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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Judgment reserved on: 09.06.2025*
Judgment pronounced on: 09.06.2025

\+ **BAIL APPLN. 4102/2024**

VEDPAL SINGH TANWAR .....Petitioner
Through: Mr. Vikas Pahwa, Sr. Advocate with Mr. Sumer Singh Boparai, Mr. Sirhaan Seth, Mr. Surya Pratap Singh and Ms. Sanskriti Shakuntala Gupta, Advocates.

versus

DIRECTORATE OF ENFORCEMENT .....Respondent
Through: Mr. Zoheb Hossain, Standing Counsel for ED (through *videoconferencing*)

CORAM:
JUSTICE GIRISH KATHPALIA

J U D G M E N T

GIRISH KATHPALIA, J.:

1. The accused/applicant seeks bail under Section 45/65 of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as "the PML Act") read with Section 483 of the Bharatiya Nagarik Suraksha Sanhita in the Prosecution Complaint no.1929/2024 arising out of ECIR/HIU-1/08/2023 of PS HIU, Directorate of Enforcement (DoE) for offence under Section 3 and 4 of the PML Act The bail is sought on merits as well as on medical grounds. I heard senior counsel for the accused/applicant and the

Special Public Prosecutor for DoE, assisted by the Investigating Officer (IO) in prelunch session today.

PRELUDE

2. During pendency of this bail application before the predecessor bench, the accused/applicant also filed a miscellaneous application bearing no. CRL.M.(BAIL) 131/2025 seeking interim bail on medical grounds. Vide order dated 27.01.2025, the predecessor bench granted interim bail for a period of six weeks to the accused/applicant, directing him to surrender immediately after expiry of six weeks from the date of release.

2.1 Once the accused/applicant got released on interim bail, the matter was repeatedly adjourned before the predecessor benches for different reasons.

2.2 The accused/applicant filed another miscellaneous application numbered as CRL.M.(BAIL) 541/2025, seeking extension of the interim bail, for which the predecessor bench issued notice returnable on 03.04.2025, extending the interim protection till that day.

2.3 On 03.04.2025, the matter was listed before another bench, where the senior counsel for the accused/applicant requested the matter to be placed

before the previous bench, so the said bench adjourned the matter to 07.04.2025.

2.4 On 07.04.2025, the predecessor bench released the matter from category of part heard and directed listing of the matter before this bench on 21.04.2025 after extending the interim protection till that day.

2.5 Thence, the matter came to be listed before this bench for the first time on 21.04.2025.

2.6 On 21.04.2025, senior counsel for the accused/applicant sought adjournment to place on record further medical documents of the accused/applicant; the Special Public Prosecutor on behalf of DoE opted not to object to the adjournment request but submitted that the application CRL.M(Bail) 541/2025 had become infructuous because the period of six weeks of the protection sought therein had already expired on 19.04.2025;the prosecutor also submitted that under the garb of interim bail, the accused/applicant cannot be allowed to enjoy regular bail, as for more than 247 days the accused/applicant had been on interim bail as against custody period of just 82 days; considering the rival contentions, after examining the medical record, this bench directed the accused/applicant to surrender before the concerned Jail Superintendent on same day by 08:00pm and also directed the jail authorities to provide him best possible medical

treatment including medical examination and treatment at AIIMS, and the medical status report from AIIMS was directed to be filed by the IO. Adjourning the matter to 05.05.2025, it was made clear that on the adjourned date both sides would address arguments for interim bail on medical grounds as well as for regular bail.

2.7 On 05.05.2025, various reports from different departments of AIIMS were received in multiple envelopes regarding examination and treatment of the accused/applicant; counsel for DoE also submitted a copy of AIIMS report dated 02.05.2025 which was accepted across the board, to be scanned and made part of record; after supplying copies of the report to counsel for the accused/applicant, so that they could examine the same, the matter was adjourned as it was already 04:55pm and the board was yet to be wound up.

2.8 On the next date (13.05.2025), arguments on regular bail application were heard for about half an hour but had to be deferred due to paucity of time.

2.9 On the next date (16.05.2025), arguments on behalf of the accused/applicant were heard and concluded; but for arguments on behalf of DoE, matter had to be adjourned because the prosecutor had to attend another part heard matter before another bench.

2.10 On the next date (21.05.2025), the matter reached by end of the day and both sides requested that they needed at least one hour to conclude arguments, so the matter was adjourned to 14.07.2025 i.e., after about 18 working days.

3. By 21.05.2025, the roster of vacation benches was not ready, otherwise this matter, as part-heard matter, could have been posted before this bench during vacation duty itself. However, vide order dated 29.05.2025, passed in W.P.(CRL) No.231/2025 titled ***Vedpal Singh Tanwar vs Directorate of Enforcement***, the Supreme Court directed hearing of this matter today, which has been done in compliance. Even today, after addressing for 1 hour 15 minutes, the senior counsel for the accused/applicant and the prosecutor for State sought to file written submissions after exchanging copies. But that request was declined as it would have again led to an adjournment, so that they be not deprived of opportunity to examine the submissions and respond. Thence, the final arguments were concluded in pre-lunch session and matter was passed over for orders in this post-lunch session.

RELEVANT FACTUAL MATRIX

4. Briefly stated, circumstances relevant for present purposes are as follows.

4.1 The accused/applicant was unofficially a shareholder in the firm, namely Goverdhan Mines and Minerals (GMM), which carried out illegal and unscientific mining; and pertaining to the same, the Haryana State Pollution Control Board (HSPCB), Bhiwani filed a Complaint under Section 15 read with Sections 16 and 19 of the Environment (Protection) Act (hereinafter referred to as "the EP Act") before the court of Special Judge, Environment Court, Kurukshetra, Haryana and the same is pending trial. According to the said complaint under the EP Act, the National Green Tribunal in O.A. 169/2020 had constituted a committee of eight members in order to probe illegal and unscientific mining in Dadam Mines, which committee found that GMM had undertaken mining illegally beyond the mining area and in violation of mining plan, as confirmed by the scientific imagery. The committee constituted by the NGT also observed that GMM had failed to provide necessary green belt along the lease boundary in the lease area and had failed to provide safety zone inside the lease mining boundary and had carried out mining activity beyond permissible mining area and beyond permissible depth and cost of restoration of damage to the plantation apart from cost of illegally mined material. It was further observed by the said committee that unregulated mining activity resulted into serious damage to air, water and land as the same involved blasting, drilling, cutting and blowing natural hills, thereby affecting natural environment, generating massive dust emissions without the requisite mitigation measures.

4.2 On the basis of the report submitted by the said eight member committee, the NGT passed order in OA No.169/2020, holding GMM guilty of illegal mining.

4.3 The local police of PS Tosham registered FIR No.449/2023 regarding the rampant illegal and unscientific mining by GMM and its partners, thereby causing huge unlawful gain to themselves and unlawful loss to exchequer. During investigation, the relevant documents were collected and search operations were carried out, culminating into the detection of illegal mining in Dadam mines hills carried out by the accused firm and its partners. During investigation, it was found that the present accused/applicant played lead role in the firm by looking after all its major activities. The investigation revealed that the accused/applicant committed the offences in well planned manner with the motive to generate proceeds of crime in the form of money, followed by money laundering which caused huge revenue loss to the State. The accused/applicant is one of the main beneficiaries of the offences thus committed.

4.4 Treating the aforesaid as the Scheduled Offences under the PML Act, the DoE registered the Prosecution Complaint before the court of competent jurisdiction and arrested the accused/applicant.

4.5 Hence, the present applications for grant of bail.

RIVAL CONTENTIONS

5. Against the above backdrop, senior counsel for the accused/applicant contended that the accused/applicant is innocent and cannot be charged with offence under Section 3/4 of the PML Act. The senior counsel for the accused/applicant argued as follows.

5.1 Existence of proceeds of crime is *sine qua non* in order to make out an offence under Section 3 of the PML Act and the proceeds of crime can be identified only through the predicate offence, so where there is no predicate offence, there is no proceeds of crime and consequently there is no offence under the PML Act.

5.2 The prosecution complaint by the HSPCB for offences under Section 15/16/19 of the EP Act did not name the accused/applicant.

5.3 The said complaint under the EP Act was filed on 23.05.2022, and on 22.12.2022 a Bill was introduced in the Parliament to remove the EP Act from the Schedule to the PML Act. The said Bill was passed on 02.08.2023 by both Houses of Parliament, thereby removing the EP Act from Schedule

to the PML Act. But during pendency of the Bill, on 16.06.2023, the ECIR was lodged on the said complaint.

5.4 Sections 15/16/19 of the EP Act are not scheduled offence under the PML Act according to Paragraph 25 of Schedule to the PML Act, therefore, DoE is not empowered to investigate.

5.5 On 30.05.2024, the accused/applicant was arrested and a petition for quashing the FIR is already pending before the Punjab and Haryana High Court, and till date no cognizance has been taken so the accused/applicant is entitled to bail. Although, the FIR is of the year 2023, but no chargesheet alleging forgery or cheating has been filed till date. The quashing of the said FIR would automatically lead to closure of the ECIR under the PML Act.

5.6 The proceeds of crime quantified in the Prosecution Complaint cannot be taken into consideration as the table of quantification thereof is a copy-paste of the findings of HSPCB. Since illegal mining is no more a scheduled offence, it cannot lead to the proceeds of crime.

5.7 Lastly, the accused/applicant is also entitled to be released on bail on principle of parity because none of the remaining accused has been arrested.

5.8 In addition to the above arguments on merits, the accused/applicant is also entitled to be released on bail in view of his medical condition, as reflected from the medical status reports.

6. On the other hand, the Special Public Prosecutor vehemently opposed the bail application, contending that the gravity of offences with expanse thereof, causing huge loss to the exchequer and consequent gain to the GMM and the accused/applicant does not permit release of the accused/applicant on bail. The Special Public Prosecutor addressed as follows.

6.1 In view of quantum of the unlawful gain earned by the accused/applicant, the apprehension of DoE is not baseless that he would flee the country and/or would hamper further investigation and/or trial, if released on bail.

6.2 Section 45 of the PML Act clearly stipulates that bail in such cases can be granted only if there are reasonable grounds to believe that the accused is not guilty of the offence of money laundering and that he is not likely to commit any offence while on bail. These two mandatory pre-conditions for grant of bail were upheld by the Supreme Court in the celebrated judgment ***Vijay Madanlal Chaudhary vs Union of India,*** 2022

SCC OnLine SC 929, as money laundering is a separate class of offence which calls for effective and stringent measures.

6.3 In the present case, neither of those two pre-conditions is satisfied. The Prosecution Complaint details the scheduled offence, investigation under the PML Act, quantification of proceeds of crime, *modus operandi* of the accused firm and specific role of the accused/applicant as deduced from the incriminating material *qua* money laundering. As regards cognizance of the complaint, the said complaint was filed on 27.07.2024 and arguments on point of cognizance are being carried out before the concerned court.

6.4 Same act can be tantamount to an offence under the EP Act as well as under the Penal Code. So, the argument that after scrapping of the offence under the EP Act as a scheduled offence would not be sustainable argument. In this regard, relevance is placed on the judgment in the case of ***Jayant & Ors vs State of Madhya Pradesh***, (2021) 2 SCC 670. Besides, during the period when the alleged offences of illegal mining were committed, the offence under the EP Act existed on the statue book as a scheduled offence.

6.5 Even in the case of FIR No. 449/2023, till date no interim relief was granted to the accused/applicant despite challenge to the same before the High Court. Rather, for quashing of ECIR, a writ petition W.P. (Crl.) 1562/2025 was filed by one of the accused persons before a coordinate

bench of this Court, in which the ad-interim stay application was dismissed vide order dated 22.05.2025. As on the date when the accused/applicant was arrested, FIR No. 449/2023 already formed a part of the ECIR as a predicate offence.

6.6 As regards the parity argument, the accused/applicant being kingpin of the entire gamut of offences cannot be treated at par with the remaining accused persons. However, the investigation is still pending, so the DoE would take appropriate decision at appropriate stage.

6.7 So far as the alleged illness of the accused/applicant is concerned, the same has to be a life threatening ailment in order to extend the benefit of bail to the accused in such cases, but that is not the case made out from medical record of the accused/applicant received from AIIMS. Further, even during the period of interim bail granted by the predecessor benches on medical grounds, the accused/applicant filed a number of petitions before different courts, which clearly shows that he is not so seriously ill that he be released on bail.

7. In rebuttal arguments, senior counsel for the accused/applicant reiterated the arguments already advanced by him and noted above. The senior counsel for the accused/applicant reiterated that prolonged incarceration is in itself a ground to release the accused/applicant on bail.

8. In support of their rival contentions, both sides referred to certain judicial precedents. The legal position, elucidated in those judicial pronouncements is not in dispute. In order to ensure brevity herein, only some of those precedents are quoted below.

LEGAL POSITION

9. The issue of grant or denial of bail in offences under the PML Act is regulated under Section 45 thereof, which, succinctly stating, mandates for giving an opportunity to the prosecutor to oppose the bail application and further embodies twin mandatory conditions for allowing bail to the accused: (i) that there are reasonable grounds for believing that the accused is not guilty of the offence of money laundering; and (ii) that the accused is not likely to commit any offence while on bail. However, proviso to Section 45 also confers discretion on the Special Court under the PML Act to admit on bail an accused under the age of sixteen years, or a woman, or sick or infirm or is accused of money laundering a sum of less than one crore rupees. Remaining portion of Section 45 is not relevant for present purposes.

9.1 In the case of ***Vijay Madanlal Chaudhary*** (supra), the Supreme Court traversed through the laudable purpose behind enactment of the PML Act and observed thus:

"Considering the purposes and objects of the legislation in the form of 2002 Act and the background in which it had been enacted owing to the commitment made to the international bodies and on their recommendations, it is plainly clear that it is a special legislation to deal with the subject of money laundering activities having transnational impact on the financial systems including sovereignty and integrity of the countries. This is not an ordinary offence. To deal with such serious offence, stringent measures are provided in the 2002 Act for prevention of money laundering and combating menace of money-laundering, including for attachment and confiscation of proceeds of crime and to prosecute persons involved in the process or activity connected with the proceeds of crime. In view of the gravity of the fallout of money laundering activities having transnational impact, a special procedural law for prevention and regulation, including to prosecute the person involved, has been enacted, grouping the offenders involved in the process or activity connected with the proceeds of crime as a separate class from ordinary criminals. The offence of money-laundering has been regarded as an aggravated form of crime "world over". It is, therefore, a separate class of offence requiring effective and stringent measures to combat the menace of money laundering.

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Thus, it is well settled by the various decisions of this Court and policy of the State as also the view of international community that the offence of money-laundering is committed by an individual with a deliberate design with the motive to enhance his gains, disregarding the interests of nation and society as a whole and which by no stretch of imagination can be termed as offence of trivial nature. Thus, it is in the interest of the State that law enforcement agencies should be provided with a proportionate effective mechanism so as to deal with these types of offences as the wealth of the nation is to be safeguarded from these dreaded criminals. As discussed above, the conspiracy of money-laundering, which is a three-staged

process, is hatched in secrecy and executed in darkness, thus, it becomes imperative for the State to frame such a stringent law, which not only punishes the offender proportionately, but also helps in preventing the offence and creating a deterrent effect.

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The Court while dealing with the application for grant of bail need not delve deep into the merits of the case and only a view of the Court based on available material on record is required. The Court will not weigh the evidence to find the guilt of the accused which is, of course, the work of Trial Court. The Court is only required to place its view based on probability on the basis of reasonable material collected during investigation and the said view will not be taken into consideration by the Trial Court in recording its finding of the guilt or acquittal during trial which is based on the evidence adduced during the trial….. the words used in Section 45 of the 2002 Act are "reasonable grounds for believing" which means the Court has to see only if there is a genuine case against the accused and the prosecution is not required to prove the charge beyond reasonable doubt."

(*emphasis supplied*)

9.2 There is plethora of judicial pronouncement, not being repeated herein for brevity that existence of the twin conditions stipulated under Section 45 of the PML Act is mandatory before the court exercises discretion to release on bail a person accused of the offence of money laundering; and that the belief *qua* the accused being guilty of money laundering has to be tested on "reasonable grounds", which means something more than "prima facie" grounds. Equally well settled is the scope of Section 24 of the PML Act that unless contrary is proved, the Court shall presume involvement of proceeds

of crime in money laundering; and that burden to prove that the proceeds of crime are not involved is on the accused.

9.3 Further, it is trite that economic offences constitute an altogether distinct class of offences. That being so, in spite of the salutary doctrine of "*bail is the rule and jail is an exception*", matters of bail in cases involving socio-economic offences have to be visited with a different approach, as held in ***State of Bihar & Anr. vs Amit Kumar*** (2017) 13 SCC 751.

9.4 As held by the Supreme Court in the case of ***Y.S.Jagan Mohan Reddy vs CBI***, (2013) 7 SCC 439:

> *"15) Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.*
> *16) While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations."*

9.5 On the aspect of bail in cases involving socio-economic offences, differential treatment in consideration unlike conventional crimes has been

the law of land, reiterated in a plethora of judicial pronouncement flowing from apex court. Reference, to cite a few may be drawn from ***Rohit Tandon vs Directorate of Enforcement***, (2018) 11 SCC 46; ***Serious Fraud Investigation Office vs Nitin Johari***, (2019) 9 SCC 165; and ***Nimmagadda Prasad vs CBI***, (2013) 7 SCC 466.

PRESENT CASE ANALYSIS

10. Falling back to the present case, the Complaint dated 27.07.2024 filed under Section 44 read with Section 45 of the PML Act (*Annexure A2 to the Bail Application*) seeks prosecution of the persons named therein as accused, including the accused/applicant for the offence of money laundering, as defined under Section 3 read with Section 70 of the PML Act and punishable under Section 4 of the PML Act. The Prosecution Complaint enlists the Scheduled Offences as the Complaint dated 23.05.2022, filed by HSPCB against the accused persons under Section 15 read with Sections 16&19 of the EP Act, cognizance whereof has already been taken by the concerned Special Court and summons have already been issued to the accused persons; Order passed by the NGT in OA No.169/2020 on the basis of Report submitted by the eight member committee constituted by the NGT *qua* the extent of illegal and unscientific mining in Dadam mines by the project proponent GMM; and FIR No.449/2023, registered by PS Tosham, Bhiwani for offences under Section 420/463/471/120B IPC against few

business entities and their partners/directors including the present accused/applicant.

10.1 On the basis of the Complaint filed by HSPCB and findings recorded by the NGT, investigation into the offence of money laundering was initiated by the DoE vide ECIR dated 16.06.2023. During investigation searches at various premises were conducted and voluminous incriminating material was recovered and seized, which material *prima facie* reflected commission of the Scheduled Offences related to illegal mining, leading to generation of proceeds of crime. On the basis of that information shared, the local police of PS Tosham registered FIR No. 449/2023 against the accused persons and investigated the same as regards offences of cheating, forgery and conspiracy.

10.2 The investigation under the PML Act was proceeded further to unearth the proceeds of crime and to identify the persons involved in the process of generation thereof.

10.3 The accused/applicant was arrested on 30.05.2024 for his role in the offence of money laundering and his custody was granted to the DoE by the Special Judge, PML Act, Saket, Delhi till 10.06.2024. Statements of the accused/applicant and his family members were recorded under Section 50, PML Act on various dates, as elucidated in the complaint.

10.4 On the basis of investigation, elaborately described by DoE in the Prosecution Complaint, the proceeds of crime were quantified to be Rs.78,14,75,324/-. In respect of just the accused/applicant, the proceeds of crime were quantified to be Rs.22,81,90,795/-.

10.5 The role of the accused/applicant in the offences, according to the investigation is that he is the kingpin and the biggest beneficiary of the illegal mining. Large number of willing partners, *benamis* and facilitators connived with the accused/applicant in various activities associated with the proceeds of crime, generated through illegal mining and fudging of shareholding records in the books, as analyzed elaborately in the complaint. As elaborately described with the help of evidence unearthed during investigation, the accused/applicant was instrumental in formation of GMM to only create a smokescreen, so that he could escape his debarment from bidding for mining lease by the Mining Department of Haryana Government and thus he enjoyed more than 40% of shareholding in GMM through unofficial channels. In order to circumvent his undertaking given before the Punjab & Haryana High Court to bid Rs.150 crores for Dadam mines and to escape future liability, the accused/applicant did not name himself and his family members, but managed and controlled GMM, as per voluminous documentary evidence collected during investigation. The accused/applicant was actually involved in generation of proceeds of crime by undertaking rampant illegal and unscientific mining through GMM and transferring the

proceeds to his personal and/or family accounts, followed by utilizing the same as untainted property, as detailed in the Complaint.

11. In view of the aforesaid, the question before this court is as to whether the twin conditions test stands satisfied in the present case, so as to grant bail to the accused/applicant on merits, despite the vast expanse of the socio-economic offences alleged against him. As mentioned in the Complaint, further investigation is going on in the matter.

12. According to the said Complaint filed by HSPCB (*Annexure A31 to the Bail Application*), GMM engaged itself in unscientific mining, which led to landslides, causing loss of four lives and injuries to many others in Dadam mining zone in Tosham block of District Bhiwani. Such illegal and unscientific mining resulted into severe damage to air, land and water through processes of uncontrolled drilling, cutting and blasting beyond the permitted area, coupled with generation of tons of dust emissions. I am not convinced with argument of senior counsel for the accused/applicant that the same does not fall within the purview of Paragraph 25 of the Schedule to the PML Act.

13. It is not just the said Complaint filed by the HSPCB, but also the FIR No.449/2023 registered by PS Tosham, which describes in detail the offences of cheating, forgery and conspiracy committed by the accused

persons, including the accused/applicant to carry out illegal mining in order to earn unlawful gain for the accused persons and the consequent unlawful loss to the exchequer, quantified to be Rs.78,14,75,324/- as described above. The investigation carried out by recovering and seizing volumes of documentary material, as elaborately described in the Complaint shows complicity of the accused/applicant in the offences alleged and expanse thereof. And the investigation continues further. That being so, the apprehension of the DoE that if released on bail, the accused/applicant would flee the country and/or hamper further investigation and/or trial cannot be brushed aside as baseless.

14. After examining the elaborate material on record, I am unable to satisfy myself that there is any reasonable ground for believing that the accused/applicant is not guilty of the offences alleged. That being so, the rigors of Section 45 of the PML Act dissuade this court from admitting the accused/applicant to bail on merits.

15. Coming to the plea of the accused/applicant for grant of bail on medical grounds, as mentioned above, in compliance with the directions of this court, the accused/applicant was examined by different departments of AIIMS, Delhi; and each department sent its separate report. Those reports were compiled and tabulated by the Senior Medical Officer of the Dispensary in the Central Jail No.7, Tihar, New Delhi and submitted as

consolidated Medical Status Report dated 02.05.2025. According to the said Medical Status Report, the accused applicant is stable and regularly reviewed by the doctor on duty; and all medicines prescribed by AIIMS are being provided to him from jail dispensary itself. So, on that count also the accused/applicant has failed to establish a ground for grant of bail.

16. To recapitulate, the elaborate Complaint, supported by voluminous documentary record reflecting the unlawful gain to the accused persons, including the accused/applicant and the consequent unlawful loss to the exchequer quantified to be Rs.78,14,75,324/-, coupled with failure on the twin tests laid down under Section 45 of the PML Act; and no serious health issue decipherable from the Medical Status Report received from the jail, I find it not a fit case to release the accused/applicant on bail. The applications (*for regular as well as for interim bail*) are dismissed. Copy of this order be sent immediately to the Superintendent of the concerned jail for being conveyed to the accused/applicant.

GIRISH KATHPALIA

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GIRISH KATHPALIA
(JUDGE)

JUNE 09, 2025/as