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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-33274-2025
Reserved on 05.03.2026
Pronounced on 06.05.2026.**

DEEPAK GUPTA

..... PETITIONERS

VERSUS

SERIOUS FRAUD INVESTIGATION OFFICE

..... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Shreeyas U. Lalit, Advocate,
Mr. Angad Pahel, Advocate and
Mr. Anirudh Gupta, Advocate
for the petitioner.

Mr. Puneeta Sethi, Sr. Panel Counsel with
Mr. Y.S. Thakur, Advocate
for the respondent-SFIO.

SURYA PARTAP SINGH. J.

1. This petition under Section 528 of the 'Bharatiya Nagarik Suraksha Sanhita, 2023', hereinafter being referred to as "BNSS" has been filed for quashing of order dated 21.07.2025, hereinafter being referred to as impugned order, passed by learned Special Judge (Designated under Companies Act, 2013), Gurugram, hereinafter being referred to as 'trial Court' only. The above-mentioned order has been passed with regard to the proceedings being conducted by the learned trial Court on a complaint filed by 'Serious Fraud Investigation Office' (SFIO in short). The above-mentioned complaint has been filed against the petitioner, and his other co-accused, under Sections 439(2) read with Section 436(1)(a) and (d) read with proviso to Section 212(6) read with



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Section 212(14) of the Companies Act, 2013 read with Section 621(1) of the Companies Act, 1956.

2. Briefly stating the facts emerging from record are that the SFIO being a statutory body, constituted and established under Section 211 of Companies Act, 2013, launched an investigation into the affairs of 88 Companies of SRS Group, and the above-mentioned investigation revealed that the affairs of above-mentioned companies were managed and controlled by seven persons namely 'Anil Jindal', 'Jitender Kumar Garg', 'Praveen Kumar Kapoor', 'Bishan Bansal', 'Nanak Chand Tayal', 'Rajesh Singla', and 'Sushil Singla'. The investigation further revealed that the degree of control of the above-mentioned seven persons was such that Directors in the companies belonging to SRS Group were appointed or removed on their whims and fancies, and that five companies belonging to SRS Group namely 'SRS Limited', 'SRS Modern Sales Limited', 'SRS Healthcare & Research Centre Limited', 'SRS Finance Limited' and 'SRS Real Estate Limited' obtained loans to the tune of Rs.528 crores from public sector banks/financial institutions and the outstanding amount of the bank loans with respect to nine companies of SRS Groups, reached to the level 1596.94 crores. In the investigation, it was also revealed that the directors of the companies of SRS Groups had presented false financial statements, containing wrong details of debtors, inflated purchase and sales figures, and thus, obtained credit facilities on the basis of wrong facts projected before the banks/financial institutions.

3. The record further reveals that on the above-mentioned complaint filed by SFIO cognizance was taken by the learned trial Court being Special Court and in total 81 persons, including the petitioner, were summoned as



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accused. According to petitioner vide order dated 16.08.2021, the petitioner was summoned to face trial for the commission of offence punishable under Sections 448 of Companies Act. The cognizance against the petitioner was taken by the learned Special Judge on the ground that he was Director/Controller of the aforesaid company, and therefore, responsible for deceptive accounting/non-disclosure of facts, and also on account of misleading financial statements and falsification of facts related to transactions with various entities.

4. On the above-mentioned complaint, once the cognizance was taken by the learned Special Judge, notices to all the accused, including the petitioner, were issued and, therefore, the petitioner applied for anticipatory bail, but the above-mentioned concession was denied to him vide order dated 30.09.2022. Thereafter in view of the law propounded by the Hon'ble Supreme Court of India in the case of 'Tarsem lal Vs. Directorate of Enforcement Jalandhar Zonal Office', AIR 2024 SC 2512, the petitioner filed an application under Section 91 of 'Bharatiya Nagarik Suraksha Sanhita', hereinafter being referred to as BNSS, seeking permission to furnish the bonds, but the above-mentioned application of the petitioner has been dismissed, by virtue of order dated 17.05.2025. Thereafter, the petitioner, who did not appear before the learned trial Court, has been declared a proclaimed offender, by virtue of impugned order.

5. Heard.

6. It has been contended by learned counsel for the petitioner that in the present case, the criminal proceedings have been initiated against the petitioner on a complaint filed by SFIO alleging the commission of offence punishable under Section 448 of Companies Act, 2013, against the petitioner.



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As per learned counsel for the petitioner initially the petitioner had approached the learned trial Court for anticipatory bail, but the above-mentioned request of the petitioner was declined by the learned trial Court vide order dated 30.09.2022

7. The learned counsel for the petitioner has further contended that during the course of investigation, by the SFIO, the petitioner was never taken into custody/arrested, and therefore, he is fully covered by the principles of law laid down by Hon'ble Supreme Court of India in the case of 'Tarsem Lal' (supra). According to learned counsel for the petitioner in view of above, the petitioner had approached the learned trial Court for permission to furnish bonds in compliance with Section 91 of Cr.P.C, as mandated by the Hon'ble Supreme Court of India in the case of 'Tarsem Lal' (supra). As per learned counsel for the petitioner, the above-mentioned request of the petitioner has been declined by the learned trial Court, vide order dated 17.05.2025, purely on the ground that the petitioner was not present in the Court at the time of filing the application or furnishing the bonds.

8. The above-mentioned arguments have been controverted by learned Senior Panel Counsel for the respondent/SFIO. The learned Senior Panel Counsel for the respondent has contended that the facts projected by the petitioner before this Court, by virtue of instant petition are not true and that by twisting certain facts and concealing others, a different picture has been posed by the petitioner before this Court. According to learned Senior Panel Counsel , the above-mentioned conduct of the petitioner renders him ineligible for any relief/considerate view. The learned Senior Panel Counsel for the respondent has contended that there is no denial in this case with regard to factual aspects,



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i.e. the filing of complaint against the companies of SRS Group and cognizance on the above-mentioned complaint against large number of accused, including the petitioner, by the learned Special Judge (Designated under Companies Act, 2013), Gurugram.

9. However, as per learned Senior Panel Counsel, for the respondent, this fact has not been disclosed by the petitioner that right from the very beginning when the cognizance was taken by the learned trial Court he has been behaving in *mala fide* manner, and that despite knowledge of the fact that a complaint has been filed by the SFIO against the petitioner, and also that on the above-mentioned complaint cognizance has already been taken by the Court, the petitioner, instead of appearing before the learned trial Court and participate in the proceedings, he has been avoiding his appearance in the Court.

10. With regard to above, the learned Senior Panel Counsel for the respondent, has pointed out that admittedly the petitioner had approached the learned trial Court for anticipatory bail and once the above-mentioned benefit was denied to him vide order dated 30.09.2022, instead of approaching the higher forum for grant of bail, or surrendering before the learned trial Court, he resorted to application under Section 91 of BNSS on the pretext that he was covered by the guidelines prescribed by the Hon'ble Supreme Court of India in the case of 'Tarsem Lal' (supra).

11. As per learned Senior Panel Counsel for the respondent, in the present case the impugned order has been passed when despite knowledge the petitioner did not appear before the learned trial Court. According to learned Senior Panel Counsel nothing wrong has been committed by the learned trial Court in passing the impugned order, and that the learned trial Court has rightly



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declared the petitioner to be a proclaimed offender, because despite knowledge of the proceedings being recorded in the case, by the learned trial Court and despite proclamation, he did not appear before the learned trial Court.

12. In view of above-mentioned arguments, the learned Senior Panel Counsel for the respondent has contended that the present petition has been filed without any legal basis, and that there is no scope for interference in the impugned order. According to learned Senior Panel Counsel for the respondent, the present petition is devoid of merit and deserves dismissal.

13. The record has been perused carefully.

14. A perusal of record shows that in the present case, one of the relevant aspect relates to the law propounded by Hon'ble Supreme Court of India in the case of 'Tarsem Lal' (supra). The above-mentioned principles have been laid down by the Hon'ble Supreme Court of India in a case pertaining to a complaint filed by 'Directorate of Enforcement' for an offence under the prevention of Money Laundering Act. Since the provisions of Section-4 of PMLA Act are similar to the provisions of Section 448 of the Companies Act, 2013, it stands established that the similar principle being *para materia* of Section 4 of PMLA Act are applicable to the complaint under the Companies Act also.

15. In the above-mentioned case, the Hon'ble Supreme Court of India has been pleased to clear all the doubts with regard to procedure to be adopted in a complaint case, wherein the accused is not arrested during the course of enquiry/investigation. The above-mentioned principles have been summarized as under:-

- a) Once a complaint under Section 44(1)(b) of the PMLA is filed, it will be governed by sections 200 to 205 of the CrPC,



1973 as none of the said provisions are inconsistent with any of the provisions of the PMLA;

- b) If the accused was not arrested by the ED till filing of the complaint, while taking cognizance on a complaint under Section 44(1)(b), as a normal rule, the Court should issue a summons to the accused and not a warrant. Even in a case where the accused is on bail, a summons must be issued;
- c) After a summons is issued under Section 204 of the CrPC on taking cognizance of the offence punishable under Section 4 of the PMLA on a complaint, if the accused appears before the Special Court pursuant to the summons, he shall not be treated as if he is in custody. Therefore, it is not necessary for him to apply for bail. However, the Special Court can direct the accused to furnish bond in terms of Section 88 of the CrPC;
- d) In a case where the accused appears pursuant to a summons before the Special Court, on a sufficient cause being shown, the Special Court can grant exemption from personal appearance to the accused by exercising power under Section 205 of the CrPC;
- e) If the accused does not appear after a summons is served or does not appear on a subsequent date, the Special Court will be well within its powers to issue a warrant in terms of Section 70 of the CrPC. Initially, the Special Court should issue a bailable warrant. If it is not possible to effect service of the bailable warrant, then the recourse can be taken to issue a non-bailable warrant;
- f) A bond furnished according to Section 88 is only an undertaking by an accused who is not in custody to appear before the Court on the date fixed. Thus, an order accepting bonds under Section 88 from the accused does not amount to a grant of bail;
- g) In a case where the accused has furnished bonds under Section 88 of the CrPC, if he fails to appear on subsequent



dates, the Special Court has the powers under Section 89 read with Sections 70 of the CrPC to issue a warrant directing that the accused shall be arrested and produced before the Special Court; If such a warrant is issued, it will always be open for the accused to apply for cancellation of the warrant by giving an undertaking to the Special Court to appear before the said Court on all the dates fixed by it. While cancelling the warrant, the Court can always take an undertaking from the accused to appear before the Court on every date unless appearance is specifically exempted. When the ED has not taken the custody of the accused during the investigation, usually, the Special Court will exercise the power of cancellation of the warrant without insisting on taking the accused in custody provided an undertaking is furnished by the accused to appear regularly before the Court. When the Special Court deals with an application for cancellation of a warrant, the Special Court is not dealing with an application for bail. Hence, Section 45(1) will have no application to such an application;

- h) When an accused appears pursuant to a summons, the Special Court is empowered to take bonds under Section 88 of the CrPC in a given case. However, it is not mandatory in every case to direct furnishing of bonds. However, if a warrant of arrest has been issued on account of non-appearance or proceedings under Section 82 and/or Section 83 of the CrPC have been issued against an accused, he cannot be let off by taking a bond under Section 88 of the CrPC, and the accused will have to apply for cancellation of the warrant;
- i) After cognizance is taken of the offence punishable under Section 4 of the PMLA based on a complaint under Section 44(1)(b), the ED and its officers are powerless to exercise power under Section 19 to arrest a person shown as an accused in accused in the complaint; and



- j) If the ED wants custody of the accused who appears after service of summons for conducting further investigation in the same offence, the ED will have to seek custody of the accused by applying to the Special Court. After hearing the accused, the Special Court must pass an order on the application by recording brief reasons. While hearing such an application, the Court may permit custody only if it is satisfied that custodial interrogation at that stage is required, even though the accused was never arrested under Section 19. However, when the ED wants to conduct a further investigation concerning the same offence, it may arrest a person not shown as an accused in the complaint already filed under Section 44 (1)(b), provided the requirements of Section 19 are fulfilled.

16. With regard to present case, one of the relevant aspect to be noted is that by virtue of present petition, initially the petitioner had challenged the order dated 17.05.2025, but later on, by amending the petition, instead of order dated 17.05.2025, the order dated 21.07.2025 has been challenged.

17. By virtue of order dated 17.05.2025 the application filed by the petitioner under Section 91 of BNSS was declined by the learned trial Court, on the premise that for want of physical presence of the petitioner in the court, the abovesaid application was not maintainable. Vide order dated 17.05.2025 not only the application of present petitioner was dismissed, but also of other co-accused. The co-accused of the petitioner, whose application under Section 91 of BNSS was dismissed by the learned trial Court, approached this Court by virtue of two petitions, i.e. CRM-M-37640-2025 and CRM-M-34466-2025. Both the above-mentioned petitions have been partly allowed, today itself, and the petitioners in the above-mentioned petitions have been given the liberty, by



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setting aside the order dated 17.05.2025 (qua those petitioners), to appear before the learned trial Court, under the protection for a period of two weeks.

The operative part of the above-mentioned order is as under:-

that the petitioner shall appear before the learned trial Court on the next date, fixed for hearing. He shall move the requisite application, i.e. the application for recalling of warrant and for permission to furnish bonds under Section 91 of BNSS, in the light of Tarsem Lal's Judgment. If for any reason, whatsoever, which this Court is unable to foresee, the request of petitioner for permission to furnish bonds is not accepted, or the bonds are not found in order, the learned trial Court instead of taking the petitioner into custody, shall fix the next date beyond two weeks for appearance of the petitioner, without taking him into custody and without issuing fresh warrants. The above-mentioned period may be utilized by the petitioner to avail legal remedy(s) available to him.

18. Since the application under Section 91 BNSS, filed by the present petitioner, too, was dismissed by virtue of the same order on the same ground, the petitioner, prima-facie, seems to be eligible for the same relief.

19. Here it shall not be out of place to mention that in the present case no such ground has been pleaded by the petitioner, which may lead to a conclusion that there is any defect in the impugned order. In fact all the grounds pleaded in the instant petition points towards the defects in the order dated 17.05.2025. Thus, it is hereby held that in view of plea taken in the instant



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petition, no ground for setting of impugned order (i.e. order dated 21.07.2025) is made out.

20. As a sequel to above-mentioned observations, the present petition is hereby **disposed of** with liberty to the petitioner to approach this Court, by virtue of separate petition, for setting aside of order dated 17.05.2025.

(SURYA PARTAP SINGH)
JUDGE

06.05.2026.

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Whether speaking/reasoned	:	Yes
Whether Reportable	:	No