) 11 SCC 709 : (2014) 3 SCC (Cri) 529 : (2014) 2 SCC (L&S) 721], adverting to the earlier decisions on the subject, this Court held : (SCC pp. 721-22, para 29)

'29. ... At this stage, probative value of the materials has to be gone into and the court is not expected to go deep into the matter and hold that the materials would not warrant a conviction. In our opinion, what needs to be considered is whether there is a ground for presuming that the offence has been committed and not whether a ground for convicting the accused has been made out. To put it differently, if the court thinks that the accused might have committed the offence on the basis of the materials on record on its probative value, it can frame the charge; though for conviction, the court has to come to the conclusion that the accused has committed the offence. The law does not permit a mini trial at this stage."

65. Further, it is pertinent to mention here that power to discharge an accused was designed to prevent harassment to an innocent person by the arduous trial or the ordeal of prosecution. How that intention is to be achieved is reasonably clear in the section itself. The power has been entrusted to the Sessions Judge who brings to bear his knowledge and experience in criminal trials. Besides, he has the assistance of counsel for the accused and Public Prosecutor. He is required to hear both sides before framing any charge against the accused or for discharging him. If the Sessions Judge after hearing the parties frames a charge and also makes an order in support

thereof, the law must be allowed to take its own course. Self-restraint on the part of the High Court should be the rule unless there is a glaring injustice which stares the court in the face. The opinion on any matter may differ depending upon the person who views it. There may be as many opinions on a particular matter as there are courts but it is no ground for the High Court to interdict the trial. It would be better for the High Court to allow the trial to proceed. Reference in this regard may be taken from the judgment as rendered by the Hon'ble Apex Court in ***Stree Atyachar Virodhi Parishad v. Dilip Nathumal Chordia, (1989) 1 SCC 715.***

66. Further, the difference between the approach with which the Court should examine the matter in the discharge has been explained by the Hon'ble Supreme Court in ***Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460***, in the following words: —

> *"17. Framing of a charge is an exercise of jurisdiction by the trial court in terms of Section 228 of the Code, unless the accused is discharged under Section 227 of the Code. Under both these provisions, the court is required to consider the "record of the case" and documents submitted therewith and, after hearing the parties, may either discharge the accused or where it appears to the court and in its opinion there is ground for presuming that the accused has committed an offence, it shall frame the charge. Once the facts and ingredients of the Section exists, then the court would be right in presuming that there is ground to proceed against the accused and frame the charge accordingly. This presumption is not a presumption of law as such. The satisfaction of the court in relation to the existence of constituents of an offence and the facts leading to that offence is a sine qua non for exercise of such jurisdiction. It may even be weaker than a prima facie case. There is a fine distinction between the language of Sections 227 and 228 of the Code. Section 227 is the expression of a definite opinion and judgment of the Court while*

> *Section 228 is tentative. Thus, to say that at the stage of framing of charge, the Court should form an opinion that the accused is certainly guilty of committing an offence, is an approach which is impermissible in terms of Section 228 of the Code.*
>
> *30. We have already noticed that the legislature in its wisdom has used the expression "there is ground for presuming that the accused has committed an offence".*

67. This has an inbuilt element of presumption once the ingredients of an offence with reference to the allegations made are satisfied, the Court would not doubt the case of the prosecution unduly and extend its jurisdiction to quash the charge in haste. The Hon'ble Apex Court in ***State of Maharashtra v. Som Nath Thapa (1996) 4 SCC 659*** referred to the meaning of the word "presume" while relying upon Black's Law Dictionary. It was defined to mean "to believe or accept upon probable evidence"; "to take as proved until evidence to the contrary is forthcoming". In other words, the truth of the matter has to come out when the prosecution evidence is led, the witnesses are cross-examined by the defence, the incriminating material and evidence is put to the accused in terms of Section 313 of the Code and then the accused is provided an opportunity to lead defence, if any. It is only upon completion of such steps that the trial concludes with the court forming its final opinion and delivering its judgment. Merely because there was a civil transaction between the parties would not by itself alter the status of the allegations constituting the criminal offence."

68. Thus, it is evident that the law regarding the approach to be adopted by the Court while considering an application for discharge of the accused person the Court has to form a definite opinion, upon

consideration of the record of the case and the documents submitted therewith, that there is not sufficient ground for proceeding against the accused.

69. The Hon'ble Apex Court has further dealt with the proper basis for framing of charge in the case of ***Onkar Nath Mishra v. State (NCT of Delhi)*** wherein, at paragraphs 11, 12 and 14, it has been held as under:

> *"11. It is trite that at the stage of framing of charge the court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom, taken at their face value, disclosed the existence of all the ingredients constituting the alleged offence. At that stage, the court is not expected to go deep into the probative value of the material on record. What needs to be considered is whether there is a ground for presuming that the offence has been committed and not a ground for convicting the accused has been made out. At that stage, even strong suspicion founded on material which leads the court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged would justify the framing of charge against the accused in respect of the commission of that offence.*
>
> *12. In State of Karnataka v. L. Muniswamy [(1977) 2 SCC 699 : 1977 SCC (Cri) 404], a three-Judge Bench of this Court had observed that at the stage of framing the charge, the Court has to apply its mind to the question whether or not there is any ground for presuming the commission of the offence by the accused. As framing of charge affects a person's liberty substantially, need for proper consideration of material warranting such order was emphasised.*
>
> *14. In a later decision in State of M.P. v. Mohanlal Soni [(2000) 6 SCC 338 : 2000 SCC (Cri) 1110] this Court, referring to several previous decisions held that : (SCC p. 342, para 7)*
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> *"7. The crystallised judicial view is that at the stage of framing charge, the court has to prima facie consider whether there is sufficient ground for proceeding against the accused. The court is not*

required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused."

The Hon'ble Apex Court in the case of Palwinder Singh v. Balvinder Singh, (2009) 2 SCC (Cri) 850 has been pleased to hold that charges can also be framed on the basis of strong suspicion. Marshaling and appreciation of the evidence is not in the domain of the court at that point of time. 52. In the judgment passed by the Hon'ble Supreme court in the case of Sajjan Kumar v. CBI, reported in (2010) 9 SCC 368, the Hon'ble Supreme Court has considered the scope of Sections 227 and 228 CrPC. The principles which emerged therefrom have been taken note of in para 21 as under:

"21. On consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge: (i) The Judge while considering the question of framing the charges under Section 227 CrPC has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.

(ii) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.

(iii) The court cannot act merely as a post office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge

the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.

70. In the judgment passed by the Hon'ble Supreme court in the case of ***M.E. Shivalingamurthy v. CBI, reported in (2020) 2 SCC 768***, the above principles have been reiterated in para 17, 18, 28 to 31 and the Hon'ble supreme court has explained as to how the matters of grave suspicion are to be dealt with. The aforesaid paragraphs are being quoted as under:

"17. This is an area covered by a large body of case law. We refer to a recent judgment which has referred to the earlier decisions viz. P. Vijayan v. State of Kerala and discern the following principles:

17.1. If two views are possible and one of them gives rise to suspicion only as distinguished from grave suspicion, the trial Judge would be empowered to discharge the accused.

17.2. The trial Judge is not a mere post office to frame the charge at the instance of the prosecution.

17.3. The Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding. Evidence

would consist of the statements recorded by the police or the documents produced before the Court.

17.4. If the evidence, which the Prosecutor proposes to adduce to prove the guilt of the accused, even if fully accepted before it is challenged in cross-examination or rebutted by the defence evidence, if any, "cannot show that the accused committed offence, then, there will be no sufficient ground for proceeding with the trial".

17.5. It is open to the accused to explain away the materials giving rise to the grave suspicion.

17.6. The court has to consider the broad probabilities, the total effect of the evidence and the documents produced before the court, any basic infirmities appearing in the case and so on. This, however, would not entitle the court to make a roving inquiry into the pros and cons.

17.7. At the time of framing of the charges, the probative value of the material on record cannot be gone into, and the material brought on record by the prosecution, has to be accepted as true.

17.8. There must exist some materials for entertaining the strong suspicion which can form the basis for drawing up a charge and refusing to discharge the accused.

18. The defence of the accused is not to be looked into at the stage when the accused seeks to be discharged under Section 227 CrPC (see State of J&K v. Sudershan Chakkar). The expression, "the record of the case", used in Section 227 CrPC, is to be understood as the documents and the articles, if any, produced by the prosecution. The Code does not give any right to the accused to produce any document at the stage of framing of the charge. At the stage of framing of the charge, the submission of the accused is to be confined to the material produced by the police (see State of Orissa v. Debendra Nath Padhi).

28. It is here that again it becomes necessary that we remind ourselves of the contours of the jurisdiction under Section 227 CrPC. The principle established is to take the materials produced by the prosecution, both in the form of oral statements and also documentary material, and act upon it without it been subjected to questioning through cross-examination and everything assumed in favour of the

prosecution, if a scenario emerges where no offence, as alleged, is made out against the accused, it, undoubtedly, would ensure to the benefit of the accused warranting the trial court to discharge the accused.

29. It is not open to the accused to rely on the material by way of defence and persuade the court to discharge him.

30. However, what is the meaning of the expression "materials on the basis of which grave suspicion is aroused in the mind of the court's", which is not explained away? Can the accused explain away the material only with reference to the materials produced by the prosecution? Can the accused rely upon material which he chooses to produce at the stage?

31. In view of the decisions of this Court that the accused can only rely on the materials which are produced by the prosecution, it must be understood that the grave suspicion, if it is established on the materials, should be explained away only in terms of the materials made available by the prosecution. No doubt, the accused may appeal to the broad probabilities to the case to persuade the court to discharge him."

71. It has been further held in the case of ***Asim Shariff v. National Investigation Agency, (2019) 7 SCC 148***, that mini trial is not expected by the trial court for the purpose of marshalling the evidence on record at the time of framing of charge, wherein, it has been held at paragraph no.18 of the said judgment as under:—

"18. Taking note of the exposition of law on the subject laid down by this Court, it is settled that the Judge while considering the question of framing charge under Section 227 CrPC in sessions cases (which is akin to Section 239 CrPC pertaining to warrant cases) has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out; where the material placed before the court discloses grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing the

charge; by and large if two views are possible and one of them giving rise to suspicion only, as distinguished from grave suspicion against the accused, the trial Judge will be justified in discharging him. It is thus clear that while examining the discharge application filed under Section 227 CrPC, it is expected from the trial Judge to exercise its judicial mind to determine as to whether a case for trial has been made out or not. It is true that in such proceedings, the court is not supposed to hold a mini trial by marshalling the evidence on record."

72. In the case of ***Asim Shariff v. NIA, (supra),*** it has been held by the Hon'ble Apex Court that the words 'not sufficient ground for proceeding against the accused' clearly show that the Judge is not a mere post office to frame the charge at the behest of the prosecution, but has to exercise his judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution. In assessing this fact, it is not necessary for the court to enter into the pros and cons of the matter or into a weighing and balancing of evidence and probabilities which is really his function after the trial starts. At the stage of Section 227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. The sufficiency of ground would take within its fold the nature of the evidence recorded by the police or the documents produced before the court which ex facie disclose that there are suspicious circumstances against the accused so as to frame a charge against him.

73. Thus, from aforesaid legal propositions it can be safely inferred that if, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is no sufficient ground for proceeding against the accused, he shall discharge

the accused and record his reasons for doing so and if, after such consideration and hearing as aforesaid, the Judge is of the opinion that there is ground for presuming that the accused has committed an offence, the trial Court shall frame the charge. However, the defence of the accused cannot be looked into at the stage of discharge. The accused has no right to produce any document at that stage. The application for discharge has to be considered on the premise that the materials brought on record by the prosecution are true.

74. Thus, at the time of considering an application for discharge, the Court is required to consider the limited extent to find out whether there is prima facie evidence against the accused to believe that he has committed any offence as alleged by the prosecution; if prima facie evidence is available against the accused, then there cannot be an order of discharge.

75. Therefore, the stage of discharge is a stage prior to framing of the charge and once the Court rejects the discharge application, it would proceed to framing of charge. At the stage of discharge, the Judge has merely to sift and weigh the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused and in other words, the sufficiency of grounds would take within its fold the nature of the evidence recorded by the prosecution or the documents produced before the court which ex facie disclose that there are suspicious circumstances against the accused so as to frame the charge against him and after that if the Judge comes to a conclusion that there is sufficient

ground to proceed, he will frame a charge and, if not, he will discharge the accused.

76. While exercising its judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution, it is not necessary for the Court to enter into the pros and cons of the matter or into a weighing and balancing of evidence and probabilities which is really the function of the court, after the trial starts.

77. It is considered view that at this stage of the instant case, the Court was only required to consider whether a prima facie case has been made out or not and whether the accused is required to be further tried or not because at the stage of framing of the charge and / or considering the discharge application, the mini trial is not permissible.

78. It requires to refer herein that the purpose of framing a charge is to provide the accused with detailed information about the allegations against him. Framing of proper charge is one of the basic requirements of a fair trial. Charge is of great significance in a criminal trial as it helps not only the accused in knowing the accusation against him but also helps him in the preparation of his defence.

79. In a criminal trial the charge is the foundation of the accusation and every care must be taken to see that it is not only properly framed. At the initial stage of framing a charge, the truth, veracity and effect of the evidence which the prosecution proposes to adduce are not to be considered meticulously.

80. It is settled position of law that the accused is entitled in law to know with precision what is the law on which they are put to trial.

Charges are framed against the accused only when the Court finds that the accused is not entitled to discharge under the relevant provision of CrPC/BNSS.

81. In Sessions case the Court shall frame a charge in writing against the accused when the Court is of the opinion that there is ground for presuming that the accused has committed an offence as can be seen from Section 252 of the BNSS. In warrant cases, a charge shall be framed when a prima facie case has been made out against the accused as is evident from sections 263 and 269 of BNSS.

82. The Hon'ble Supreme Court of India in ***State of Maharastra vs. Som Nath Thapa, (1996) 4 SCC 659*** has been pleased to hold that if the Court were to think that the accused might have committed the offence, it can frame the charge, though for conviction the conclusion is required to be that the accused had committed the offence. It was further held that at the stage of framing of charge the Court cannot look into the probative value of the materials on record.

83. Further, while considering the question of framing a charge, the Court has the undoubted power to sift and weigh the materials for the limited purpose for finding out whether or not a prima facie case against the accused has been made out. In exercising the power, the Court cannot act merely as a post office or a mouthpiece of the prosecution.

84. The test to determine a prima facie case against the accused would naturally depend on the facts of each case and it is difficult to lay down the rule of universal application and if the material placed before the Court discloses grave suspicion against the accused which has not

been properly explained, the Court will be fully justified in framing the charge and proceeding with the trial.

85. In ***Kanti Bhadra Shah vs. State of West Bengal, (2000) 1 SCC 722***, the Hon'ble Supreme Court held that whenever the trial Court decides to frame charges, it is not necessary to record reasons or to do discuss evidence in detail.

86. In ***State of Andhra Pradesh vs. Golconda Linga Swamy, (2004) 6 SCC 522***, the Hon'ble Supreme Court held that at the stage of framing of charge, evidence cannot be gone into meticulously. It was held that it is immaterial whether the case is based on direct or circumstantial evidence and a charge can be framed if there are materials showing possibility about commission of the offence by the accused as against certainty.

87. It needs to refer herein that Sections 215 and 464 CrPC ensure that technicalities do not defeat justice. Both the sections lay that irregularity or error in framing a charge is not fatal unless the accused is able to show that prejudice is caused to him as result of such irregularity or omission. The object of section 238 BNSS is to prevent failure of justice on account of irregularity in framing of charge.

88. In judging a question of prejudice, as of guilt, the Court must act with a broader vision and look to the substance and not to the technicalities, and its main concern should be to see whether the accused had a fair trial, whether he knew what he was being tried for, whether the main facts sought to be established against him were explained to him

fairly and clearly and whether he had a full and fair chance to defend himself.

89. In State of ***Uttar Pradesh vs. Paras Nathi Singh, 2009 INSC 669,*** the Hon'ble Supreme Court after considering the language of Section 464 Cr.P.C. held that the burden is on the accused to show that a failure of justice has been occasioned on account of error, omission or irregularity of the charge.

90. Thus, framing of charge is not a mere empty formality. Every endeavour must be made in a criminal trial to ensure that appropriate charge is framed against the accused. Even though mere omission, error or irregularity in framing charges does not ipso facto vitiate trial, the accused should be made fully aware of the specific accusations against him in order to defend himself properly. Apart from safeguarding the interests of the accused, framing of proper charge also ensures that the interests of the victims and the society at large are safeguarded and no guilty person goes unpunished only on account of error in framing the charge.

91. The Hon'ble Supreme Court of India in ***DipakbhaiJagdhishchandra Patel vs. State of Gujarat, (2009) 16 SCC 547*** has been pleased to hold that:

> *"21. At the stage of framing the charge in accordance with the principles which have been laid down by this Court, what the Court is expected to do is, it does not act as a mere post office. The Court must indeed sift the material before it. The material to be sifted would be the material which is produced and relied upon by the prosecution. The sifting of material before the Court is not to be meticulous in the*

sense that Court dons the mantle of the trial Judge hearing arguments after the entire evidence has been adduced after a full fledged trial and the question is not whether the prosecution has made out the case for the conviction of the accused. All that is required is, the Court must be satisfied that with the materials available, a case is made our for the accused to stand trial. A strong suspicion suffices. However, a strong suspicion must be founded on some material."

92. Thus, from the aforesaid judicial pronouncements, it is evident that at the stage of framing charges, trial court is not to examine and assess in detail the material placed on record by the prosecution nor is it for the court to consider the sufficiency of the materials to establish the offence alleged against the accused persons. Marshalling of facts and appreciation of evidence at the time of framing of charge is not in the domain of the court. Charge can be framed even on the basis of strong suspicion founded upon materials before the court which leads the court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged against the accused.

93. It needs to refer herein that ingredients of offences should be seen in the material produced before the court for framing of charges and duty of court at the stage of framing of charges is to see whether the ingredients of offences are available in the material produced before the court. Contradictions in the statements of witnesses or sufficiency or truthfulness of the material placed before the court cannot be examined at the stage of framing of the charge. For this limited purpose, the court may sift the evidence. Court has to consider material only with a view to find out if there is ground for presuming that the accused has committed

an offense and not for the purpose of arriving at a definite conclusion. “Presume“ means if on the basis of materials on record, court can come to the conclusion that commission of the offense is a probable consequence, then a case for framing of charge exists.

94. Thus, it is well settled that at the time of framing of charge, meticulous examination of evidence is not required, however the evidence can be sifted or weighed at least for the purpose of recording a satisfaction that a prima facie case is made out for framing charge to proceed in the case. Further the trial Court is not required to discuss the evidence for the purpose of conducting a trial but the discussion of the materials on record is required to reflect the application of judicial mind for finding that a prima-facie case is made out against the petitioner.

95. It is settled connotation of law that at the stage of framing of charge, the probable defence of the accused is not to be considered and the materials, which are relevant for consideration, are the allegations made in the First Information Report/complaint, the statement of the witnesses recorded in course of investigation, the documents on which the prosecution relies and the report of investigation submitted by the prosecuting agency. The probative value of the defence is to be tested at the stage of trial and not at the stage of framing of charge and at the stage of framing of charge minute scrutiny of the evidence is not to be made and even on a very strong suspicion, charges can be framed.

96. Further, it is settled position of law that at the stage of framing the charge, the trial Court is not required to meticulously examine and marshal the material available on record as to whether there is sufficient

material against the accused which would ultimately result in conviction. The Court is prima facie required to consider whether there is sufficient material against the accused to presume the commission of the offence. Even strong suspicion about commission of offence is sufficient for framing the charge, the guilt or innocence of the accused has to be determined at the time of conclusion of the trial after evidence is adduced and not at the stage of framing the charge and, therefore, at the stage of framing the charge, the Court is not required to undertake an elaborate inquiry for the purpose of sifting and weighing the material.

97. Recently, the Full Bench of the Hon'ble Apex Court in the case of ***Ghulam Hassan Beigh v. Mohd. Maqbool Magrey, (2022) 12 SCC 657*** has elaborately discussed the issue of framing of charge and has held at paragraph-27 which reads as under:

> "27. Thus from the aforesaid, it is evident that the trial court is enjoined with the duty to apply its mind at the time of framing of charge and should not act as a mere post office. The endorsement on the charge-sheet presented by the police as it is without applying its mind and without recording brief reasons in support of its opinion is not countenanced by law. However, the material which is required to be evaluated by the court at the time of framing charge should be the material which is produced and relied upon by the prosecution. The sifting of such material is not to be so meticulous as would render the exercise a mini trial to find out the guilt or otherwise of the accused. All that is required at this stage is that the court must be satisfied that the evidence collected by the prosecution is sufficient to presume that the accused has committed an offence. Even a strong suspicion would suffice. Undoubtedly, apart from the material that is placed before the court by the prosecution in the shape of final report in terms of Section 173 CrPC, the court may also rely upon any other evidence or material which is of sterling quality and has direct bearing on the charge laid before it by the prosecution."

98. Thus, from aforesaid legal propositions it can be safely inferred that if, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is no sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for doing so and if, after such consideration and hearing as aforesaid, the Judge is of the opinion that there is ground for presuming that the accused has committed an offence, the trial Court shall frame the charge.

99. Therefore, the stage of discharge is a stage prior to framing of the charge and once the Court rejects the discharge application, it would proceed for framing of charge. At the stage of discharge, the Judge has merely to sift and weigh the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused and in other words, the sufficiency of grounds would take within its fold the nature of the evidence recorded by the prosecution or the documents produced before the court which ex facie disclose that there are suspicious circumstances against the accused so as to frame the charge against him and after that if the Judge comes to a conclusion that there is sufficient ground to proceed, he will frame a charge and, if not, he will discharge the accused.

100. While exercising its judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution, it is not necessary for the Court to enter into the pros and

cons of the matter or into a weighing and balancing of evidence and probabilities which is really the function of the court, after the trial starts.

101. It is the considered view that at this stage of the instant case, the Court was only required to consider whether a prima facie case has been made out or not and whether the accused is required to be further tried or not because at the stage of framing of the charge and / or considering the discharge application, the mini trial is not permissible.

102. In the backdrop of aforesaid case laws and judicial deduction, this Court is now proceeding to examine the fact so as to come to the conclusion, “as to whether the evidence which has been collected in course of investigation and has been brought on record, as would be available in the impugned order, prima facie case against the petitioner is made out or not?”

103. The learned counsel for the petitioner has contended that the petitioner has been prosecuted on the basis of assumptions and surmises, and the officials of the Investigating Agency has totally overlooked the principle that there must be a 'reason to believe' rather than mere assumptions that the offences alleged against the petitioner have actually been committed by him and further the learned Special Judge, PML Act, Ranchi has failed to appreciate that the prosecution has not produced material which would show that the petitioner has, in any manner, dealt with "proceeds of crime".

104. Per contra, the learned counsel for ED has contended by referring to the various paragraphs of the ECIR that orders impugned in these Cr. Revisions are refusal of the prayer of discharge and

subsequently framing of charge and both the orders cannot be said to suffer from an error since ample materials are available based upon which it cannot be said that no prima facie case is available against the petitioner leading to discharge of the petitioner rather all these aspects are to be adjudicated in course of the trial.

105. In order to appreciate the contention of the learned counsel for the parties, this Court has gone through the various paragraphs of the ECIR which has been annexed with the instant petition being Cr. Revision, for ready reference, the various paragraphs of the said ECIR are being quoted as under:

> "***7. INVESTIGATION LEADING TO FURTHER SEARCHES UNDER PMLA:***
>
> 7.1 During the course of the investigation, Veerendra Kumar Ram was arrested u/s 19 of PMLA, 2002 on 23.02.2023 for the offence defined under Section 3 of PMLA. During his custodialinterrogation, Veerendra Kumar Ram disclosed that he was taking commission against the allotment of tenders from the contractors. He further disclosed in his statement that the commission amount taken from the contractors is 3.2% of the total tender value and that his share was 0.3% of the total tender value which at some postings was higher than 0.3%. However, given the total Proceeds of Crime acquired by him, it is believed that the percentage (%) of commission varied from 0.3% to 1% of the tender value which is being stated by him under Section 50 of PMLA, 2002.
>
> 7.2 Veerendra Kumar Ram in his statement further stated that the whole process of collection and distribution of commission was taken care of by the assistant engineers posted at the Rural Development Special Zone and Rural Works Department. He further stated that the share of Minister Alamgir Alam was 1.5% of the allocated tender amount. Investigation revealed that Rs. 3 crores were given to Alamgir Alam by engineers of the Rural Works Department through his PS Sanjeev Kumar Lal in September 2022.

7.3 Further, it was ascertained that the amount of commission on behalf of Alamgir Alam was getting collected by Sanjeev Kumar Lal (his PS). Further, it was ascertained that a person named Jahangir Alam collects such commission on the instructions of Sanjeev Kumar Lal who is an associate of Sanjeev Kumar Lal. During investigation, it was found that Sanjeev Kumar Lal resides at Booty Road, Ranchi which is a government accommodation. During analysis of the seized mobile phone of Veerendra Kumar Ram, contact details of Sanjeev Kumar Lal was found as 'Sanjeev Lal PA of RDD Minister' and two mobile nos. (9939121851 and 8789745592) are saved in the said contact's name. Further, SDR, CAF and CDR of the aforesaid mobile nos, were sought and it was revealed that the mobile no. 9939121851 is in the name of Sanjeev Kumar Lal himself. However, another mobile no. 8789745592 was found to be in the name of Jahangir Alam, S/o- Ekramul Haque. Thus, it became evident that Jahangir Alam is a close associate of Sanjeev Kumar Lal and theJahangir acts as a close trusted aid of Sanjeev Kumar Lal. Further, analysis of the CDR and tower location of both mobile nos. was also made and it was found that they live in very close proximity to the government accommodation and it was found during search that they were residing in the same government residence. Further, it was gathered that there is a flat in the name of Jahangir Alam which was used by Sanjeev Kumar Lal for secreting the proceeds of crime. It was also gathered that the wife of Sanjeev Lal @ Sanjeev Kumar Lal is involved in businesses related to construction and is a director/partner/shareholder in an entity with one builder Munna Singh. It was learnt that the proceeds of crime in the form of cash acquired by the officials/officers of the Rural Development Department are deposited to a builder on the instructions of Sanjeev Kumar Lal. Therefore, on the basis of reasons to believe, search u/s 17 of PMLA, 2002 was conducted at seven premises on 06.05.2024.

7.4.As a result of the search, huge cash to the tune of Rs 32.20 crores was recovered and seized on 06/07.05.2024 from the premises of Jahangir Alam i.e. Flat No. 1A, Sir Syed Residency, Kumhartoli, Ranchi. ..... Further, huge cash amount to the tune of Rs. 2.93 Crore have been recovered and seized on 06.05.2024 from the premises of Munna Singh i.e. Flat No. 1A Kashmiri Gali, PP Compound, Ranchi, Jharkhand.

> 7.5 On the basis of statement recorded of Munna Singh wherein he stated that he used to collect such cash from the engineers/contractors on the instruction of Sanjeev Lal, searches were also conducted at the residences of these engineers viz. Rajiv Kumar, Santosh Kumar, Rajkumar Toppo, Ajay Tirkey & Amit Kumar on 07.05.2024.
>
> 7.6 Further, as a result of the search on 07.05.2024 at the Residential premises of Rajeev Kumar Singh i.e. E-4, Mecon Vatika, KalyanpurHatiya, Ranchi Jharkhand-834003, a huge cash amount to the tune of Rs. 2.13 Crore have been recovered and seized.
>
> 7.7 Apart from the above, as a result of the search other cash amounts that were recovered and seized on different dates from the other premises. ..... In this way, Cash totalling to Rs. 37.55 Crores Approx. has been recovered and seized from the various premises searched u/s 17 of the PMLA,2002 on 06th, 07th and 08th of May 2024.
>
> 7.8 Apart from the above cash amounts several digital devices, incriminating documents and records were found and seized from the aforesaid premises during the course of searches on 06.05.2024, 07.05.2024, 08.05.2024, 10.05.2024 & 24.05.2024 under section 17 of the Prevention of Money Laundering Act, 2002.....”

106. This Court has also gone through the averments made in the prosecution complaint regarding modus operandi of generation of “proceeds of crime“, wherein it has been stated that total of 18 searches were conducted u/s 17 of PMLA in Ranchi, at the premises of Sanjeev Kumar Lal, Jahangir Alam, some Engineers and other persons on different dates. As a result of search, huge amount of cash to the tune of Rs. 37.55 Crore, digital devices, records and various incriminating documents were recovered which gave details with regard to the various individuals involved in the process of generation and distribution of proceeds of crime. Statement of various Chief Engineers/Engineers of RWD, JSRRDA and RDSD were recorded u/s 50 of PMLA, 2002

wherein they have inter alia stated that commission is collected by the engineers/officials from contractors/companies/firms against tender allocation in the RWD, JSRRDA and RDSD departments. The commission of 3% of the total amount mentioned in LOA (Letter of Acceptance) is fixed for tender allotment, the distribution of which among the Minister, bureaucrats, engineers and other officials is distributed as -(a) 1.35%- Minister, Alamgir Alam (through his PS Sanjeev Kumar Lal; (b) 1.65% to Top bureaucrats and other engineers/officials. They also stated that the collection of commission for minister, Alamgir Alam, has been done by Sanjeev Kumar Lal through his person/agent and for other persons the commission has been collected by Chief Engineer, JSRRDA himself and, through his selected persons. For ready reference, the relevant portion of paragraph 8 is quoted as under:

> **"8. GENERATION OF PROCEEDS OF CRIME**
>
> 8.1 A total of 18 searches were conducted u/s 17 of PMLA in Ranchi, at the premises of Sanjeev Kumar Lal, Jahangir Alam, some Engineers and other persons on different dates. As a result of the search huge amount of cash to the tune of Rs. 37.55 Crore, digital devices, records and various incriminating documents were recovered which gave details with regard to the various individuals involved in the process of generation and distribution of proceeds of crime. 8.2 Sanjeev Kumar Lal during his ED Custody interrogation also stated that the commission in the range of 3 to 4 % of the total tender amount is collected in cash by the Asst. Engineers/Executive Engineers of the respective departments. He further stated that he used to collect the share of 1.35 % of minister Alamgir Alam on his behalf from Asst. Engineers/Executive Engineers via Chief Engineers. Hefurther stated that first of all, the Asst. Engineers/Executive Engineers used to inform him regarding handing over the share of Alamgir Alam and

they requested Sanjeev Kumar Lal to send some person to collect cash i.e. commission.

Thereafter, Sanjeev Kumar Lal used to instruct Munna Singh who was his close friend, and/or his brother (Santosh Kumar) to collect cash from the said engineers. Sanjeev Kumar Lal further instructed Jahangir Alam to stand near Abhinandan Marriage hall, near Rani Hospital and Deendayal Nagar, Ranchi with his Aprilia scooter bearing Registration No. JH01ES8402, where Rinku alias Santosh Kumar (brother of Munna Singh) handed over bags filled with currency/note bundles, and after receiving those bags, he used to park the said bags beneath bed and almirah at his Flat No. 1A, Sir Syed Residency, Kumhartoli, Ranchi safely. Thus, it is ascertained that Sanjeev Kumar Lal takes care of the collection of commission on behalf of Minister Alamgir Alam.

8.3 Statements of various Chief Engineers/Engineers of RWD, JSRRDA and RDSD were recorded u/s 50 of PMLA, 2002 wherein they have inter alia stated that commission is collected by the engineers/officials from contractors/companies/firms against tender allocation in the RWD, JSRRDA and RDSD departments. The commission of 3% of the total amount mentioned in LOA (Letter of Acceptance) is fixed for tender allotment, the distribution of which among the Minister, bureaucrats, engineers and other officials is distributed as under: (a) 1.35%- Minister, Alamgir Alam (through his PS Sanjeev Kumar Lal) (b) 1.65% Top bureaucrats and other engineers/officials They also stated that the collection of commission for minister Alamgir Alam has been done by Sanjeev Kumar Lal through his person/agent and for other persons the commission has been collected by Chief Engineer, JSRRDA himself and, through his selected persons.

8.4 Further, From the statements of Sanjeev Kumar Lal and aforesaid Chief Engineers/Engineers of RWD, JSRRDA and RDSD the modus operandi of allocation of Tenders and collection of commission against the tenders has surfaced which is detailed as under:

(i) The modus operandi regarding collection of commission against allotment tenders starts with the floating of tenders by RWD, RDSD and JSRRDA for the construction of roads, bridges and other government buildings in Jharkhand.

Firstly, the Government takes decision to construct road/bridge, the Detailed Project Report (DPR) is prepared by Executive Engineer. Thereafter, the technical sanction is approved by the competent Authority i.e. up to 1.00 Crore by Superintendent Engineer and more than 01.00 Crore by Chief Engineer. After that sanctioned estimate is sent to the Department/Secretary and processed by the Department for Administrative Approval (AA) duly approved by the Hon'ble Minister of the department. Once the Administrative Approval (AA) sanction letter is issued by the Secretary, it is sent to Chief Engineer for Tender Process. Further, Apart from huge cash as mentioned above, several documents including letters on official letterheads were found from the said premise of Jahangir Alam, which were kept there on the instructions of, and under the possession of Sanjeev Kumar Lal, as PS to Alamgir Alam RDD minister, which clearly establishes that Sanjeev Kumar Lal was using the said premise of Jahangir Alam as a safe house for keeping cash, documents/records and other belongings related to Minister Alamgir Alam and himself. ....

8.15 Further, Apart from huge cash as mentioned above, several documents including letters on official letterheads were found from the said premise of Jahangir Alam, which were kept there on the instructions of, and under the possession of Sanjeev Kumar Lal, as PS to Alamgir Alam RDD minister, which clearly establishes that Sanjeev Kumar Lal was using the said premise of Jahangir Alam as a safe house for keeping cash, documents/records and other belongings related to Minister Alamgir Alam and himself.....

8.16.That, several documents and records pertaining to Sanjeev Kumar Lal were seized from the said premise of Jahangir Alam including several torn pages of a few diaries and notes. Whenthese torn pages of diaries were confronted with Sanjeev Kumar Lal, he in his statements recorded u/s 50 of PMLA, 2002 has inter alia stated that these torn pages and notes contain the calculations (Hisab Kitab) of cash/commission collected against the allocation of tenders of RWD, JSRRDA and RDSD.....”

107. In order to prove the allegation, statements of several persons were recorded under the provisions of PMLA, the gist of the statements is quoted as under:

"10. BRIEF DETAILS OF PERSONS EXAMINED UNDER SECTION 17 AND 50 OF PMLA, 2002.

During the course of the search and investigation, statements of several persons were recorded under the provisions of PMLA, the gist of the statements relevant to this investigation is as under:

10.1. Veerendra Kumar Ram: *Veerendra Kumar Ram is a chief engineer in Rural Department Special Zone and also in additional charge of Rural Works Department. In his statement recorded u/s 50 of PMLA during custodial interrogation and in judicial custody on different dates wherein he inter alia accepted that commission was taken in lieu of allotment of tenders and that the total commission was 3.2% of tender value and that his share of commission was 0.3% of the total tender amount which varies from 0.3% to 1%. The share of Minister Alamgir Alam is around 1.5% of the allocated tender amount. He further stated that the whole process of collection and distribution of commission was taken care of by the assistant engineers posted at Rural Development Special Zone and Rural Works Department. He further stated that Rs. 3 crores were given to Alamgir Alam by engineers of Rural Works Department through his PS Sanjeev Kumar Lal in September 2022.*

During analysis of the seized mobile phone of Veerendra Kumar Ram, contact details of Sanjeev Lal was found as 'Sanjeev Lal PA of RDD Minister' and two mobile nos. (9939121851 and 8789745592) are saved in the-said-contact's name.

10.2. Alamgir Alam: *He is the minister of RWD and other departments. He was arrested on 15.05.2024 and during his ED custodial interrogation u/s 50 of PMLA, 2002, he showed complete non-cooperation, by not divulging the true facts about Rs. 56 crores which are the Proceeds of Crime acquired by him and other seized records and documents. He has not disclosed the true facts even in his statements recorded u/s 50 of PMLA, 2002 during his ED Custody and Judicial Custody. He failed to discharge the burden of proof which is bestowed upon him u/s 24 of PMLA.*

10.3. Sanjeev Kumar Lal: *He is PS to minister Alamgir Alam. He was arrested on 07.05.2024 and during his ED custodial interrogation u/s 50 of PMLA, 2002, he showed complete non cooperation, by not*

divulging the true facts about 53 crores initially, which are the Proceeds of Crime acquired by Alamgir Alam and himself and other seized records and documents.

When he was shown the evidences, he disclosed that he was collecting the share of Minister Alamgir Alam (1.35%) from the total commission which is 3% of total tender amount that was collected against the tenders of RWD, JSRRDA, RDSD, RDSD and RDSZ. He has instructed the Chief-Engineers and other engineers to collect the commission and give him the share of Minister Alamgir Alam. He instructed Santosh Kumar, brother of Munna Singh to collect commission/cash from Chief Engineers and other engineers and hand over the same to Jahangir Alam. He further instructed Jahangir Alam to collect cash/commission from Santosh Kumar, brother of Munna Singh and store the same at his (Jahangir Alam's) premises safely. He further accepted that the cash amount recovered and seized from the premises of Munna Singh and Rajeev Kumar Singh during the search is also the commission amount of Alamgir Alam which was yet to be handed over to Jahangir Alam. He maintained the calculations (Hisab Kitab) of the collected commission of Alamgir Alam in torn pages of diaries. He has also taken his share of around Rs. 2.05 Crore from the commission and invested the same in immovable and movable properties in his name and in the name of his family members.

Further, Sanjeev Kumar Lal stated u/s 50 of PMLA that Munna Singh and his brother were not aware that the money they were collected, was the commission amount against the tenders. They did the same on his instructions.

***10.4. Jahangir Alam:** He is a close aide of Sanjeev Kumar Lal. He was arrested on 07.05.2024 and during his ED custodial interrogation u/s 50 of PMLA, 2002, he showed complete non cooperation, by not divulging the true facts about Rs. 32.20 crore initially, which are the Proceeds of Crime acquired by Alamgir Alam and Sanjeev Kumar Lal and other seized records and documents.*

He further stated that the cash amount seized from his said premises belongs to Sanjeev Kumar Lal, and he collected the aforesaid huge cash amount i.e. Rs. 32.20 Crore on the instructions of Sanjeev Kumar Lal. He further stated that about 4 to 5 months ago Sanjeev Kumar Lal instructed him to stand near Abhinandan Marriage hall, near

Rani Hospital and Deendayal Nagar, Ranchi with his Aprilia scooter bearing, where Rinku alias Santosh Kumar (brother of Munna Singh) handed over bags filled with currency/note bundles, and after receiving those bags, he used to park the said bags beneath bed and almirah at his Flat No. 1A, Sir Syed Residency, Kumhartoli, Ranchi safely. He has also taken cash around Rs. 40.40 Lakhs from Sanjeev Kumar Lal and invested the same in immovable and movable properties in his name with the help of his friends. With respect to jewellery seized from his premises, he in his statement recorded in judicial custody, has accepted that the seized jewellery belongs to him and the said jewellery items was purchased by him in cash, however, he has no invoice in support of such purchase.

10.5. Reeta Lal: *Statements of Reeta Lal W/o Sanjeev Kumar Lal were recorded u/s 50 of PMLA wherein she inter alia stated that she is a housewife and her source of income is agriculture. She has purchased immovable properties in Khunti, Bariyatu, Kanke Road and Pundag. She further stated that she is a partner in Tejaswini Buildcon with Munna Singh. She transferred Rs 10 Lakhs on 22.04.2022 to the bank account of Tejaswini Buildconas an investment. She further stated that she has invested Rs. 21-22-Lakhs in the said firm. She further stated that she has received Rs. 9,00,000/- from TEJASWINI BUILDCON as a partner against her aforesaid investment made in Tejaswini Buildcon which has been further used for purchase of aforesaid property. Further, regarding the source of funds for the purchase of the said property, she stated that it is either a loan taken from various persons or her agriculture income, but she failed to produce any documents regarding her aforesaid loans and agriculture income.*

10.6. Munna Singh: *Statements of Munna Singh were recorded u/s 50 of PMLA wherein he inter alia stated that the huge cash amount seized from his premises i.e. Rs. 2.93 Crore is the commission amount which was yet to be handed over to the person of Sanjeev Kumar Lal. He further stated that Rs. 50 Crore were collected from assistant engineers, and he sent it to Sanjeev Kumar Lal during the period of 8 to 9 months. When asked about regarding Rs. 50 Crore already sent to Sanjeev Kumar Lal but only Rs. 32.20 Crore have been recovered and seized from the premised of Jahangir Alam he stated that only Sanjeev Kumar Lal can explain the same. Further, a diary was recovered and seized from the premises of Munna Singh which contains the details of*

commission amount of around Rs. 50 Crore collected from the Chief and other engineers of RWD, JSRRDA and RDSD. Further, Munna Singh has stated in his statement recorded on u/s 50 of PMLA, that he has not received any share from the commission he used to collect. He did the collection and handing over of the cash only following the instructions of Sanjeev Kumar Lal. Munna Singh further stated that he showed his inability and objected against the collection of cash and he tried to know the source of funds from Sanjeev Kumar Lal, however, Sanjeev Kumar Lal never revealed him the actual source of the cash collected. Sanjeev Kumar Lal always told him that there would be no issue in aforesaid task.

10.7. Santosh Kumar alias Rinku*: Statements of Santosh Kumar alias Rinku, brother of Munna Singh were recorded u/s 50 of PMLA wherein he inter alia stated that he following theinstructions of Sanjeev Kumar Lal has collected the commission/cash from the Chief and other engineers, and handed over the same to the person of Sanjeev Kumar Lal. He further stated that he has received cash-several times from various persons.*

10.8. Rajkumar Toppo: *Statement of Rajkumar Toppo, Executive Engineer was recorded u/s 50 of PMLA wherein he inter alia stated that he was aware of the fact that the commission was collected by the engineers/official from Contractors/companies/firms in lieu of allocation of tender in the departments. He further stated that the commission is 3% of total LOA, for the allotment of tenders. The said 3% commission amount is distributed as under:*

(a) 1.35% Minister, Alamgir Alam (through his PS Sanjeev Kumar Lal)

(b) 1.65% Top bureaucrats and other engineers/officials

He further stated that on the instructions of Sanjeev Kumar Lal and his Chief-Engineer Singrai Tuti he has collected around Rs. 5 Crore commission from the contractors and further handed over to Santosh Kumar, brother of Munna Singh for giving the same to Sanjeev Kumar Lal. He further stated when he was confronted with the documents seized from his premises on 07.05.2024, that 'U' stands for Umesh Kumar, "DS" code stands for Deposited Sum, "H" code stands for

Ministry (Hon'ble Minister Alamgir Alam) and Ce stands for Chief Engineer.

10.9. Ajay Tirkey: *Statement of Ajay Tirkey, Executive Engineer, JSRRDA was recorded u/s 50 of PMLA wherein he inter alia stated that he was aware of the fact that the commission was collected by the engineers/official from contractors/companies/firms in lieu of allocation of tender in the departments. He further stated that the commission is 3% of the total LOA, for allotment of tenders. The said 3% commission amount is distributed as under:*

(a) 1.35% Minister, Alamgir Alam (through his PS Sanjeev Kumar Lal)

(b) 1.65% Top bureaucrats and other engineers/officials

He further stated that on the instructions of Sanjeev Kumar Lal and his Chief Engineer Promod Kumar, he has collected around Rs. 6.36 Crore against the total tender amount of Rs. 212 Crores. Out of which 2.86 Crores i.e. share of Alamgir Alam has been handed over to Sanjeev Kumar Lal.

10.10. Ajay Kumar: *Statement of Ajay Kumar, Executive Engineer, JSRRDA was recorded u/s 50 of PMLA wherein he inter alia stated that he was aware of the fact that the commission was collected by the engineers/official from contractors/companies/firms in lieu of allocation of tender in the departments. He further stated that the commission is 3% of total LOA, for allotment of tenders. The said 3% commission amount is distributed as under:*

(a) 1.35% Minister, Alamgir Alam (through his PS Sanjeev Kumar Lal)

(b) 1.65% - Top bureaucrats and other engineers/officials He further stated that on the instructions of Sanjeev Kumar Lal and his Chief Engineer Pramod Kumar he has collected around Rs. 4.77 Crore against total tender amount of Rs. 150 Crores. Out of which 2.295 Crores i.e. share of Alamgir Alam has been handed over to Sanjeev Kumar Lal.

10.11.Ashok Kumar Gupta: *Statement of Ashok Kumar Gupta, Executive Engineer was recorded u/s 50 of PMLA wherein he inter*

alia stated that he was aware of the fact that the commission was collected by the engineers/official from contractors/companies/firms in lieu of allocation of tender in the departments. He further stated that the commission is 3% of total LOA, for allotment of tenders. The said 3% commission amount is distributed as under:

(a) 1.35%- Minister, Alamgir Alam (through his PS Sanjeev Kumar Lal)

(b) 1.65% Top bureaucrats and other engineers/officials He further stated that on the instructions of Sanjeev Kumar Lal and his Chief-Engineers Singrai Tuti and Pramod Kumar he has collected around Rs. 10.50 Crore commission from the contractors. He further stated that he along with Ajay Kumar hadhanded over Rs. 4.72 Crores to Sanjeev Kumar Lal as share of Minister Alamgir Alam.

10.12. Santosh Kumar: *Statement of Santosh Kumar, Executive Engineer was recorded u/s 50 of PMLA wherein he inter alia stated that he was aware of the fact that the commission was collected by the engineers/official from contractors/companies/firms in lieu of allocation of tender in the departments. He further stated that the commission is 3% of the total LOA, for allotment of tenders. The said 3% commission amount is distributed as under: (a) 1.35% Minister, Alamgir Alam (through his PS Sanjeev Kumar Lal) (b) 1.65% Top bureaucrats and other engineers/officials He further stated that on the instructions of Sanjeev Kumar Lal and his Chief-Engineer Rajiv Lochan he has collected around Rs. 20 Crore commission from the contractors, and further handed over to Santosh Kumar, brother of Munna Singh for giving the same to Sanjeev Kumar Lal.*

10.13. Singrai Tuti: *Statement of Singrai Tuti, retired Chief Engineer, JSRRDA was recorded u/s 50 of PMLA wherein he inter alia stated that he was aware of the fact that the commission was collected by the engineers/official from contractors/companies/firms in lieu of allocation of tender in the departments under his portfolios. He further stated that the commission is 3% of total LOA, for the allotment of tenders. The said 3% commission amount is distributed as under:*

(a) 1.35% Minister, Alamgir Alam (through his PS Sanjeev Kumar Lal)

(b) 1.65% Top bureaucrats and other engineers/officials He further stated that on the instructions of Sanjeev Kumar Lal, PS to Alamgir Alam he has collected around Rs. 18 Crore through Assistant Engineers against a total tender amount of Rs. 600 Crores. Out of which 12 Crores i.e. share of Alamgir Alam has been handed over to Sanjeev Kumar Lal. He further stated that Sanjeev Kumar Lal told him that the excess commission amount would be adjusted in future. He further stated that during one of his visits to Project Bhavan in April 2023 Minister Alamgir Alamhad asked him about his share in commission against the allotment of tenders and Alamgir Alam also told him that his PS Sanjeev Kumar Lal would handle the collection of commission on his behalf and also told him to follow the directions of Sanjeev Kumar Lal in this regard.

***10.14. Surendra Kumar**: Statement of Surendra Kumar, Chief Engineer, RDSD was recorded u/s 50 of PMLA wherein he inter alia stated that he was aware of the fact that the commission was collected by the engineers/official from contractors/companies/firms in lieu of allocation of tender in the departments under his portfolios. He further stated that the commission is 3% of the total LOA, for allotment of tenders. The said 3% commission amount is distributed as under:*

(a) 1.35% Minister, Alamgir Alam (through his PS Sanjeev Kumar Lal)

(b) 1.65% Top bureaucrats and other engineers/officials He further stated that on the instructions of Sanjeev Kumar Lal, PS to Alamgir Alam he has collected around Rs. 15 Crore through Assistant Engineers and the same was handed over to Rajeev Kumar Singh, his known one, and further Rajeev Kumar Singh handed over the same to Munna Singh for giving it to Sanjeev Kumar Lal.

***10.15. Pramod Kumar:** Statement of Pramod Kumar, Chief Engineer, JSRRDA was recorded u/s 50 of PMLA wherein he inter alia stated that he was aware of the fact that the commission was collected by the engineers/official from contractors/companies/firms in lieu of allocation of tender in the departments under his portfolios. He further stated that the commission is 3% of total LOA, for the allotment of tenders. The said 3% commission amount is distributed as under:*

(a) 1.35%- Minister, Alamgir Alam (through his PS Sanjeev Kumar Lal)

(b) 1.65% Top bureaucrats and other engineers/officials He further stated that on the instructions of Sanjeev Kumar Lal, PS to Alamgir Alam he has collected around Rs. 10.5 Crore against total LOAs of Rs. 300 Crores, through Assistant Engineers. Out of which 7.50 Crore was handed over to SanjeevKumar Lal. He further stated that he kept his share of Rs. 1.75 Crore and the rest amount was distributed among others.

10.16. Rajiv Lochan: *Statements of Rajiv Lochan, retired Chief Engineer, RWD were recorded u/s 50 of PMLA wherein he inter alia stated that he was aware of the fact that the commission was collected by the engineers/official from contractors/companies/firms in lieu of allocation of tender in the departments under his portfolios. He further stated that the system of collecting commission from contractors was prevalent even before he taking the charge as Chief Engineer in RWD. He further stated that some person of Sanjeev Kumar Lal used to collect commission amount from his subordinate assistant engineers time to time. He further stated that Sanjeev Kumar Lal used to forward his instructions to Assistant Engineers through Santosh Kumar, Executive Engineer and/or other executive engineers to collect commission amount, and this system had been continuously followed. He further stated that he had collected Ra. 9 Crores through his subordinate engineers, and same was further handed over to Sanjeev Kumar Lal. He further stated that the commission is 3% of total LOA, for allotment of tenders. The said 3% commission amount is distributed as under:*

(a) 1.35% Minister, Alamgir Alam (through his PS Sanjeev Kumar Lal)

(b) 1.65% Top bureaucrats and other engineers/officials

10.17. Ramesh Ojha*: Statement of Ramesh Ojha, Retired Assistant Engineer, RWD and RDSZ was recorded u/s 50 of PMLA wherein he inter alia stated that Veerendra Kumar Ram instructed and pressurized him to receive a commission in lie of allotment of tenders. He further stated that the commission is 3% of total LOA, for the*

allotment of tenders. The said 3% commission amount is distributed as under:

(a) 1.35% Minister, Alamgir Alam (through his PS Sanjeev Kumar Lal)

(b) 1.65% Top bureaucrats and other engineers/officials He further stated that the commission was collected by the then Chief Engineer Veerendra Kumar Ram by his selected personand through him. Further, he has collected and handed over Rs. 1.5 Crore to Veerendra Kumar Ram.

10.18. Umesh Kumar: *Statement of Umesh Kumar, Executive Engineer was recorded u/s 50 of PMLA wherein he inter alia stated that he was aware of the fact that the commission was collected by the engineers/official from contractors/companies/firms in lieu of allocation of tender in the departments under portfolio of Chief Engineer Singrai Tuti. He further stated that the commission is 3% of total LOA, for allotment of tenders. The said 3% commission amount is distributed as under: (a) 1.35% Minister, Alamgir Alam (through his PS Sanjeev Kumar Lal) (b) 1.65% Top bureaucrats and other engineers/officials He further stated that during his period as superintending engineer in JSRRDA he has collected around Rs. 3.5 to 3.8 Crore commission amount from contractors through his executive/assistant Engineers on behalf of his Chief-Engineer Singrai Tuti and further handed over to the person of Sanjeev Kumar Lal.*

10.19. Siddhant Kumar: *Statement of Siddhant Kumar, Executive Engineer, RDSZ was recorded u/s 50 of PMLA wherein he inter alia stated that Veerendra Kumar Ram instructed and pressurized him to receive commission in lieu of allotment of tenders. Similar was the statement of other engineers, as mentined in the prosecution complaint.*

108. From the statement so recorded of the accused persons as also of the Statement of various Chief Engineers/Engineers of RWD, JSRRDA and RDSD recorded u/s 50 of PMLA, it is evident that they all are consistent in their statement that the commission is 3% of total LOA is for the allotment of tenders. The said 3% commission amount is

distributed in share of 1.35% Minister, Alamgir Alam through his PS Sanjeev Kumar Lal and rest 1.65% to Top bureaucrats and other engineers/officials.

109. Role of the present petitioner along with his close allies in the commission of offence of money laundering, in particular, who have been arrayed as accused in the second supplementary prosecution, as mentioned at paragraph 15.1 of the prosecution complaint has been made. For ready reference, the same is quoted as under:

> "**15.1 Role of the accused persons in the commission of offence of money laundering.**
>
> 1.Alamgir Alam [Accused No. 11]- a) Alamgir Alam is Minister of (i) Department of Rural Works (RWD), (ii) Department of Panchayati Raj and (iii) Department of Rural Development (RDD). Jharkhand State Rural Road Development Authority (JSRRDA) and Rural Development Special Division (RDSD) are the part of the Department of Rural Works (RWD). RWD, JSRRDA and RDSD constructs the roads and bridges in the state of Jharkhand, for which tenders are floated by these departments, against which 3% commission has been collected. He being the minister of these departments, is all in all and at the top echelon in the syndicate of commission collection. b) He has pressurised and compelled the Chief Engineer under his portfolio to collect commission and give him his share through his PS Sanjeev Kumar Lal.
>
> c) He has instructed Sanjeev Kumar Lal to collect his 1.35% share in total commission which is 3% of total tender value(Discussed in detail in Para 8.2 88.3).

d) Accordingly, Sanjeev Kumar Lal has instructed departmental engineers to hand over the commission part of Alamgir Alam to Munna Singh and/or his brother Santosh Kumar alias Rinku Singh. Further Munna Singh has stated that he has collected a total of Rs. 53 crores of commission from such engineers/contractors and handed over Rs.50 crores approx. to Sanjeev Lal through Jahangir Alam. Thus, the same amount of PoC was acquired by Alamgir Alam through Sanjeev Kumar Lal, out of this Rs.53 crores, an amount of Rs.35 crores approx. was seized during the search proceedings. e) Further, it is ascertained from the statement of Veerendra Kumar Ram and Sanjeev Kumar Lal that Alamgir Alam also acquired a commission amount of Rs. 3 crores from Veerendra Kumar Ram through one engineer of the department and same transaction was also assisted by Sanjeev Kumar Lal in September 2022.

f) Thus, Alamgir Alam is found to be directly indulged and actually involved in possession and concealment of at least Rs 35 crores of the Proceeds of Crime through Sanjeev Kumar Lal and he has also found to be directly indulged and actually involved in acquisition and concealment of at least Rs. 56 crores of the Proceeds of Crime.

2.Sanjeev Kumar Lal (Accused No.-12): a) He is the PS to Minister Alamgir Alam, and he has misused his official position for collection of commission on behalf of Minister Alamgir Alam.

b) He has pressurised, threatened and instructed the Chief Engineers and other engineers to collect commission and give him the share of Minister Alamgir Alam.

c) He is the person who is controlling whole syndicate of collection of commission against tenders from top to bottom on behalf of Minister Alamgir Alam.

d) He instructed Santosh Kumar, brother of Munna Singh to collect commission/cash from Chief Engineers and other engineers and hand over the same to Jahangir Alam.

e) He instructed Jahangir Alam to collect cash/commission from Santosh Kumar, brother of Munna Singh and store the same at his (Jahangir Alam's) premises safely.

f) He has taken his share of around Rs. 2.05 Crore from the commission and integrated the proceeds of crime in immovable and movable properties in his name and in the name of his family members and associates. He has purchased immovable properties, plot alongwith building at Bariyatu, which was also renovated by him and plot at Pundag, Ranchi in the name of his wife using proceeds of crime. He has also found to be involved in using PoC more than Rs 2.05 crores, for purchasing immovable properties in the name of himself, his wife and his close aid Jahangir Alam. Hence, Sanjeev Kumar Lal is directly enjoying the proceeds of crime by its concealment, possession, utilisation and acquisition.

g) Sanjeev Kumar Lal is the mastermind and has played vital role in this syndicate/organized structure of illegal collection of proceeds of crime.

h) He is found to be directly indulged and actually involved and knowingly assisted Alamgir Alam in acquisition, possession and concealment of the Proceeds of Crime at least to the tune of Rs. 56 crores.

i) He is also found to be directly indulged and actually involved in the acquisition and concealment of PoC at least to the tune of Rs. 2.05 crores and claimed the proceeds of crime as untainted.

j) He has also found to be directly indulged and actually involved in using Proceeds of crime in at least 4 (four) immovable properties which he acquired in his own name, in name of his wife and his close aide Jahangir Alam and same four properties have been attached u/s 5(1) of the PMLA, 2002 and also being prayed for confiscation.

3. Jahangir Alam (Accused No.-13)

(a) Jahangir Alam is close associate of Sanjeev Kumar Lal, and has collected commission on behest of Sanjeev Kumar Lal.

(b) Following the instructions of Sanjeev Kumar Lal, he has collected cash/commission from Santosh Kumar, brother of Munna Singh.

(c) He has played vital role in collection of cash/commission and concealment of the proceeds of crime clandestinely at his premises.

(d) He has also taken cash around Rs. 40.40 Lakhs from Sanjeev Kumar Lal which is commission amount against tenders i.e. Proceeds of Crime and invested the same in immovable and movable properties in his name. He has purchased immovable properties, flat at Sir Syed Residency and plot at Pundag, Ranchi.

(e) Jahangir Alam is the key person who has facilitated the movement and hiding of cash/commission i.e. Proceeds of Crime.

(f) He is found to be directly indulged, actually involved and knowingly assisted Sanjeev Kumar Lal in acquisition, possession and concealment of the Proceeds of Crime at least to the tune of Rs. 50 crores approx. and jewellery worth Rs 14.50 lakhs approx.

(g) He is found to be directly indulged and actually involved and knowingly assisted Sanjeev Kumar Lal in utilisation, possession and concealment of Proceeds of Crime to the tune of Rs. 1,10,25,000/- for

purchasing two immovable properties in his own name and claimed the proceeds of crime as untainted, which were attached u/s 5(1) of the PMLA, 2002 and also being prayed for confiscation vide this PC.

(h) Jahangir Alam has also found to be actually involved and knowingly assisted Sanjeev Kumar Lal in utilising Proceeds of crime in purchasing one vehicle viz. Tata Harrier having Reg. No. JH01DK-7459 which was seized u/s 17(1-A) of the Act, same vehicle was also used for commissioning of an offence under the Act, and also being prayed for confiscation..

110. Herein, it has come in the statement of the accused Veerendra Kumar Ram that the share of Minister Alamgir Alam was 1.35% of the allocated tender amount. Investigation revealed that Rs. 3 crores was given to Alamgir Alam by engineers of the Rural Works Department throughhis PS Sanjeev Kumar Lal in September 2022. Further, it has come in the statement of the aforesaid accused that the amount of commission on behalf of Alamgir Alam was getting collected by Sanjeev Kumar Lal (personal secretary of petitioner Alamgir Alam) and a person named Jahangir Alam who is an associate of Sanjeev Kumar Lal collected such commission on the instructions of Sanjeev Kumar Lal.

111. It has further come on record that analysis of the seized mobile phone of Veerendra Kumar Ram, contact details of Sanjeev Kumar Lal was found as 'Sanjeev Lal PA of RDD Minister'. It is evident from the aforesaid complaint that huge cash to the tune of Rs 32.20 crores was recovered and seized on 06.05.2024 from the premises of Jahangir Alam i.e. Flat No. 1A, Sir Syed Residency, Kumhartoli, Ranchi.

112. It has further come on record that a total of 18 searches were conducted u/s 17 of Act 2002, in Ranchi, at the premises of Sanjeev Kumar Lal, Jahangir Alam, some Engineers and other persons on different dates. As a result of the search huge amount of cash to the tune of Rs. 37.55 Crore, digital devices, records and various incriminating documents were recovered which gave details with regard to the various individuals involved in the process of generation and distribution of proceeds of crime.

113. Sanjeev Kumar Lal during his ED Custody interrogation also stated that the commission in the range of 3 to 4 % of the total tender amount is collected in cash by the Asst. Engineers/Executive Engineers of the respective departments. He further stated that he used to collect the share of 1.35 % of minister Alamgir Alam on his behalf from Asst. Engineers/Executive Engineers via Chief Engineers. It has also come on record that Statements of various Chief Engineers/Engineers of RWD, JSRRDA and RDSD were recorded u/s 50 of PMLA, 2002 wherein they have inter alia stated that commission is collected by the engineers/officials from contractors/companies/firms against tender allocation in the RWD, JSRRDA and RDSD departments. The commission of 3% of the total amount mentioned in LOA (Letter of Acceptance) is fixed for tender allotment, the distribution of which among the Minister, Alamgir Alam (through his PS Sanjeev Kumar Lal) was 1.35%.

114. Thus, from the complaint it appears that apart from huge cash as mentioned above, several documents including letters on official letter

heads were found from the premise of Jahangir Alam, which were kept there on the instructions of, Sanjeev Kumar Lal, as PS to Alamgir Alam RDD minister, which indicates that Sanjeev Kumar Lal was using the said premise of Jahangir Alam as a safe house for keeping cash, documents/records and other belongings.

115. Thus, from perusal of the entire prosecution complaint prima facie it appears that the whole modus operandi regarding collection of commission and later distribution has been illustrated to the respondent ED by the co-accused Veerendra Kumar Ram and Sanjeev Kumar Lal, during their statement's u/s 50 of PMLA, which are mentioned in Para-10.1 and 10.3 of the prosecution complaint dated 04.07.2024.

116. Further, the similar is the statements of witnesses Raj Kumar Toppo, Executive Engineer given in Para-10.8, Ajay Tirkey, Executive Engineer in Para- 10.9, Ajay Kumar, Executive Engineer in Para-10.10, Ashok Kumar Gupta, Executive Engineer in Para-10.11, Santosh Kumar, Executive Engineer mentioned in Para-10.12, Singrai Tuti, Retd Chief Engineer in Para-10.13, Surendra Kumar, Chief Engineer in Para-10.14, Pramod Kumar, Chief Engineer in Para-10.15, Rajeev Lochan, Chief Engineer in Para-10.16, Ramesh Ojha, Retd Assistant Engineer in Para-10.17, Umesh Kumar, Executive Engineer in Para-10.18 and Siddhant Kumar, Executive Engineer in Para-10.19 as recorded u/s 50 PMLA and also mentioned in the prosecution complaint dated 04.07.2024.

117. At this juncture it needs to refer herein that it is settled connotation of law that at the stage of considering discharge, the duty of the Court is not to weigh the evidence meticulously but to arrive at a

finding on the basis of broad probabilities and Court should not venture into the merit of the case by analyzing that whether conviction is possible or not. Meaning thereby at this stage the Court has to see the prima facie case only.

118. This Court is now re-adverting to the fact of the case. On perusal of the Paras- 8.16, 8.18, 8.19, 8.20 & 8.26 of the prosecution complaint where the images of the hand written notes etc. have been mentioned/displayed, which depicts that the accounting of the collections and distributions of the commission were being maintained in the diaries or note books seized by the agency from the locations related to the Personal secretary of the present petitioner, where the code name the petitioner with his specific share in that commission is also mentioned.

119. Thus, on the basis of the material available in prosecution complaint the role of the present petitioner in the alleged money laundering cannot be negated.

120. So far, the issue of non-availability of money trail as raised by the learned counsel for the petitioner is concerned it has come on the record that a huge cash of Rs.32.20 crore was recovered and seized from the premises of Jahangir Alam an associate of Sanjeev Kumar Lal who was personal Secretary to the Minister i.e. the present petitioner. It is also pertinent to note that several incriminating notes and pages of diaries were also found during search and seizure which was maintained by Sanjeev Kumar Lal recording the share of the minister Alamgir Alam from the total commission collected from the tenders. By way of Section 50 statement Sanjeev Kumar Lal, the personal Secretary to the

Minister/petitioner, has admitted the contents of these seized pages and the fact that he was collecting commission on behalf of the applicant/minister as recorded in the “Hisab-Kitab‟ seized by ED corroborates the factum of recovery. He further decoded the code words and clearly mentioned that the applicant/minister was the beneficiary of commission amount.

121. Thus, this Court is of prima facie view that the contention of the petitioner that the prosecution has failed to establish the entire money trail, is without any factual basis and moreover section 3 of PMLA not requires the entire money trail or where the money eventually went.

122. It needs to refer herein that the Hon’ble Apex Court in the case of ***Rana Ayyub v. Directorate of Enforcement) (2023) 4 SCC 357*** observed as follows:

> *"19. The word "money-laundering" is defined in Section 2(1)(p) of the Act to have the same meaning as assigned to it in Section 3. Section 3 of the Act makes a person guilty of the offence of money laundering, if he (1) directly or indirectly attempts to indulge, or (n) knowingly assists or, (im) knowingly is a party, or (iv) is actually involved in any process or activity. Such process or activity should be connected to "proceeds of crime " including its concealment or possession or acquisition or use. In addition, a person involved in such process or activity connected to proceeds of crime, should be projecting or claiming it as untainted property. The Explanation under Section 3 makes it clear that even if the involvement is in one or more of the following activities or processes, namely: (i) concealment; (ii) possession; (im) acquisition; (iv) use; (o) projecting it as untainted property, or (vi) claiming it as untainted property, the offence of money-laundering will be made out. 20. Thus, Section 3 comprises of two essential limbs, namely: (i) involvement in any process or activity, and (ii) connection of such process or activity to the proceeds of crime. The expression "proceeds of crime" is defined in Section 2(1)(u) to mean any property derived or obtained, directly or*

indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of such property or where such property is taken or held outside the country, then the property equivalent in value held within the country or abroad."

123. In the light of the aforesaid statutory definitions, it can safely be inferred that it is enough if the prosecution establishes that there was generation of proceeds of crime and the accused was involved in any process or activity in connection with the proceeds of crime. Therefore, it is a considered view of this Court that since concealment of the proceeds of crime is itself an offence it is not necessary for the prosecution to establish the money trail.

124. Further, in view of above, prima facie it appears that there is direct complicity of the petitioner in collecting money through his private secretary, Sanjeev Kumar Lal which has come in evidence in the statement recorded under Section 50 of the PML Act and the diary making reference of the said fact showing the complicity of the present petitioner in collecting commission in lieu of tender.

125. It has been contended that there is no allegation against the petitioner in ECIR No.-RNSZ0/16/2020 and that the predicate offences, including Anti-Corruption Bureau (ACB) Jamshedpur P.S. Case No.-13 of 2019 and Economic Offence Wing (EOW) P.S. Case No.-22/2023, are unrelated to the petitioner.

126. In the aforesaid context, it is pertinent to note that under Section 3 of the Prevention of Money Laundering Act, 2002, money laundering constitutes an independent offence which extends beyond individuals directly named in the predicate offence FIR or charge sheet, and encompasses any person knowingly involved in the concealment,

possession, acquisition or use of proceeds of crime. The mere circumstance that the FIR in ACB Jamshedpur P.S. Case No. 13 of 2019 and Charge Sheet No. 001/2020 dated 11.01.2020 do not explicitly name the Petitioner does not absolve him from scrutiny, inasmuch as the investigation by the Enforcement Directorate is directed towards tracing illicit funds and their movement, irrespective of the particulars of the initial FIR. The subsequent registration of EOW Case No. 22 of 2023, after the ECIR, involving serious financial crimes under Sections 419, 420, 465, 466, 468, 471, 473, 474, 476, 484 and 120-B of the IPC together with offences under the Specified Bank Notes (Cessation of Liabilities) Act, 2017, has rightly been treated as a predicate offence under the PMLA, thereby justifying the continued investigation by the Enforcement Directorate. The investigation has already revealed that Mukesh Mittal was involved in transferring funds linked to Veerendra Kumar Ram into the accounts of his wife and father, and such financial transactions necessarily warrant scrutiny of all individuals connected with the money trail, including the Petitioner. The absence of a charge sheet in EOW Case No. 22 of 2023 does not diminish its status as a predicate offence, since proceedings under the PMLA are not contingent upon the conclusion of prosecution in the predicate offence. The Supreme Court in **Vijay Madanlal Choudhary v. Union of India(supra)** has upheld that ED has the authority to investigate and attach properties linked to money laundering, even if the accused is not named in the initial FIR of the predicate offence.

127. The contention of learned counsel for the petitioner that petitioner is not the named accused in the first FIR and as such his culpability in alleged crime cannot be fully established.

128. In this context it is pertinent to mention here that the provisions of the PMLA is an independent offence and the investigation conducted by the Enforcement Directorate under the PMLA, 2002 is triggered after committing, the commission of a scheduled offence, out of which proceeds have been generated. During the investigation, there is the active involvement of the petitioner in the layering, transfer and use as well as the petitioner entering into transactions to launder the proceeds of crime generated out of such scheduled offence.

129. Thus, prima-facie, it appears that the petitioner has involved himself in accumulating proceeds of crime and the aforesaid plea of the learned counsel for the petitioner doesn't hold water. Further the Hon'ble Apex Court in ***PavnaDibbur v. Directorate of Enforcement (Criminal Appeal No. 2779/2023)*** held that the who could commit an offence under the PMLA maybe not be named in the scheduled offence.

130. Further the offence of money laundering as contemplated in Section 3 of the PMLA has been elaborately dealt with by the three Judge Bench in Vijay Madanlal Choudhary (supra), in which it has been observed that Section 3 has a wider reach. The offence as defined captures every process and activity in dealing with the proceeds of crime, directly or indirectly, and is not limited to the happening of the final act of integration of tainted property in the formal economy to constitute an act of money laundering. Of course, the authority of the Authorised

Officer under the Act to prosecute any person for the offence of money laundering gets triggered only if there exist proceeds of crime within the meaning of Section 2(1)(u) of the Act and further it is involved in any process or activity. Not even in case of existence of undisclosed income and irrespective of its volume, the definition of "Proceeds of Crime" under Section 2(1)(u) will get attracted, unless the property has been derived or obtained as a result of criminal activity relating to a scheduled offence. The property must qualify the definition of "Proceeds of Crime" under Section 2(1)(u) of the Act. As observed, in all or whole of the crime property linked to scheduled offence need not be regarded as proceeds of crime, but all properties qualifying the definition of "Proceeds of Crime" under Section 2(1)(u) will necessarily be the crime properties.

131. To constitute any property as proceeds of crime, it must be derived or obtained directly or indirectly by any person as a result of criminal activity relating to a scheduled offence. The explanation clarifies that the proceeds of crime include property, not only derived or obtained from scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence. Clause (u) also clarifies that even the value of any such property will also be the proceeds of crime.

132. At paragraph-14 of the ***PavanaDibbur*** (supra) , it has observed by referring the decision rendered by the Hon'ble Apex Court in ***Vijay Madanlal Choudhary and Ors. Vs. Union of India and Ors.(supra)*** that the condition precedent for the existence of proceeds of crime is the

existence of a scheduled offence. At paragraph-15 the finding has been given therein that on plain reading of Section 3 of the Act, 2002, an offence under Section 3 can be said to be committed after a scheduled offence is committed. By giving an example, it has been clarified that if a person who is unconnected with the scheduled offence, knowingly assists the concealment of the proceeds of crime or knowingly assists the use of proceeds of crime, in that case, he can be held guilty of committing an offence under Section 3 of the PMLA. Therefore, it is not necessary that a person against whom the offence under Section 3 of the PMLA is alleged must have been shown as the accused in the scheduled offence.

133. It has further been contended that Section 197 of Cr.P.C. provides that when any public servant is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence, except with previous sanction of the competent authority but herein the mandate of section 197 Cr. P.C./218 BNSS has not been followed.

134. In the aforesaid context, it is necessary to observe that at this stage the concern of this Court is confined to examining the sanctity of the order rejecting the discharge application. The issue of discharge is distinct and independent. Herein, the scope of consideration is limited to whether the order of rejection of discharge application suffers from any legal infirmity or procedural irregularity warranting interference. However, from prosecution complaint, it is evident that the acts

committed by the Petitioner relating to the offences of money laundering were not carried out in discharge of his official duties as a public servant, and therefore it is settled position of law that no sanction would be necessary if the act of the public servant has not been done in his official capacity.

135. Further, the recent judgment of the Hon'ble Supreme Court, which is the sole basis of the present petition, in ***Directorate of Enforcement vs. Bibhu Prasad Acharya, (2025) 1 SCC 404*** does not lay down a general law that in all cases of PMLA involving a public servant there is a need to obtain sanction. It is equally well settled that Judgments has to be seen in the facts and circumstances of each case. In fact, in ***Bibhu Prasad (supra)*** the Hon'ble Court in the facts of that case had noted that"*It is not even the allegation in the complaints that the two respondents were not empowered to do the acts they have done".*

136. The Hon'ble Apex Court in the aforesaid judgment has placed its reliance upon the judgment rendered in the case of ***P.K. Pradhan* v. *State of Sikkim*, (2001) 6 SCC 704**wherein it has been observed that The legislative mandate engrafted in sub-section (1) of Section 197 debarring a court from taking cognizance of an offence except with the previous sanction of the Government concerned in a case where the acts complained of are alleged to have been committed by a public servant in discharge of his official duty or purporting to be in the discharge of his official duty and such public servant is not removable from office save by or with the sanction of the Government, touches the jurisdiction of the court itself.

137. Thus, there is no dispute to the settled position of law that the question of invoking Section 197 of the CrPC does not arise for act(s) which are not a part of the discharge of the official duty. There has to be a reasonable connection between the discharge of official duty and the act committed by the official to invoke Section 197 of the CrPC.

138. In the **Indra Devi v. State of Rajasthan, (2021) 8 SCC 768** the Hon'ble Apex Court has observed that Section 197 CrPC seeks to protect an officer from unnecessary harassment, who is accused of an offence committed while acting or purporting to act in the discharge of his official duties and, thus, prohibits the court from taking cognizance of such offence except with the previous sanction of the competent authority. Public servants have been treated as a special category in order to protect them from malicious or vexatious prosecution. At the same time, the shield cannot protect corrupt officers and the provisions must be construed in such a manner as to advance the cause of honesty, justice and good governance.

139. The alleged indulgence of the officers in cheating, fabrication of records or misappropriation cannot be said to be in discharge of their official duty. However, such sanction is necessary if the offence alleged against the public servant is committed by him "while acting or purporting to act in the discharge of his official duty" and in order to find out whether the alleged offence is committed "while acting or purporting to act in the discharge of his official duty", the yardstick to be followed is to form a prima facie view whether the act of omission for which the accused was charged had a reasonable connection with the discharge of

his duties, reference may be made to the judgment rendered by the Hon'ble Apex Court in the case of ***State of Maharashtra v. Budhikota Subbarao, (1993) 3 SCC 339.***

140. In the case of **Inspector of Police v. Battenapatla Venkata Ratnam, (2015)**13 SCC 87 in Para 11 the Hon'ble Apex Court has observed that "*the alleged indulgence of the officers in cheating, fabrication of records or misappropriation cannot be said to be in discharge of their official duty. Their official duty is not to fabricate records or permit evasion of payment of duty and cause loss to the Revenue. Unfortunately, the High Court missed these crucial aspects. The learned Magistrate has correctly taken the view that if at all the said view of sanction is to be considered, it could be done at the stage of trial only"*

141. Thus, the question of invoking Section 197 of the CrPC does not arise for act(s) which are not a part of the discharge of the official duty. There has to be a reasonable connection between the discharge of official duty and the act committed by the official to invoke Section 197 of the CrPC. Further all the aforesaid view can be well appreciated at the stage of trial by leading the evidence that whether the alleged act has nexus in discharge of duty.

142. In the instant case allegations of the nature described in the prosecution complaint in question, can never be in the discharge of official duties as acts committed by the Petitioner relating to the offences of money laundering were not carried out in discharge of his official duties as a public servant.

143. So far non-application of Section 5 and 8 of Act 2002 is concerned, notices are crucial for due process and informing concerned individuals/defendants about legal proceedings but their absence doesn't automatically absolve a petitioner of any connection to the property. In PMLA cases, the focus is on identifying and confiscating proceeds of crime, and attachment of property is a common step. The fact that a notice is not served to one petitioner doesn't necessarily mean they are not connected to the property in question, even if it is attached. If the petitioner feels they are wrongly implicated or that the property is not theirs, they have legal recourse to challenge the attachment or other actions taken by the ED. The ED's investigation and the evidence presented in court will determine the ownership and the involvement of each accused, including the petitioner who may not have received a notice.

144. So far as the facts of the present case are concerned, the respondent ED has placed heavy reliance on the statements of witnesses and the documents produced by them under Section 50 of the said Act, to prima facie show the involvement of petitioner in the alleged offence of money laundering under Section 3 thereof.

145. The three Judge Bench the Hon'ble Apex Court in the case of ***Rohit Tandon vs. Directorate of Enforcement,*** **(2018) 11 SCC 46** held that the statements of witnesses recorded by Prosecution – ED are admissible in evidence in view of Section 50. Such statements may make out a formidable case about the involvement of the accused in the

commission of the offence of money laundering. For ready reference the relevant paragraph is being quoted as under:

> *"31. Suffice it to observe that the appellant has not succeeded in persuading us about the inapplicability of the threshold stipulation under Section 45 of the Act. In the facts of the present case, we are in agreement with the view taken by the Sessions Court and by the High Court. 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. Further, the courts below have justly adverted to the antecedents of the appellant for considering the prayer for bail and concluded that it is not possible to hold that the appellant is not likely to commit any offence ascribable to the 2002 Act while on bail. Since the threshold stipulation predicated in Section 45 has not been overcome, the question of considering the efficacy of other points urged by the appellant to persuade the Court to favour the appellant with the relief of regular bail will be of no avail. In otherwords, the fact that the investigation in the predicate offence instituted in terms of FIR No. 205/2016 or that the investigation qua the appellant in the complaint CC No. 700 of 2017 is completed; and that the proceeds of crime are already in possession of the investigating agency and provisional attachment order in relation thereto passed on 13-2-2017 has been confirmed; or that charge-sheet has been filed in FIR No. 205/2016 against the appellant without his arrest; that the appellant has been lodged in judicial custody since 2-1-2017 and has not been interrogated or examined by the Enforcement Directorate thereafter; all these will be of no consequence.*

146. In a recent judgment, the Hon'ble Supreme Court in ***Abhishek Banerjee &Anr. v. Enforcement Directorate, (2024) 9 SCC 22*** has again made similar observations:

> *"21. ...Section 160 which falls under Ch. XII empowers the police officer making an investigation under the said chapter to require any person to attend within the limits of his own or adjoining station who, from the information given or otherwise appears to be acquainted with the facts and circumstances of the case, whereas, the process envisaged by Section 50 PMLA is in the nature of an inquiry against the proceeds of crime and is not "investigation" in strict sense of the term for initiating prosecution; and the authorities referred to in Section 48 PMLA are not the police officers as held in Vijay Madanlal [Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1] .*
>
> *22. It has been specifically laid down in the said decision that the statements recorded by the authorities under Section 50 PMLA are not hit by Article 20(3) or Article 21 of the Constitution, rather such statements recorded by the authority in the course of inquiry are deemed to be the judicial proceedings in terms of Section 50(4), and are admissible in evidence, whereas the statements made by any person to a police officer in the course of an investigation under Ch. XII of the Code could not be used for any purpose, except for the purpose stated in the proviso to Section 162 of the Code. In view of such glaring inconsistencies between Section 50 PMLA and Sections 160/161CrPC, the provisions of Section would prevail in terms of Section 71 read with Section 65 thereof."*

147. 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 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.

148. In the aforesaid judgment, the Hon'ble Supreme Court also reaffirmed the admissibility of Section 50 of the PMLA distinguishing

them from statements recorded under the CrPC. The Court 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 Apex 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 procedural safeguards under the CrPC.

149. In the case of ***Tarun Kumar v. Assistant Director 2023 INSC 1006*** the Hon'ble Apex Court while relying upon the ratio rendered by the three judge Bench of the Hon'ble Apex Court in the case of ***Rohit Tandon (supra)***has observed thatthe statements of witnesses/ accused are admissible in evidence in view of Section 50 of the said Act and such statements may make out a formidable case about the involvement of the accused in the commission of a serious offence of money laundering. For ready reference the relevant paragraph of the aforesaid judgment is being quoted as under:

> *"14. The first and foremost contention raised by learned Senior Counsel Mr. Luthra would be that the appellant was not named in the FIR nor in first three prosecution/supplementary complaints and has been implicated only on the basis of the statements of witnesses recorded pursuant to the summons issued under Section 50 of the PML Act, without there being any material in support thereof.*
>
> *15.In our opinion, there is hardly any merit in the said submission of Mr. Luthra. In Rohit Tandon vs. Directorate of Enforcement (2018) 11 SCC 46, a three Judge Bench has categorically observed that* ***the statements of witnesses/ accused are admissible in evidence in view of Section 50 of the said Act and such statements may make out a***

> ***formidable case about the involvement of the accused in the commission of a serious offence of money laundering. Further, as held in Vijay Madanlal (supra), the offence of money laundering under Section 3 of the Act 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 offence of money laundering is not dependent or linked to the date on which the scheduled offence or predicate offence has been committed.*** *The relevant date is the date on which the person indulges in the process or activity connected with the proceeds of crime. Thus, the involvement of the person in any of the criminal activities like concealment, possession, acquisition, use of proceeds of crime as much as projecting it as untainted property or claiming it to be so, would constitute the offence of money laundering under Section 3 of the Act."*

150. 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. Further in the instant case, the supplementary prosecution complaint dated 04.07.2024, filed against the petitioner and twelve co-accused persons, is supported by substantial evidence gathered during the investigation and is not solely reliant on the statements of the petitioner and his accomplices.

151. In the instant case, it has been found that during the course of investigation statement so recorded of the accused persons as also of the statement of various Chief Engineers/Engineers of RWD, JSRRDA and RDSD and the witnesses were recorded u/s 50 of PMLA, who all are consistent in their statement that the commission is 3% of total LOA, for the allotment of tenders. The said 3% commission amount is distributed in share of 1.35% Minister, Alamgir Alam through his PS Sanjeev

Kumar Lal and rest 1.65% to Top bureaucrats and other engineers/officials.

152. In the present case, the investigating agency has relied not only on the statement of co-accused under Section 50 of the PMLA but also other evidences which indicate the applicant's active role in the alleged money laundering activities.

153. Thus, from the entire discussion it is evident that the petitioner is an influential person being Cabinet Minister in the State of Jharkhand and the evidence collected during investigation by the agency broadly speaks that the co accused Veerandra Kumar Ram used to collect commission in terms of allocation of tender and execution of work and the said commission/fixed share of 1.35% was distributed among his seniors and politicians and the said commission is also collected by co-accused Sanjeev Kumar Lal, P.S. of the present petitioner through certain persons. It has also been submitted that during the investigation, it has been ascertained that the entire collection and distribution of commission was taken care of by the assistant engineers posted at the Rural Development Special Division and RuralWorks Department. Further, it was also found that the share of the petitioner, who was the Minister, was 1.35% of the allocated tender amount and also, in one of the instances, it was found that the petitioner had received his share of commission of Rs. 3 Crore which was sent by one Assistant Engineer in September 2022 which was facilitated by one of his close persons.

154. Further during statement made under Section 50 of PMLA, 2002 and in one of the instances Veerendra Kumar Ram disclosed that

crores of the commission were handed over to the co-accused Sanjeev Kumar Lal, Personal Secretary of the present petitioner, in September 2022. It has also come that co-accused Jahangir Alam was assisting Sanjeev Kumar Lal and was hoarding the said commission on the instruction of Sanjeev Kumar Lal and the said Sanjeev Kumar Lal takes care of the collection of commission, and Jahangir Alam collected the same at the instruction of Sanjeev Kumar Lal, who in turn was doing so on behalf of the present petitioner.

155. This Court, based upon the imputation as has been discovered in course of investigation, is of the prima facie view that what has been argued on behalf of the petitioner that he is nowhere related with proceeds of crime is not fit to be acceptable because as would appear from the preceding paragraphs, money which has been alleged to be obtained by the petitioner/accused has been routed through his Private Secretary, Sanjeev Kumar Lal.If there is a prima facie material to show that the amount has been received by misusing the position of the petitioner that by itself will be construed as proceeds of crime and it is not necessary for the respondent to further establish that such proceeds of crime was projected as untainted money subsequently.

156. This is in view of the amendment that was made to Section 3 of PMLA through Act 23 of 2019. This position was also made clear by the Hon'ble Apex Court in ***Directorate of Enforcement.V. Padmanabhan Kishore reported in 2022 SCC Online SC1490.*** For ready reference, the relevant paragraph of the judgment is quoted as under:

> *"12. The definition of "proceeds of crime" in the PML Act, inter alia, means any property derived or obtained by any person as a result of*

criminal activity relating to a scheduled offence. The offences punishable under Sections 7, 12 and 13 are scheduled offences, as is evident from Para 8 of Part A of the Schedule to the PML Act. Any property thus derived as a result of criminal activity relating to offence mentioned in said Para 8 of Part-A of the Schedule would certainly be "proceeds of crime". 14. The said Section 3 states, inter alia, that whoever knowingly assists or knowingly is a party or is actually involved in any process or activity connected with proceeds of crime including its concealment, possession, acquisition or use shall be guilty of offence of money-laundering (emphasis added by us)."

157. Further, at the stage of recording statements during enquiry, it cannot be construed as an investigation for prosecution. The process envisaged under Section 50 of PMLA is in the nature of an inquiry against the proceeds of crime and it is not an investigation and the authorities who are recording the statements are not police officers and therefore, these statements can be relied upon as admissible piece of evidence before the Court. The summons proceedings and recording of statements under PMLA are given the status of judicial proceedings under Section 50(4) of PMLA. When such is the sweep of Section 50 of PMLA, the statements that have been recorded by the respondent and which have been relied upon in thecomplaint must be taken to be an important material implicating the petitioner. The co-accused or the suspected persons in the predicate offence cannot automatically be brought within the same status in the PMLA proceedings and it is always left open to the authorities to deal with them as witnesses.

158. Further, the legal presumption under Section 24(a) of the Act 2002, 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 personal knowledge of the accused.

159. The statements that were recorded from the witnesses during the investigation have been dealt with in prosecution complaint and many of the statements clearly implicate the petitioner. Therefore, the statements that have been recorded from the witnesses and which has been relied upon, is also a strong material that prima facie indicates the offence of money laundering against the present petitioner.

160. Further, the argument that there was no criminal intent (mens rea) is not tenable because at this stage criminal intent (mens rea) cannot be appreciated and the same can be appreciated in the full blown trial by leading the evidences by the parties.

161. Thus, upon perusal of the case record, it is evident that cognizanceof the offence has already been taken for commission of the offence under Section 3 punishable under Section 4 of the Prevention of Money Laundering Act, 2002.

162. The prosecution complaint discloses that the Petitioner, being a Cabinet Minister of the State of Jharkhand, was allegedly indulged in

collection of commission/bribes through his associates for allotment of tenders floated by RWD, RDSD and JSRRDA under his official authority, relating to construction of roads, bridges and other government buildings. The co-accused, Veerendra Kumar Ram and Sanjeev Kumar Lal, in their statements recorded under Section 50 of the PMLA (vide Paras 10.1 and 10.3 of the complaint dated 04.07.2024), have directly indicated towards the involvement of the Petitioner. Further, departmental engineers, in their statements recorded by the Investigating Officer (Paras 10.8 to 10.19 of the complaint), have disclosed the modus operandi and participation of the Petitioner in the alleged transactions. It is further alleged that huge sums to the tune of Rs. 37.55 Crores, being proceeds of crime, were recovered from various locations associated with the Petitioner either directly or through his Personal Secretary, Sanjeev Kumar Lal, who is a co-accused.

163. The prosecution complaint (Paras 8.16, 8.18, 8.19, 8.20 and 8.26) makes reference to seized diaries and notebooks containing handwritten entries evidencing the accounting of collections and distribution of commission, wherein the Petitioner is identified by code name with specific mention of his share. From such materials, it is manifest that ample evidentiary foundation exists on record which, at this stage, prima facie indicates the culpability of the Petitioner in the alleged commission of the offence.

164. At this juncture, it needs to refer herein that the Hon'ble Apex Court in the case of ***Pradeep Nirankarnath Sharma Versus Directorate of Enforcement and Another, 2025 SCC OnLine SC 560*** has observed

that as established in multiple judicial pronouncements, cases involving economic offences necessitate a thorough trial to unearth the complete chain of events, financial transactions, and culpability of the accused, therefore the material submitted by the respondent, coupled with the broad legislative framework of the PMLA, indicates the necessity of allowing the trial to proceed and not discharging the appellant at the nascent stage of charge framing and discharging the appellant at this stage would be premature and contrary to the principles governing the prosecution in money laundering cases, for ready reference the relevant paragraphs are being quoted as under:

> *"30. The PMLA was enacted with the primary objective of preventing money laundering and confiscating the proceeds of crime, thereby ensuring that such illicit funds do not undermine the financial system. Money laundering has far-reaching consequences, not only in terms of individual acts of corruption but also in causing significant loss to the public exchequer. The laundering of proceeds of crime results in a significant loss to the economy, disrupts lawful financial transactions, and erodes public trust in the system. The alleged offences in the present case have a direct bearing on the economy, as illicit financial transactions deprive the state of legitimate revenue, distort market integrity, and contribute to economic instability. Such acts, when committed by persons in positions of power, erode public confidence in governance and lead to systemic vulnerabilities within financial institutions.*
>
> *31. The illegal diversion and layering of funds have a cascading effect, leading to revenue losses for the state and depriving legitimate sectors of investment and financial resources. It is settled law that in cases involving serious economic offences, judicial intervention at a preliminary stage must be exercised with caution, and proceedings should not be quashed in the absence of compelling legal grounds. The respondent has rightly argued that in cases involving allegations of such magnitude, a trial is imperative to establish the full extent of wrongdoing and to ensure accountability.*

32. The PMLA was enacted to combat the menace of money laundering and to curb the use of proceeds of crime in the formal economy. Given the evolving complexity of financial crimes, courts must adopt a strict approach in matters concerning economic offences to ensure that perpetrators do not exploit procedural loopholes to evade justice.

33. The present case involves grave and serious allegations of financial misconduct, misuse of position, and involvement in transactions constituting money laundering. The appellant seeks an end to the proceedings at a preliminary stage, effectively preventing the full adjudication of facts and evidence before the competent forum. However, as established in multiple judicial pronouncements, cases involving economic offences necessitate a thorough trial to unearth the complete chain of events, financial transactions, and culpability of the accused.

34. The material submitted by the respondent, coupled with the broad legislative framework of the PMLA, indicates the necessity of allowing the trial to proceed and not discharging the appellant at the nascent stage of charge framing. The argument that the proceedings are unwarranted is devoid of substance in light of the statutory objectives, the continuing nature of the offence, and the significant financial implications arising from the alleged acts. Discharging the appellant at this stage would be premature and contrary to the principles governing the prosecution in money laundering cases."

165. Thus, from perusal of case record, statements of witnesses, materials available on record and in view of law laid down by the Hon'ble Apex Court as referred hereinabove, this Court is of the considered view that prima-facie sufficient materials are available on record for framing of charge against the present petitioner.

166. It needs to refer herein that the Hon'ble Apex Court in the case of ***Munna Devi v. State of Rajasthan, (2001) 9 SCC 631*** has observed that the revisional power under the Code of Criminal Procedure cannot be exercised in a routine and casual manner. While exercising such powers the High Court has no authority to appreciate the evidence in the

manner as the trial and the appellate courts are required to do. Revisional powers could be exercised only when it is shown that there is a legal bar against the continuance of the criminal proceedings or the framing of charge or the facts as stated in the first information report even if they are taken at the face value and accepted in their entirety do not constitute the offence for which the accused has been charged.

167. Thus, it is evident that the revisional power can only be exercised to correct patent error of law or procedure which would occasion unfairness, if it is not corrected. The revisional power cannot be compared with the appellate power. A Revisional Court cannot undertake meticulous examination of the material on record as it is undertaken by the trial court or the appellate court. This power can only be exercised if there is any legal bar to the continuance of the proceedings or if the facts as stated in the charge-sheet are taken to be true on their face value and accepted in their entirety do not constitute the offence for which the accused has been charged.

168. The Hon'ble Apex Court in the case of ***Asian Resurfacing of Road Agency (P) Ltd. v. CBI, (2018) 16 SCC 299*** has held that interference in the order framing charges or refusing to discharge is called for in the rarest of the rare cases only to correct the patent error of jurisdiction.

169. The Hon'ble Apex Court in the case of ***State of Tamil Nadu v. R. Soundirarasu, (supra)*** has held at paragraphs-81 to 83 as under:

> *"81. The High Court has acted completely beyond the settled parameters, as discussed above, which govern the power to discharge the accused from the prosecution. The High Court could be said to have donned the role of a chartered accountant. This is exactly what*

this Court observed in Thommandru Hannah Vijayalakshmi [CBI v. Thommandru Hannah Vijayalakshmi, (2021) 18 SCC 135]. The High Court has completely ignored that it was not at the stage of trial or considering an appeal against a verdict in a trial. The High Court has enquired into the materials produced by the accused persons, compared with the information compiled by the investigating agency and pronounced a verdict saying that the explanation offered by the accused persons deserves to be accepted applying the doctrine of preponderance of probability. This entire exercise has been justified on account of the investigating officer not taking into consideration the explanation offered by the public servant and also not taking into consideration the lawful acquired assets of the wife of the public servant i.e. Respondent 2 herein.

82. By accepting the entire evidence put forward by the accused persons applying the doctrine of preponderance of probability, the case put up by the prosecution cannot be termed as "groundless". As observed by this Court in C.S.D. Swami [C.S.D. Swami v. State, AIR 1960 SC 7] that the accused might have made statements before the investigating officer as to his alleged sources of income, but the same, strictly, would not be evidence in the case. 83. Section 13(1)(e) of the 1988 Act makes a departure from the principle of criminal jurisprudence that the burden will always lie on the prosecution to prove the ingredients of the offences charged and never shifts on the accused to disprove the charge framed against him. The legal effect of Section 13(1)(e) is that it is for the prosecution to establish that the accused was in possession of properties disproportionate to his known sources of income but the term "known sources of income" would mean the sources known to the prosecution and not the sources known to the accused and within the knowledge of the accused. It is for the accused to account satisfactorily for the money/assets in his hands. The onus in this regard is on the accused to give satisfactory explanation. The accused cannot make an attempt to discharge this onus upon him at the stage of Section 239CrPC. At the stage of Section 239CrPC, the court has to only look into the prima facie case and decide whether the case put up by the prosecution is groundless."

170. It requires to refer herein that the ambit and scope of exercise of power of discharge, are fairly well settled which has been elaborately discussed in the preceding paragraphs and as per settled proposition of

law, neither comprehensive assessment of the materials or meticulous consideration of the possible defence need to be undertaken at this stage nor any exercise of weighing materials in golden scales is to be undertaken at this stage. The only deliberation at the stage of discharge is "as to whether prima facie case was made out or not and whether the accused is required to be further tried or not".

171. Further, it is well settled that the revisional power cannot be paralleled with appellate power. The Revisional Court cannot undertake meticulous examination of the material on record as is undertaken by the Trial Court or the Appellate Court.

172. Learned Special Court, PMLA, Ranchi, upon due consideration of the active and conscious role of the petitioner in knowingly assisting his co-accused persons, namely Sanjeev Kumar Lal, Jahangir Alam and others, in the illegal acquisition of commission in lieu of allotment of tenders of RWD, JSRRDA, RDSD and RDSZ, and further taking note of the cogent evidences relied upon in the supplementary prosecution complaint dated 04.07.2024, has rightly rejected the discharge application of the petitioner vide order dated 03.12.2024 and consequent thereto passed the order of framing of charge vide order dated 07.12.2024. The discharge application filed by the Petitioner was rejected only after satisfaction that sufficient grounds exist to proceed against him and consequently, order for framing of charge has also been passed. The said orders, being founded upon a proper appreciation of material on record, is just, proper and does not warrant any interference.

173. Hence, on the basis of discussion made hereinabove and taking into consideration the settled position of law as discussed and referred hereinabove and further taking into consideration the ratio of the judgment rendered by the Hon'ble Apex Court in the case of ***Pradeep Nirankarnath Sharma Versus Directorate of Enforcement and Another (supra)***, this court is of the considered view that there is no illegality in the impugned orders dated 03.12.2024 and 07.12.2024 passed by the learned Special Judge, PMLA, Ranchi, in connection with ECIR Case No. 02/2023.

174. Accordingly, this Court do not find any justifiable reason to interfere with the impugned orders dated 03.12.2024 and 07.12.2024.

175. In view thereof, the instant criminal revision petitions are hereby, dismissed.

176. Pending Interlocutory Applications, if any, also stand disposed of.

177. It is made clear that any observations made herein are prima-facie for consideration of issue involved in the instant revision petitions and view expressed herein shall not be construed as an expression on the merits of the case. The learned Trial Court shall proceed with the matter uninfluenced by any observations made by this Court and shall decide the case strictly in accordance with law.

(Sujit Narayan Prasad, J.)

Jharkhand High Court
Dated:06.05.2026
KNR/**AFR**

Uploaded On: 7.5.2026