

CRM-M-37640-2025 -1-

03

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

**CRM-M-37640-2025
Reserved on 06.02.2026
Pronounced on 06.05.2026.**

BALRAJ AND ANR.

..... PETITIONERS

VERSUS

SERIOUS FRAUD INVESTIGATION OFFICE

..... RESPONDENT

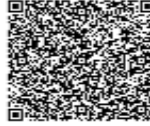
CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Kunal Dawar, Sr. Advocate with
Mr. Vipul Sharma, Advocate and
Mr. Shashi Kant Singh, Advocate
for the petitioners.

Mr. J.S. Lalli, Deputy Solicitor General of India and
Ms. Prabhleen Kaur, Advocate
for respondent-SFIO.

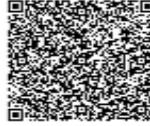
SURYA PARTAP SINGH. J.

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 17.05.2025, 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 petitioners, and their other co-accused, under Sections 439(2) read with Section 436(1)(a) and (d) read with proviso to Section 212(6) read with 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.

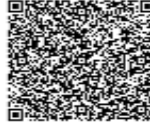


3. The record further reveals that on the above-mentioned complaint filed by SFIO cognizance was taken by the learned trial Court being Special Court and in total 81 persons, including the petitioners, were summoned as accused. According to petitioners vide order dated 16.08.2021, the petitioners were summoned to face trial for the commission of offence punishable under Sections 448 of Companies Act. The cognizance against the petitioners was taken by the learned Special Judge on the ground that they were Directors/Controllers 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 petitioners, were issued. Thereafter in view of law propounded by Hon'ble Supreme Court of India in the case of 'Tarsem Lal Vs. Directorate of Enforcement Jalandhar Zonal Office', AIR 2024 SC 2512, the petitioners 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 petitioners has been dismissed, by virtue of impugned order. Hence, the present petition.

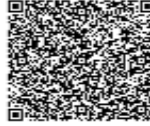
5. Heard.

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



7. The learned counsel for the petitioners has further contended that during the course of investigation, by the SFIO, the petitioners were never taken into custody/arrested, and therefore, they are 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 petitioners in view of above, the petitioners had approached the learned trial Court for permission to furnish bonds in compliance with Section 91 of BNSS, as mandated by the Hon'ble Supreme Court of India in the case of 'Tarsem Lal' (supra). As per learned counsel for the petitioners, the above-mentioned request of the petitioners has been declined by the learned trial Court, vide impugned order, purely on the ground that the petitioners were not present in the Court at the time of filing the application or furnishing the bonds.

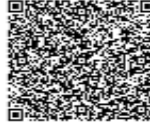
8. While assailing the impugned order, the learned counsel for the petitioners has contended that in view of the fact that the Investigating Agency never found it appropriate to arrest the petitioners during the course of investigation, in view of law laid down by Hon'ble Supreme Court of India in the case of 'Tarsem Lal' (supra), there was no occasion for the learned trial Court to insist for physical appearance of the petitioners in the Court at the time of furnishing bonds, in view of Section 91 of BNSS. It has further been contended by learned counsel for the petitioners that the impugned order passed by the learned trial Court is contrary to the scheme laid down by the Hon'ble Supreme Court of India in the case of 'Tarsem Lal' (supra), and that the petitioners are apprehensive of the fact that in case of rejection of bail bonds, to be furnished by the petitioners, they may be taken into custody.



9. While claiming that it was not within the jurisdiction of learned trial Court to ask for physical presence of the petitioners in the Court, the learned counsel for the petitioners has contended that the impugned order being perverse needs indulgence and interference of extra-ordinary jurisdiction vested in this Court by virtue of Section 528 of BNSS. Thus, it has been urged by learned counsel for the petitioners that by accepting the present petition, the impugned order be set aside and direction be given to the learned trial Court to accept the bail bonds on behalf of petitioners, without insisting for their physical presence in the Court.

10. The above-mentioned arguments have been controverted by learned Deputy Solicitor General of India for the respondent/SFIO. The learned DSGI for the respondent has contended that the facts projected by the petitioners 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 petitioners before this Court. According to learned DSGI, the above-mentioned conduct of the petitioners renders them ineligible for any relief/considerate view. The learned DSGI for the respondent has contended that there is no denial in this case with regard to factual aspects, 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 petitioners, by the learned Special Judge (Designated under Companies Act, 2013), Gurugram.

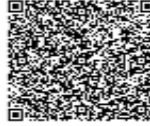
11. However, as per learned DSGI, for the respondent, this fact has not been disclosed by the petitioners that right from the very beginning when the cognizance was taken by the learned trial Court they have been behaving in



mala fide manner, and that despite knowledge of the fact that a complaint has been filed by the SFIO against the petitioners, and also that on the above-mentioned complaint cognizance has already been taken by the Court, the petitioners instead of appearing before the learned trial Court and participate in the proceedings, they have been avoiding their appearance in the Court.

12. With regard to above, the learned DSGI for the respondent, has pointed out that admittedly the co-accused of the petitioners had approached the Court of learned Special Judge for anticipatory bail and once the above-mentioned benefit was denied to them, instead of approaching the higher forum for grant of bail, or surrendering before the learned trial Court, they resorted to application under Section 91 of BNSS on the pretext that they were covered by the guidelines prescribed by the Hon'ble Supreme Court of India in the case of 'Tarsem Lal' (supra). As per learned DSGI, for the respondent, in the present case the impugned order has been passed when despite knowledge the petitioners did not appear before the learned trial Court to furnish bail bonds. According to learned DSGI, for the respondent, while insisting for physical appearance of the petitioners nothing wrong has been committed by the learned trial Court, and therefore, there is no scope for indulgence or interference in the impugned order.

13. While defending the impugned order, it has been further contended by learned DSGI, for the respondent, that in fact in order to furnish bail bonds under Section 91 of BNSS, in compliance with the law propounded by Hon'ble Supreme Court of India in the case of 'Tarsem Lal' (supra), the most important task to be performed by the petitioners is that they have to furnish their personal bonds, and for furnishing personal bonds, which have to be attested by the trial

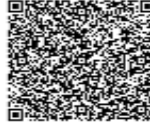


Court, physical presence of the petitioners is necessary. According to learned DSGI, for the respondent, if the learned trial Court has insisted for physical presence of the petitioners, no sin has been committed. With regard to above, the learned DSGI, for the respondent, has also pointed out that even the law propounded by the Hon'ble Supreme Court of India in the case of 'Tarsem Lal' (supra) nowhere prescribe that there would be no requirement of physical appearance of an accused in the Court, who is willing to furnish bonds under Section 91 of BNSS.

14. In view of above-mentioned arguments, the learned DSGI 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 DSGI for the respondent, the present petition is devoid of merit and deserves dismissal.

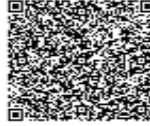
15. The record has been perused carefully.

16. A perusal of record shows that in the present case, the entire issue revolve around 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.



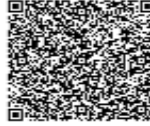
17. In the above-mentioned case, the Hon'ble Supreme Court of India has been pleased to clear all the doubts with regard to procedure to be adopted in a complaint case, wherein the accused is not arrested during the course of enquiry/investigation. The above-mentioned principles have been summarized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

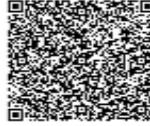
- f) A bond furnished according to Section 88 is only an undertaking by an accused who is not in custody to appear before the Court on the date fixed. Thus, an order accepting bonds under Section 88 from the accused does not amount to a grant of bail;
- g) In a case where the accused has furnished bonds 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.

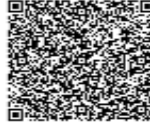
18. If the factual matrix of the present case is analyzed in the light of above-mentioned principles of law, it transpires that the present case is squarely covered by the principles propounded by the Hon'ble Supreme Court of India in the case of 'Tarsem Lal' (supra). Once, it is hereby observed that the above-mentioned principles are applicable to the present case, the question arises whether the impugned order passed by the learned trial Court is sustainable or



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not. The extract of the impugned order passed by the learned trial Court (qua the petitioner) reads as under:-

- i) xxx
- ii) xxx
- iii) Non bailable warrants issued against accused No.35 Satish, accused No.44 Balraj, accused No.70 Sachin Singla not received back in any form. Today, an application has been moved on behalf of accused No.35 Satish and accused No.44 Balraj under Section 91 of BNSS (formally 88 Cr.P.C.) seeking cancellation of warrants and permitting them to furnishing bonds thereof. Even though aforesaid application has been moved on behalf of aforesaid two accused, however none of the said accused has come present. Section 91 BNSS/88 Cr.P.C does not envisage furnishing of bonds in the absence of concerned accused, therefore, the application is totally misconceived and the same stands dismissed. Let fresh non bailable warrants against aforesaid three accused be issued for the adjourned date.
- iv) xxx
- v) xxx
- vi) xxx
- vii) xxx
- viii) xxx
- ix) xxx



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x) xxx

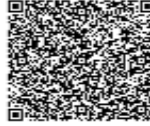
xi) xxx.

19. A bare perusal of the above-mentioned order passed by the learned trial Court makes it abundantly clear that while relying upon the contents of Section 91 of BNSS, it has been observed by the learned trial Court that the above-mentioned provisions of law do not envisage furnishing of bonds in the absence of concerned accused, and thus, the request of petitioners for permission to furnish bonds in their absence was not sustainable.

20. With regard to above, it is relevant to note that Section 91 of BNSS prescribes that “When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant, **is present in such Court**, such officer may require such person to execute a bond or bail bond for his appearance in such Court, or any other Court to which the case may be transferred for trial.”

21. If the above-mentioned bare provision comprised under Section 91 of BNSS is taken into consideration, it transpires that the bonds under Section 91 of BNSS can be filed by a person only when he is present in the Court. Thus, it is hereby observed that the learned trial Court committed no error while refusing to accept the bail bonds in the absence of petitioners. In view of above, it is hereby observed that while asking for the presence of the petitioners in the Court no illegality, whatsoever, has been committed by the learned trial Court, and therefore, there is no scope for indulgence and interference in the impugned order.

22. In the present case the learned trial Court has issued the warrant of arrest against the petitioners. However, the above-mentioned exigency, too, can

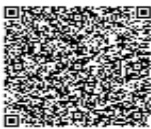


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be covered by following the observations recorded by the Hon'ble Supreme Court of India in Para 23(g) in 'Tarsem Lal' (supra) judgment. In view of above, the petitioners against whom warrants have been issued can approach the learned trial Court for cancellation of warrants, alongwith a request to allow to furnish bonds in compliance with Section 91 of BNSS.

23. However, this fact cannot be ignored that during the course of argument, it has transpired that the anxiety of the petitioners, behind non-appearance before the learned trial Court, is primarily based on two aspects. *Firstly* the inconvenience in appearing in the Court and *secondly* the apprehension that if bonds are not accepted, they might be taken into custody. The above-mentioned plea of the petitioners is not totally unfounded particularly in view of common practice being adopted by the Courts at district level. However, a via media to address the above-mentioned anxiety of the petitioners, who were never arrested by the Investigating Agency during the course of investigation, can be addressed if the following directions are issued:-

that the petitioners shall appear before the learned trial Court on the next date, fixed for hearing. They 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 petitioners for permission to furnish bonds is not accepted, or the bonds are not found in order, the learned trial Court instead of taking the petitioners into custody, shall fix the next date beyond two weeks for



appearance of the petitioners, without taking them into custody and without issuing fresh warrants. The above-mentioned period may be utilized by the petitioners to avail legal remedy(s) available to them.

24. In view of above-mentioned observations the impugned order, whereby the application filed by the petitioners under Section 91 of BNSS, has been dismissed by the learned trial Court, is hereby set aside (qua present petitioners) and the learned trial Court is hereby ordered to follow the dictum of the Hon’ble Supreme Court of India in the case of ‘Tarsem Lal’ (supra). In view of direction contained in the forgoing paragraph, the present petition stands **partly allowed**, accordingly.

(SURYA PARTAP SINGH)
JUDGE

06.05.2026.

vipin Whether speaking/reasoned : Yes
 Whether Reportable : No