



2025:DHC:462



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
% **Date of order: 28<sup>th</sup> January, 2025**

+ BAIL APPLN. 3464/2024 & CRL.M.A. 34021/2024 & CRL.M.A.  
37399/2024 & CRL.M.(BAIL) 2021/2024

ADITYA KRISHNA .....Petitioner  
Through: Mr. Siddharth Aggarwal, Senior  
Advocate with Ms. Tanya Agarwal  
and Mr. Gaurav Kalra, Advocates  
versus

DIRECTORATE OF ENFORCEMENT .....Respondent  
Through: Mr. Manish Jain, Special Counsel,  
ED with Mr. Snehal Sharda, Ms.  
Gulnaz Khan and Ms. Dhanvati,  
Advocates

**CORAM:**  
**HON'BLE MR. JUSTICE CHANDRA DHARI SINGH**  
**ORDER**

**CHANDRA DHARI SINGH, J (Oral)**

1. The instant bail application has been filed under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter "CrPC") [now Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter "BNSS")] seeking grant of regular bail in ECIR/DLZO-II/03/2024 dated 22<sup>nd</sup> April, 2024 registered under Sections 3 and 4 of the PMLA by the Directorate of Enforcement (hereinafter "ED"), arising out of FIR No. 59/2024 dated 12<sup>th</sup> March, 2024, registered at Police Station - Crime Branch, Delhi for offences



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punishable under Sections 274, 275, 276, 420, 468, 471 read with 120B and 34 of the Indian Penal Code, 1860 (hereinafter “IPC”).

2. The brief facts that led to the filing of the instant application are that on 12<sup>th</sup> March, 2024, FIR No. 59/2024 was registered at Police Station – Crime Branch, Delhi under Sections 274, 275, 276, 420, 468, 471 read with 120B and 34 of the IPC, based on a complaint by SI Gulab Singh. The complaint alleged the involvement of several accused persons in the procurement, manufacturing and sale of spurious anti-cancer medicines.

3. In the said FIR, it has been alleged that the primary accused, namely Vipphil Jain and Suraj Shat, in collusion with their several associates, were engaged in the illegal procurement of empty vials and raw materials of anti-cancer drugs such as Keytruda and Opdyta. These counterfeit drugs were allegedly manufactured and distributed in the market to unsuspecting cancer patients.

4. Pursuant to the information received, the police formed six teams to conduct simultaneous raids across Delhi-NCR on 11<sup>th</sup> March, 2024. During the raid at Flat No. 1101, Block-2, Eleventh Floor, CSP Units, DLF Capital Greens, Moti Nagar, New Delhi, the accused persons were allegedly caught in the act of filling empty vials with unauthorized substances and packaging them using specialized machinery. The police seized a substantial quantity of raw materials, counterfeit vials, packaging equipment etc.

5. Based on the FIR, the respondent ED initiated ECIR/DLZO-II/03/2024 dated 16<sup>th</sup> March, 2024 under Sections 3 and 4 of the PMLA. The applicant was initially included as a witness in the investigation, however,



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following further investigation, he was named as accused No. 9 in the first supplementary prosecution complaint dated 20<sup>th</sup> July, 2024 filed before the learned Special Judge under the allegations of money laundering.

6. It has been alleged that the applicant operates a pharmacy in Muzaffarpur, Bihar by the name and style of 'M/s Popular Medicine' and is also involved in selling of medicines on online e-commerce platforms such as 'India Mart'.

7. The applicant was allegedly implicated based on the disclosure statements of co-accused persons, who claimed that he used to purchase spurious anti-cancer medicines from Vipnil Jain and transferred sale proceeds from the bank account of his firm M/s Popular Medicine into his bank account and further transfer these funds to various persons.

8. It has been alleged that the applicant provided Rs. 80,000/- for the purchase of these medicines and actively participated in the business operations by supplying the spurious medicines to various outlets. It has also been alleged that the applicant took assistance of the co-accused persons in re-capping and delivery of vials of anti-cancer medicines.

9. Pursuant to the above, summons dated 8<sup>th</sup> April, 2024 was issued to the applicant by the respondent and his statement was recorded under Section 50 of the PMLA on the same day in the premises of Tihar Jail. Thereafter, the applicant was arrested under Section 19 of the PMLA on 8<sup>th</sup> April, 2024.



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10. The respondent claims that the financial transactions linked to his pharmacy, M/s Popular Medicine, indicate his involvement in the laundering of proceeds of crime amounting to Rs. 1,05,000/- to Rs. 1,10,000/- per sale.

11. The applicant had previously sought regular bail in FIR No. 59/2024 under Sections 274, 275, 276, 420, 468, 471, 120B and 34 of the IPC which was granted vide order dated 29<sup>th</sup> July, 2024 citing that the evidence is primarily documentary in nature and the possibility of the applicant tampering with the evidence or influencing the witnesses is very remote.

12. Subsequently, the applicant sought regular bail before the learned Special Judge, which was rejected vide order dated 18<sup>th</sup> September, 2024. Hence, the present bail application.

13. Mr. Siddharth Aggarwal, learned senior counsel appearing on behalf of the applicant submitted that the applicant has already been granted bail by the Coordinate Bench of this Court in FIR No. 59/2023. While granting bail, the Court observed that the evidence in the case is primarily documentary in nature and is already in police custody, thereby significantly reducing the possibility of tampering with evidence or influencing witnesses. The applicant submits that since the present case under the PMLA arises from the same predicate offence, the reasoning applied in the previous bail order should be extended to the present matter.

14. It is submitted that no spurious medicines, vials or incriminating materials have been recovered from the applicant. His arrest is based solely on the disclosure statements of co-accused persons, which as per the Hon'ble Supreme Court's decision in *Prem Prakash v. Enforcement*



*Directorate, (2024) 9 SCC 787*, do not constitute substantive evidence. It is submitted that the Hon'ble Court has categorically held that statements of co-accused, without corroborative evidence, cannot form the basis of prosecution under PMLA.

15. It is submitted that the allegations in FIR No. 59/2024, which form the foundation of the present ECIR, are contradictory to those made in the predicate offence case (FIR). It is submitted that the co-accused Suraj Shat's statement in the present case is "*Aditya Krishna gave him Rs. 80,000/- for purchasing 02 vial sealing and capping machine. On instructions of Aditya Krishna, he purchased the said 02 vial sealing and capping machine in his name.*" It is also submitted that his statement, however, in the case under FIR 59/2024 is "*On instructions of Vipil Jain, I purchased the Handmade machine from Bawana for sealings the vials..... I bought one Automatic manually cap sealing machine from bawana for 48,000/-.*" It is submitted that such contradictions weaken the respondent's case and cast serious doubts on the credibility of the allegations since both the statements are inconsistent, and thus, the respondent's case does not sustain.

16. It is submitted that the applicant was engaged in genuine and lawful business operations through his pharmacy, M/s Popular Medicine Specialties. The transactions conducted by the applicant were in the ordinary course of business, and no evidence has been presented to suggest that the applicant had any knowledge or intent to be part of an alleged money laundering syndicate. It is further submitted that mere financial transactions,



without establishing criminal intent or knowledge, cannot be considered as proceeds of crime under the PMLA.

17. It is submitted that the financial transactions alleged by the respondent are matters to be tested during the trial and cannot be a ground for continued incarceration at the stage of bail. It is submitted that the Hon'ble High Court of Delhi, in various precedents related to the NDPS Act and PMLA, has held that such monetary transactions require thorough scrutiny at trial and should not preclude the grant of bail.

18. It is submitted that the respondent is required to establish its case beyond reasonable doubt. It is submitted that the applicant's alleged role as a supplier of medicines remains unsubstantiated, as no spurious medicines or end users have been identified or recovered. The respondent's case lacks a complete evidentiary chain to establish the petitioner's involvement in the alleged offence.

19. It is submitted that as per the proviso to Section 45(1) of the PMLA, individuals accused of laundering money below Rs. 1 Crore are entitled to bail at the discretion of the Special Court and fall under the exemption from the applicability of the twin conditions prescribed under Section 45 of the PMLA. In the present case, the alleged amount involved falls below the said threshold, thereby making the applicant eligible for the benefit under the statutory provision.

20. It is submitted that the established principle that bail is the rule and jail is an exception, as reiterated by the Hon'ble Supreme Court in multiple judgments including *Manish Sisodia v. Enforcement Directorate, 2024*



**SCC OnLine SC 1920.** The applicant has been in custody for a substantial period and continued detention would amount to pre-trial punishment, violating the applicant's fundamental right under Article 21 of the Constitution of India.

21. It is submitted that considering the voluminous nature of documents and the complexity of the case, the trial is likely to be protracted. It is submitted that the prolonged incarceration without a conclusive determination of guilt would amount to a violation of the applicant's right to a speedy trial and personal liberty.

22. In light of the above submissions, it is prayed that the instant application may be allowed and the reliefs be granted as prayed for.

23. *Per Contra*, learned counsel appearing on behalf of respondent vehemently opposed the instant application submitting to the effect that the same is liable to be dismissed being devoid of any merit.

24. It is submitted that the present bail application must be adjudicated in accordance with the twin mandatory conditions prescribed under Section 45 of the PMLA. As per the statutory mandate, bail can only be granted if the Court is satisfied that there are reasonable grounds to believe that the applicant is not guilty of the offence of money laundering, and the applicant is not likely to commit any offence while on bail.

25. It is submitted that given the gravity of the allegations and the applicant's role in the complex and organized scheme of money laundering, it is submitted that the applicant has failed to satisfy these conditions, thereby disentitling him from the relief sought.



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26. It is submitted that the charges against the applicant are of grave and heinous nature, involving the manufacture and distribution of counterfeit anti-cancer medicines. The applicant is alleged to have been an active participant in an elaborate conspiracy to manufacture and sell spurious drugs, thereby endangering public health and defrauding unsuspecting patients. Evidence on record demonstrates that the applicant operated a pharmacy in Muzaffarpur, Bihar and engaged in selling these counterfeit drugs on online platforms such as India Mart without issuing invoices, thereby generating proceeds of crime.

27. It is submitted that the applicant's role in money laundering can be established through various phases such as placement, layering and integration. Regarding placement, it is submitted that the applicant facilitated the introduction of proceeds of crime into the financial system through the sale of counterfeit drugs, generating significant illicit cash inflows into his bank accounts without proper documentation. About layering, it is submitted that the applicant concealed the illicit origin of the funds by engaging in a series of financial transactions, including the procurement of empty vials and related paraphernalia through *hawala* channels, making it difficult for authorities to trace the source of funds. With regard to integration, it is submitted that the applicant reinvested the laundered funds into the conspiracy by providing financial support for procuring sealing and capping machines, thereby furthering the manufacturing and distribution of counterfeit medicines. The applicant's



financial involvement clearly indicates his direct role in the perpetuation of the crime.

28. It is submitted that the learned Special Judge has rightly rejected the applicant's bail application after considering the severity of the allegations and the potential risk of evidence tampering and witness intimidation. It is submitted that the trial court correctly concluded that the applicant failed to satisfy the twin conditions under Section 45 of the PMLA, and that his release would compromise the integrity of the ongoing investigation. It is submitted that the learned Special Judge's order is well-founded and consistent with the legislative intent to curb organized economic offences. Reliance in this regard has been placed on the judgments of the Hon'ble Supreme Court such as *Vijay Madanlal Chaudhary v. Union of India*, (2023) 12 SCC 1, and *Tarun Kumar v. Enforcement Directorate*, 2023 SCC OnLine SC 1486, wherein, the Hon'ble Court upheld the constitutional validity of Section 45 of the PMLA and held that the twin conditions must be strictly satisfied for the grant of bail. It is submitted that it has been affirmed in the above judgements that the conditions specified under Section 45 of the PMLA are mandatory and must be applied even when considering bail applications under Section 439 of the CrPC.

29. It is further submitted that under Section 24 of the PMLA, there is a statutory presumption against the accused once he is charged with the offence of money laundering. It is contended that the applicant has failed to rebut this presumption and has not provided any credible material to establish his innocence. The law places the burden on the applicant to prove



that the transactions attributed to him do not constitute proceeds of crime, which he has not discharged at this stage.

30. It is submitted that the granting of bail to the applicant would pose a serious risk to the ongoing investigation. Given the applicant's deep involvement in the syndicate, there is a high likelihood that he may abscond or influence key witnesses. The offence of money laundering is transnational in nature, and the applicant's connections with the other accused persons could facilitate his escape from the investigation agency.

31. It is submitted that the offences alleged against the applicant have serious ramifications for public health and safety. The distribution of spurious anti-cancer medicines poses a grave risk to patients, and allowing the applicant to be released on bail would undermine the deterrent effect of stringent anti-money laundering provisions. It is submitted that the Hon'ble Supreme Court has consistently emphasized the need for a strict approach in cases where offences pose a broader threat to the society.

32. It is contended that the applicant's plea for bail does not merit consideration, as he failed to demonstrate any exceptional circumstances justifying his release. The legal provisions under PMLA override general bail principles due to the serious economic and social implications of money laundering offence. The respondent relies upon on the judgement titled ***Union of India v. Rattan Malik, (2009) 2 SCC 624***, which states that the courts should refrain from conducting a mini trial at the stage of bail and should instead assess whether a *prima facie* case is made out.



33. In the light of the foregoing submissions, it is prayed that the present bail application may be dismissed.

34. Heard the counsel for the parties at length and perused the material available on record.

35. In light of the submissions made before this Court, it is made out that the grounds contended by the applicant for grant of bail are multifold. *Firstly*, the alleged amount involved falls below Rs. 1 Crore, making the applicant eligible for the benefit of the statutory proviso that allows discretion in granting bail. *Secondly*, it has been contended that even if it is assumed for the sake of argument that the proviso is not applicable to him, the applicant has satisfied the twin mandatory conditions under Section 45 of the PMLA, i.e., whether there are reasonable grounds to believe that he is not guilty of the offence and whether he is unlikely to commit any offence while on bail. *Lastly*, the statutory presumption of guilt under Section 24 of the PMLA applies in the present case and in view of the same, whether the applicant has successfully rebutted this presumption.

36. This Court shall now proceed to examine the present matter.

37. It is a settled position of law 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, has time and again observed that they constitute valid material upon which reliance can be placed to sustain allegations under the PMLA. In a recent judgment, the Hon'ble Supreme Court in *Abhishek*



***Banerjee v. Enforcement Directorate, (2024) 9 SCC 22*** has made such observations which are as under:

*“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 50 PMLA would prevail in terms of Section 71 read with Section 65 thereof.”*

38. The Hon’ble Supreme Court in the aforementioned judgment underscored that such statements, being recorded in the course of 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.

39. At this stage, it is to be determined whether the applicant is exempted from the rigors of the twin conditions of bail, if not, then whether the applicant has satisfied the twin mandatory conditions under Section 45 of the PMLA. In light of the same, it is imperative to carefully examine the prosecution complaint, statements of the applicant and co-accused persons alongwith the relevant bank statements.

40. Accordingly, this Court has referred to the statement of the co-accused persons, relevant extracts of which are as under:

**“Statement of Sh. Suraj Shat recorded under Section 50 of the PMLA reads as:**

*iv. He disclosed that he had purchased two Cap Sealing Machine “Vial Cap Sealing Machine” in his name; one for 49 Page 42 of 140 the purpose of re-capping of vials of Keytruda anti-cancer medicines and another for the purpose of re-capping of vials of Opdyta anti-cancer medicine on instruction of Aditya Krishna as Aditya Krishna was also engaged in the preparation and distribution of spurious anti-cancer medicines.*

*v. He was employed by Vipnil Jain for a salary of Rs. 30,000/- per month in cash; that his bank accounts were used by Vipnil Jain to layer sale proceeds of spurious anticancer medicines. He had also received funds in his bank account from Aditya Krishna for some medicines. He further transferred funds to various persons on instruction of Vipnil Jain as well as Aditya Krishna.*

*vi. Aditya Krishna used to purchase spurious anti-cancer medicines from Vipnil Jain and transferred sale proceeds from the bank account to M/s Popular Medicine Specialities into his*



bank account on instruction of Vipnil Jain. He used to further transfer these funds to various persons including Vipnil Jain.

**Statement of Sh. Suraj Shat recorded under Section 161 of the CrPC reads as:**

“viii. On being asked about the recovery and seizure of 02 Vial Sealing Machine from Suraj Shat’s house viz. G-286, Gali No 8/31, West Karawal Nagar, Delhi-94, Suraj Shat stated that the above said 02 Vial Sealing and Capping Machines were purchased by him from M/s ACMETech i.e. a wholesale shop at Poot Kala, Bawana, Delhi for Rs. 21,500/- per machine. He stated that Aditya Krishna gave him Rs 80,000/- for purchasing 02 Vial Sealing and Capping Machine. On instruction of Aditya Krishna, he purchased the said 02 Vial Sealing and Capping Machine in his name. He also stated that Aditya Krishna told him that Gagan Khurana broke the Caps of Vials of anti-cancer medicines, which were very costly vials and told him to fix the Caps of those broken vials of anti-cancer medicines.

ix. Aditya Krishna told him that he is residing in Bihar and if he (Suraj Shat) does repacking and distribution of vials of anticancer medicines for him (Aditya Krishna), Aditya Krishna would give him Rs. 500/- per parcel delivery. Suraj Shat accepted the offer of Aditya Krishna and agreed to do work for Aditya Krishna for re-capping and assisting in delivery of vials of anti-cancer medicines.

x. On instruction of Aditya Krishna, he used to receive big parcel of unsealed vials of anti-cancer medicines, opened the same and re-packed these anti-cancer medicines into small boxes as instructed by Aditya Krishna. He used to give these 51 Page 44 of 140 small packs of unsealed anti-cancer medicines to courier boy (whose contact details were already provided by Aditya Krishna) for delivering the same at Blue Dart Courier Centre, Terminal-2, IGI Airport for further supply to various places all over India. He also stated that



*these small packs of unsealed vials of anti-cancer medicines were further delivered through one Vinod, employee of Blue Dart. For this work, Aditya Krishna used to give him Rs. 500/- per small box (parcel).*

*xi. He received funds in his bank account 016651100004793 from M/s Popular Medicines Specialties on instruction of his employer Viphil Jain. He stated that M/s Popular Medicines Specialty controlled by Aditya Krishna to whom Viphil Jain used to sell unsealed vials of spurious anti-cancer medicines. Sometimes, Viphil Jain used to sell these vials on credit to Aditya Krishna. He further stated that the funds received in his bank accounts from Aditya Krishna is nothing but the sale proceeds of these vials of spurious anti-cancer medicines sold without bill. On instruction of Viphil Jain, he received funds in his bank account and transferred it to the bank account numbers provided to him by Viphil Jain.”*

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*“I used to supply Refilled Anti Cancer Injections in the market as per th instructions of Viphil Jain by contacting my acquaintance Aditya Krishna who lives in Mujaffarpur, Bihar. Aditya Krishna always booked the porter himself. Aditya Krishna used to get the goods delivered to Delhi Airport through the porter and then sell it further.”*

Relevant part of the chargesheet which is Annexure P-13 reads as:

*“xvi. He, thereafter, started to buy anti-cancer medicines from Viphil Jain. He used to buy anti-cancer medicine viz. Keytruda, Perjeta, Opdita etc, however, mostly, he used to purchase Keytruda from Viphil Jain. Viphil Jain charged an amount of Rs. 1,00,000/- to 1,05,000/- from him and the same was further sold in the open market by him for an amount of Rs. 1,05,000/- to 1,10,000/-.*

*xvii. That, Aditya Krishna sent Rs. 2 lac on 21.22.2022 to Viphil Jain and Rs. 5 lac on 02.12.2022 to Deepali Jain from*



his firms account number 030605011289. In this connection, Aditya Krishna replied that he purchased medicines from Vipnil Jain.,”

**Statement of Sh. Vipnil Jain recorded under Section 50 of the PMLA reads as:**

“ii. He and Suraj Shat had rented the flat no. 1101 and 1110 and installed the capping and labeling machines for preparing fake/spurious anti-cancer medicines. They used to fill Fluconazol (FORCAN IV) in the empty vials of the anti-cancer medicine viz. Keytruda. Thereafter, they sold the same in open market through Aditya Krishna, Akshay Kumar, Neeraj Chauhan, Keshav Anand, Sneha and others.

iii. He procured empty vials of Keytruda from Pravez Khan and Neeraj Chauhan for making fake/ spurious anticancer medicines and after preparing such spurious anticancer medicines, he used to sell the same in open market through Aditya Krishna and some other persons;

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v. He used to get original empty vials of anti-cancer medicines (Keytruda) from Neeraj Chauhan and Pravez Khan. He and Suraj Shat also used to paste the label of empty vials on the vials which were either “not for sale” or were “short expiry vials” of anti-cancer medicines (Keytruda) provided by Neeraj Chauhan and Aditya Krishna. He also stated that Suraj Shat is an expert in the work of pasting labels on vials.

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x. That, Vipnil Jain received funds of Rs. 42,02,100/- from Lovee Narula, Rs. 19,52,500 from Aditya Krishna and Rs. 5,40,000/- from Sneha Shivaji Kandhare in his bank account against the sale of unsealed vials of anti-cancer medicines without any bill and invoice to Lovee Narula. Further, he disclosed that Lovee Narula used to purchase these unsealed vials of anti-cancer medicines without any bill



and invoice in cash from Aditya Krishna, Neeraj Chauhan, Gagan Khurana, Ayonij Jain and himself and used to sell the same to his customers in India as well as abroad.

xi. That Vipnil Jain received funds to the tune of Rs. 23,00,000/- from M/s Delhi Medicine Hub (Akshay Kumar) in the bank account of his son Sanyam Jain. He used to sell unsealed vials of anti-cancer medicines without any bill and invoice to M/s Delhi Medicine Hub mostly in cash. However, some balance funds were received in his bank account. As such, M/s Kesha Enterprises also paid the balance amount in the bank account of his son Sanyam Jain.

xii. He had received funds of Rs. 11.40 lacs from M/s Delhi Medicine Hub (Akshay Kumar), Rs. 95,000/- from M/s Cancer Medicine (Akshay Kumar) in the bank account number 1338104000051484, Rs. 24.46 lacs from Aditya Krishna, Rs. 7.55 lacs from M/s Popular Medicine Specialties, Rs. 13.00 lacs from Suraj Shat in the bank account of his wife Deepali Jain, which was nothing but the sale proceeds of spurious/ fake anti-cancer medicines.”

**Statement of Sh. Parvez Khan recorded under Section 50 of the PMLA reads as:**

“xi. That, Pravez Khan earlier stated in his statement that he neither knew Aditya Krishna nor he knew any person named Aditya Krishna before registration of FIR. He also stated that he does not have any business or financial transaction with Aditya Krishna. However, thereafter account statement of bank account number 191801502731 maintained in the name of Pravez Khan containing credit entries from Aditya Krishna was shown to him, then Pravez Khan replied that he asked Vipnil Jain for Rs. 2.50 lacs and therefore, Vipnil Jain arranged the fund of Rs. 2.50 lacs through Aditya Krishna.”

**Relevant part of the statement of the applicant recorded under Section 50 of the PMLA reads as:**



“vi. That, Aditya Krishna also admitted that he purchased some empty vials of anti-cancer medicines from Neeraj Chauhan for the purpose of converting ‘Not for sale’ anti-cancer medicine to saleable anti-cancer medicines by changing of label and relabelling. He purchased approx. 6 empty vials of original Keytruda injection having MRP on it from Neeraj Chauhan by paying approx. 30,000/- rupees for all the 06 empty vials and re-label the said original Keytruda injection label on the vials of ‘Not for sale’ Keytruda Vials.

vii. That, he transferred sale proceeds of Keytruda Injection in the bank accounts of Viphil Jain, Deepali Jain, Suraj Shat, Sanyam Jain and other accounts provided by Viphil Jain. Further, some payments were also made in cash. He used to transfer sale proceeds of such spurious Keytruda Injection from his account and his firm’s account namely M/s Popular Medicines Specialty.

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ix. That the sale proceeds of the spurious/ fake Keytruda Injection were received in cash and the same was deposited in his bank account and M/s Popular Medicine Specialties’ bank account and further the same was utilized in his business.

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xvii. That, Aditya Krishna sent Rs. 2 lac on 21.22.2022 to Viphil Jain and Rs. 5 lac on 02.12.2022 to Deepali Jain from his firms account number 030605011289. In this connection, Aditya Krishna replied that he purchased medicines from Viphil Jain, therefore, as per requirement he transferred the aforesaid amount.”

“The relevant part of the ‘Investigation with the Banks’ which is a part of Annexure A-2 reads as under:



6.17 On scrutiny of statement of account no. 52510901529 in the name of Aditya Krishna maintained with Standard Chartered Bank (RUD-33), it is revealed that Aditya Krishan deposited cash amount Rs. 18,00,000 from 07.12.2023 to 11.12.2023 (i.e. within 5 days and in 4 tranches ) details as below:

**Bank account No. 52510901529 of Aditya Krishna maintained with Standard Chartered Bank**

**TABLE-19**

Sr. No.	Date	Credit (as cash )
1	07.12.2023	10,00,000/-
2	09.12.2023	2,00,000
3	10.12.2023	4,00,000
4	10.12.2023	2,00,000
Total (A)		<b>18,00,000/-</b>

6.18 Further on scrutiny of account no. 030605010481 in the name of Aditya Krishna maintained with ICICI Bank Limited (RUD-34), it is revealed that Aditya Krishan deposited cash amount Rs. 25,90,000 from 09.05.2023 to 29.02.2024 details as below:

**Bank account No. 030605010481 of Aditya Krishna maintained with ICICI Bank Limited**

**TABLE-20**

Date	Description	Credit (Cash)
09-05-2023	CAM/02512SRV/CASH DEP-Other/09-05-23/8912,	98000
09-05-2023	CAM/02512SRV/CASH DEP-Other/09-05-23/8914,	67500
09-05-2023	CAM/02512SRV/CASH DEP-Other/09-05-23/8916,	20500



22-05-2023	CAM/68011SRY/CASH DEP- Other/22-05-23/6013,	71000
22-05-2023	CAM/68011SRY/CASH DEP- Other/22-05-23/6015,	4000
23-05-2023	BY CASH -HYDERABAD SHAKER,	150000
25-05-2023	BY CASH -MUZZAFARPUR,	190000
29-05-2023	CAM/02512SRY/CASH DEP- Other/29-05-23/1038,	87000
29-05-2023	CAM/02512SRY/CASH DEP- Other/29-05-23/1040,	91000
02-06-2023	CAM/02512SRY/CASH DEP- Other/02-06-23/1556,	99500
02-06-2023	CAM/02512SRY/CASH DEP- Other/02-06-23/1558,	89500
12-06-2023	CAM/68012HHR/CASH DEP- Other/12-06-23/1586,	75000
13-07-2023	CAM/68011SRY/CASH DEP- Other/13-07-23/9192,	87000
24-07-2023	BY CASH - TONK CLOCK TOWER,	87000
14-08-2023	CAM/68011SRY/CASH DEP- Other/14-08-23/865,	100000
14-08-2023	CAM/68011SRY/CASH DEP- Other/14-08-23/867,	74000
23-08-2023	CAM/08732OAR/CASH DEP- Other/23-08-23/4141,	15000
23-08-2023	CAM/08732OAR/CASH DEP- Other/23-08-23/4143,	10000
28-08-2023	CAM/23201HAR/CASH DEP- Other/28-08-23/4507,	50000
28-08-2023	CAM/23201HAR/CASH DEP- Other/28-08-23/4509,	57500
28-08-2023	CAM/23201HAR/CASH DEP- Other/28-08-23/4511,	2500
15-09-2023	CAM/68011SRY/CASH DEP- Other/15-09-23/2791,	100000
15-09-2023	CAM/68011SRY/CASH DEP- Other/15-09-23/2793,	70000



15-09-2023	CAM/68011 SRY/CASH DEP- Other/15-09-23/2795,	2000
16-10-2023	CAM/54241 HRY/CASH DEP- Other/16-10-23/9046,	93000
16-10-2023	CAM/54241 HRY/CASH DEP- Other/16-10-23/9048,	6000
16-10-2023	CAM/54241 HRY/CASH DEP- Other/16-10-23/9050,	1000
18-10-2023	CAM/68011 SRY/CASH DEP- Other/18-10-23/5026,	98000
18-10-2023	CAM/68011 SRY/CASH DEP- Other/18-10-23/5029,	76000
20-11-2023	CAM/68011 SRY/CASH DEP- Other/20-11-23/7290,	92000
20-11-2023	CAM/68011 SRY/CASH DEP- Other/20-11-23/7292,	77000
20-11-2023	CAM/68011 SRY/CASH DEP- Other/20-11-23/7294,	4500
25-12-2023	CAM/00081 ARY/CASH DEP- Other/25-12-23/2019,	52500
25-12-2023	CAM/00081 ARY/CASH DEP- Other/25-12-23/2021,	2500
27-12-2023	BY CASH - TONK CLOCK TOWER,	172000
28-02-2024	CAM/54241 HRY/CASH DEP- Other/28-02-24/7351,	100000
28-02-2024	CAM/54241 HRY/CASH DEP- Other/28-02-24/7353,	25000
28-02-2024	CAM/54241 HRY/CASH DEP- Other/28-02-24/7355,	26500
28-02-2024	CAM/54241 HRY/CASH DEP- Other/28-02-24/7357,	2000
28-02-2024	BY CASH -HYDERABAD - HYDERNAGAR SELF,	7000
29-02-2024	CAM/14291 HAR/CASH DEP- Other/29-02-24/971,	59000
<b>Total (B)</b>		<b>25,92,000</b>



**6.19** Further on scrutiny of account no. 030601005926 in the name of Aditya Krishna maintained with ICICI Bank Limited (RUD-35), it is revealed that Aditya Krishan deposited cash amount Rs. 7,42,500/- from 10.02.2023 to 22.02.2024 details as below:

**Bank account No. 030601005926 of Aditya Krishna maintained with ICICI Bank Limited**

**TABLE-21**

<b>Date</b>	<b>Description</b>	<b>Credit (Cash)</b>
10-02-2023	CAM/34361HHR/CASH DEP/10-02-23/9183,	30000
20-03-2023	CAM/62541SRY/CASH DEP/20-03-23/3920,	25500
05-05-2023	CAM/02512SRY/CASH DEP- Other/05-05-23/8519,	100000
05-05-2023	CAM/02512SRY/CASH DEP- Other/05-05-23/8521,	76000
05-05-2023	CAM/02512SRY/CASH DEP- Other/05-05-23/8523,	10000
24-05-2023	CAM/02512SRY/CASH DEP- Other/24-05-23/510,	88500
24-05-2023	CAM/02512SRY/CASH DEP- Other/24-05-23/512,	99000
07-07-2023	BY CASH -NAGARCOIL 6095 ADITYA,	12000
10-08-2023	CAM/00011ARY/CASH DEP-Other/10-08-23/9978,	100000
13-09-2023	CAM/60952SRY/CASH DEP- Other/13-09-23/8059,	12000
22-02-2024	CAM/54241HRY/CASH DEP-Other/22-02-24/6988,	94500
22-02-2024	CAM/54241HRY/CASH DEP-Other/22-02-24/6990,	5500



22-02-2024	CAM/54241HRY/CASH DEP-Other/22-02-24/6992.	89500
<b>Total (C)</b>		<b>7,42,500/-</b>

**Total Cash Deposit: A+B+C = Rs. 51,34,500/-**

6.20 During his custodial interrogation, Aditya Krishna stated that he used to purchase Keytruda Injection from Vipnil Jain and sold the same in open market thereby generating proceeds of crime. He further stated that the sale and purchase of the anti-cancer medicines were done in cash. Therefore, it is clearly established that the above said cash deposits in the bank accounts of Aditya Krishna are nothing but proceeds of crime generated out of the scheduled offence.

Further, on scrutiny of bank accounts of Aditya Krishna, it is revealed that Aditya Krishna used to procure fake/spurious anti-cancer medicines from Vipnil Jain and then sold the same in the open market to many persons/entities. The sale proceeds of the said fake/spurious anti-cancer medicines were received in his personal saving bank account as mentioned below:

**TABLE-22**

DATE	TXN PARTICULARS	CREDIT
09/2/2024	N/Hs92404032849201/Icic0sf0002/ Keshavanand	50000
09/2/2024	N/Hs92404032849806/Icic0sf0002/ Keshavanand	50000
15/02/2024	N/Hs92404633472651/Icic0sf0002/ Keshavanand	50000
18/02/2024	N/Hs92404933672315/Icic0sf0002/ Keshavanand	50000



	<b>Total</b>	<b>2,00,000/-</b>
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- 6.21 Further on scrutiny of account no. 030601005926 in the name of Aditya Krishna maintained with ICICI Bank Limited, it is revealed that Aditya Krishan further layered the proceeds of crime and transferred Rs. 9,00,000/- from 18.04.2023 to 25.11.2023 in 3 tranches to the bank account of Vipnil Jain; details as below:

**Bank account No. 030601005926 of Aditya Krishna maintained with ICICI Bank Limited**

**TABLE-23**

Date	Description	Debit
18-04-2023	BIL/INFT/000650545567/NA/, VIPHIL JAIN	300000
03-11-2023	BIL/INFT/CK35386910/NA/, VIPHIL JAIN	400000
25-11-2023	BIL/INFT/CKT9907146/NA/, VIPHIL JAIN	200000
<b>Total</b>		<b>9,00,000/-</b>

- 6.22 On scrutiny of account no. 030601005926 in the name of Aditya Krishna maintained with ICICI Bank Limited, it is revealed that Aditya Krishan further layered the proceeds of crime and transferred Rs. 8,36,000/- from 20.05.2023 to 09.03.2024 in 10 tranches to Suraj Shat; details as below:

**Bank account No. 030601005926 of Aditya Krishna maintained with ICICI Bank Limited**

**TABLE-24**

Date	Description	Debit
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20-05-2023	BIL/NEFT/HS92314003133121/NA/SURAJ SHAT/YESB000016,6NEFT OUTWARD TR	120000
21-11-2023	BIL/NEFT/HS92332523586351/NA/SURAJ SHAT/CBIN028028,7	150000
25-11-2023	BIL/NEFT/HS92332923947036/NA/SURAJ SHAT/CBIN028028,7	60000
07-12-2023	RTGS/ICICR12023120701357987/CBIN0280287/SURAJ SHA,T	206000
13-12-2023	UPI/371316288120/UPI/shatsuraj@okici/Yes Bank Ltd/,ICI54b66671b8ed4783b2494c5769f15497/	50000
14-12-2023	UPI/371441539759/UPI/shatsuraj@okaxi/Central Bank,Of/ICIda479282d1c36433fa01fa32da950f998/	50000
20-12-2023	UPI/335427327398/UPI/shatsuraj@okaxi/Central Bank,Of/ICI0c27042d8511484eb99a57ba3219cbd9/	50000
23-12-2023	UPI/372275903459/UPI/shatsuraj@okaxi/Central Bank,Of/ICI29f0735ad0bd4ed78953046d824595b3/	50000
23-12-2023	UPI/372377444371/UPI/shatsuraj@okaxi/Central Bank,Of/ICIda7d7b3ed85f46cfaa61fd21372caa9d/	50000
09-03-2024	UPI/406922161277/UPI/shatsuraj-1@oka/Yes Bank Ltd/,ICI3803739fb30d459985640a15c541b383/	50000
<b>Total</b>		<b>8,36,000</b>



**6.23** Further, Aditya Krishna in his custodial interrogation, admitted to have used the Hawala Channels to receive payments and make payments for the sale and purchase of anti-cancer medicines which remain unaccounted as the amount which was sent or received by Hawala Channel never came in the banking system. The whatsapp chat of Aditya Krishna which evidences that Aditya Krishna uses Hawala Channel for making and receiving payments is as below:



Source Info:  
 samsung\_S18A6075F.zip\data\data/com.whatsapp/databases/msgstore.db : 0x17C0F8B (Table: message, Size: 2906560 bytes)  
 samsung\_S18A6075F.zip\data\data/com.whatsapp/databases/wa.db : 0x702A3 (Table: wa\_contacts, Size: 1945000 bytes)



Source Info:  
 samsung\_S18A6075F.zip\data\data/com.whatsapp/databases/msgstore.db : 0x17C0C01 (Table: message\_message\_media, Size: 2906560 bytes)  
 samsung\_S18A6075F.zip\data/media/S18A6075F/android/media/com.whatsapp/WhatsAppMedia/WhatsAppImage/GentRMG-20220516-WA40011.jpg : (Size: 91954 bytes)

**6.24** Further, Aditya Krishan transferred Rs. 80,000/- on 08.02.2024 from his bank account No. 030605010481, maintained with ICICI Bank Limited to the account No. 016651100004793 of Suraj Shat maintained with Yes Bank Limited; for the purpose of purchase of two Flip of Cap Sealing Machine “Vial Cap Sealing Machine” through Suraj Shat for recapping the vials of



fake/spurious anti-cancer medicines thereby utilizing the proceeds of crime received in his bank account for preparing more and more vials of fake/spurious anti-cancer medicines.

Thereafter, on instruction of Aditya Krishna, Suraj Shat purchased two Flip of Cap Sealing Machine "Vial Cap Sealing Machine" from M/s ACMETECH, Delhi for total amount Rs. 43,000/- on 08.02.2024. Suraj Shat paid Rs. 41,000/- to M/s ACMETECH from his bank account no. 016651100004793 maintained with Yes Bank Limited and paid Rs. 2,000/- in cash. The above facts are corroborated in the statement of Suraj Shat recorded u/s 50 of PMLA, 2002 on 17.04.2024 (**RUD-16**).

Therefore, it is established that Aditya Krishna was indulging in the sale and purchase of the spurious medicines so manufactured by Vipnil Jain and Suraj Shat. The nature of complex transactions done by Aditya Krishna with Vipnil Jain, Suraj Shat, Neeraj Chauhan and Pravez Khan establishes that Aditya Krishna is an intricate part of the whole group and was instrumental in supplying the spurious medicines in the open market.

\*\*\*..”

41. Upon the perusal of the requisite documents, including the statements of the applicant quoted hereinabove, co-accused and the relevant bank statements, the following inferences can be drawn with respect to the issues under consideration.

A. *First*, that the applicant in his statements recorded under Section 50 of the PMLA, admitted to purchasing empty vials of the anti-



cancer medicines from co-accused and relabeling them for sale, thereby actively participating in the alleged criminal activity.

B. *Second*, that the applicant's financial transactions demonstrate direct involvement in the sale and distribution of spurious medicines, with multiple transfers to the accounts of co-accused namely Vipnil Jain, Deepali Jain and Suraj Shat, all of whom have admitted to their roles in the laundering process.

C. *Third*, that statements of co-accused Suraj Shat and Vipnil Jain implicate the applicant as an active participant in the procurement and sale of fake medicines, with specific references to instructions given by the applicant for purchasing sealing machines and repacking vials.

42. This Court shall now peruse the provisions of Section 45 of the PMLA, which lays down the statutory mandate regarding the grant of bail in such cases and establishes the twin conditions that the applicant must fulfill to secure release on bail.

***“Section 45. Offences to be cognizable and non-bailable.***

*(1) [Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no person accused of an offence 2[under this Act] shall be released on bail or on his own bond unless--]*

*(i) the Public Prosecutor has been given a opportunity to oppose the application for such release; and*

*(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:*



*Provided that a person, who, is under the age of sixteen years, or is a woman or is sick or infirm, 3[or is accused either on his own or along with other co-accused of money-laundering a sum of less than one crore rupees] may be released on bail, if the Special Court so directs:*

*Provided further that the Special Court shall not take cognizance of any offence punishable under section 4 except upon a complaint in writing made by—*

*(i) the Director; or*

*(ii) any officer of the Central Government or a State Government authorised in writing in this behalf by the Central Government by a general or special order made in this behalf by that Government.*

*[(1A) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), or any other provision of this Act, no police officer shall investigate into an offence under this Act unless specifically authorised, by the Central Government by a general or special order, and, subject to such conditions as may be prescribed.]*

*(2) The limitation on granting of bail specified in sub-section (1) is in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.*

*[Explanation.--For the removal of doubts, it is clarified that the expression "Offences to be cognizable and non-bailable" shall mean and shall be deemed to have always meant that all offences under this Act shall be cognizable offences and non-bailable offences notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973 (2 of 1974), and accordingly the officers authorised under this Act are empowered to arrest an accused without warrant, subject to the fulfillment of conditions under section 19 and subject to the conditions enshrined under this section.]”*



43. Section 45 of the PMLA governs the grant of bail in cases of money laundering and it imposes stringent conditions on the grant of bail. A careful reading of the provision reveals the following essential ingredients that must be satisfied before bail can be granted.

44. *Firstly*, Section 45(1) of the PMLA mandates that no person accused of an offence under the PMLA shall be released on bail or on his own bond unless two cumulative conditions are satisfied i.e., (i) the Public Prosecutor must be given an opportunity to oppose the bail application; and (ii) if the Public Prosecutor opposes the application, the Court must be satisfied that there are reasonable grounds for believing that the accused is not guilty of the offence and is not likely to commit any offence while on bail.

45. *Secondly*, Section 45(2) of the PMLA provides that the limitations on the grant of bail under sub-section (1) are in addition to the limitations imposed under the CrPC, or any other law applicable at the time. This makes it clear that the provisions of the PMLA are to be applied over and above the general principles of bail applicable to criminal offences under the CrPC, thereby, reinforcing the stringent approach adopted by the legislature in dealing with money laundering offences.

46. *Thirdly*, the proviso to Section 45(1) of the PMLA carves out an exception to the rigorous twin conditions by allowing bail to be granted, at the discretion of the Special Court, to specific categories of persons, namely: (i) individuals below the age of sixteen years, (ii) women, (iii) persons who are sick or infirm, and (iv) those accused, either alone or with others, of money laundering involving a sum of less than rupees one Crore.



47. Following a perusal of the statutory provision, it becomes imperative to examine the judicial pronouncements that have interpreted and applied Section 45 of the PMLA in various factual contexts.

48. The Hon'ble Supreme Court in *Nikesh Tarachand Shah v. Union of India*, (2018) 11 SCC 1 struck down the twin conditions as unconstitutional. However, the legislature subsequently amended the provision to cure the defects, and it has since been upheld in *Vijay Madanlal Choudhary (Supra)*, reaffirming the strict nature of bail conditions under the PMLA. In *Prem Prakash (Supra)*, the Hon'ble Supreme Court has also delved into the principles pertaining to bail in PMLA matters. The relevant paragraphs are as under:

***“...Section 45 PMLA — Contours***

*10. Considering that the present is a bail application for the offence under Section 45 PMLA, the twin conditions mentioned thereof become relevant. Section 45(1) PMLA reads as under:*

***“45. Offences to be cognizable and non-bailable. — (1)*** *Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no person accused of an offence [under this Act] shall be released on bail or on his own bond unless—*

*(i) the Public Prosecutor has been given an opportunity to oppose the application for such release; and*

*(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:*

*Provided that a person, who, is under the age of sixteen years, or is a woman or is sick or infirm or is accused either on his own or along with other co-accused of money-laundering a sum*



*of less than one crore rupees, may be released on bail, if the Special Court so directs:*

*Provided further that the Special Court shall not take cognizance of any offence punishable under Section 4 except upon a complaint in writing made by—*

*(i) the Director; or*

*(ii) any officer of the Central Government or a State Government authorised in writing in this behalf by the Central Government by a general or special order made in this behalf by that Government.”*

*11. In Vijay Madanlal Choudhary v. Union of India [Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1] , this Court categorically held that while Section 45 PMLA restricts the right of the accused to grant of bail, it could not be said that the conditions provided under Section 45 impose absolute restraint on the grant of bail. Para 302 is extracted hereinbelow : (SCC p. 259)*

*“302. It is important to note that the twin conditions provided under Section 45 of the 2002 Act, though restrict the right of the accused to grant of bail, but it cannot be said that the conditions provided under Section 45 impose absolute restraint on the grant of bail. The discretion vests in the court, which is not arbitrary or irrational but judicial, guided by the principles of law as provided under Section 45 of the 2002 Act.”*

*These observations are significant and if read in the context of the recent pronouncement of this Court dated 9-8-2024 in of Sisodia v. Enforcement Directorate [Manish Sisodia v. Enforcement Directorate, (2024) 12 SCC 660 : 2024 SCC OnLine SC 1920] , it will be amply clear that even under PMLA the governing principle is that “Bail is the Rule and Jail is the Exception”. In para 52 of Manish Sisodia [Manish Sisodia v. Enforcement Directorate, (2024) 12 SCC 660 : 2024 SCC OnLine SC 1920] , this Court observed as under:*

*“52. ... From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in*



*matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non-grant of bail even in straightforward open-and-shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial courts and the High Courts should recognise the principle that “bail is rule and jail is exception.”*

*12. All that Section 45 PMLA mentions is that certain conditions are to be satisfied. The principle that, “bail is the rule and jail is the exception” is only a paraphrasing of Article 21 of the Constitution of India, which states that no person shall be deprived of his life or personal liberty except according to the procedure established by law. Liberty of the individual is always a Rule and deprivation is the exception. Deprivation can only be by the procedure established by law, which has to be a valid and reasonable procedure. Section 45 PMLA by imposing twin conditions does not re-write this principle to mean that deprivation is the norm and liberty is the exception. As set out earlier, all that is required is that in cases where bail is subject to the satisfaction of twin conditions, those conditions must be satisfied.*

*\*\*\**

### ***Scope of inquiry under Section 45 PMLA***

*16. Coming back to the scope of inquiry under Section 45, Vijay Madanlal Choudhary [Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1] , while reiterating and agreeing with the holding in Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra [Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra, (2005) 5 SCC 294 : 2005 SCC (Cri) 1057] , held that the court while dealing with the application for grant of bail in PMLA need not delve deep into the merits of the case and only a view of the court based on the available material available on record is required. It held that the court is only required to place its view based on probability on the basis of reasonable material collected during investigation. The words*

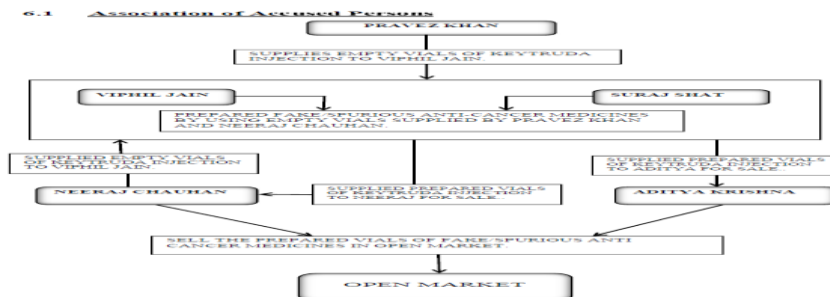


used in Section 45 are “reasonable grounds for believing” which means that the court has to see only if there is a genuine case against the accused and the prosecution is not required to prove the charge beyond reasonable doubt...”

49. Having considered the legislative intent behind Section 45 and the judicial precedents interpreting its application, this Court shall now proceed to apply the established principles to the facts of the present case to assess as to whether the applicant can claim benefit of proviso to Section 45 of the PMLA.

50. The material on record demonstrates that the accused persons operated in a highly coordinated and systematic manner, with clear understanding and collaboration among them to facilitate the offence. The evidence shows deliberate concealment of the origin of funds and the layering of transactions to evade detection by regulatory authorities. The sheer scale of operations, involving the movement of funds across multiple jurisdictions, use of *hawala* channels, and sale of counterfeit medicines to unsuspecting patients and hospitals, underscores the organized and syndicated nature of the offence.

51. The respondent has provided a detailed representation of the *modus operandi* of the accused persons in the form of a graphic illustration:





52. In *Saumya Chaurasia v. Enforcement Directorate*, (2024) 6 SCC 401, the Hon'ble Supreme Court has stated that the Courts should be mindful in keeping the evidence of movement of funds acquired out of the syndicate and utilization of the proceeds of crime to judge whether the individual is a part of the syndicate. The relevant part of the said precedent is herein below:

*“19. As stated hereinabove, the supplementary complaint was filed against the appellant along with the other accused on 30-1-2023, in which the summary of investigative findings against each of the accused persons have been recorded in Para 8 thereof. The details of the investigation conducted by the respondent ED have been stated in Para 9 and the role of each accused including the appellant in the commission of alleged offence of money laundering has been stated in Para 10 thereof, which reads as under:*

***“10. Role of accused in the offence of money laundering***

*A. Evidences of offence of money laundering against Smt Saumya Chaurasia—*

*Mrs Saumya Chaurasia is an officer of the Chhattisgarh State Civil Services who was posted as the Deputy Secretary in the Office of Chief Minister of Chhattisgarh and was working as an OSD to CM. Despite being relatively very junior in the bureaucratic hierarchy, she enjoyed unprecedented power and control because of her direct access to higher political powers. Information shared by the Income Tax Department and analysis of documents and digital devices seized during the searches conducted under Section 17 PMLA, 2002 revealed that Smt Saumya Chaurasia, Deputy Secretary working in the Chief Minister's Office, is one of the key persons in creation of the syndicate headed by Shri Suryakant Tiwari. An extortion racket of this magnitude and nature was possible only when multiple State agencies fell in place and everyone supported the illegal*



*acts of Suryakant Tiwari. This was made possible by Saumya Chaurasia so that pliant officers were posted in the coal mining districts who would listen to Suryakant Tiwari. Also, it was an unwritten rule that instructions of Suryakant Tiwari meant the voice of Saumya Chaurasia and the powers to be. The fact that Suryakant Tiwari had personal and close official dealings with her and was carrying her instructions to the officers, made it possible for Suryakant Tiwari to also command senior district level officers. This illegal authority was essential for him to run his empire of illegal extortion from coal & iron pellet transportation. Without his concurrence, no NOC was issued by the district machinery. All this was made possible by the fact that he was in the good books of Mrs Saumya Chaurasia. Therefore, she has directly indulged in the offence of money laundering as defined under Section 3 PMLA, 2002 being actually involved in the process of money laundering by way of possession, concealment, use, acquisition and projecting the proceeds of crime as untainted property.*

*As per the findings of the investigation, it can be inferred that Saumya Chaurasia has directly acquired "proceeds of crime" as defined under Section 2(l)(u) PMLA, 2002 to an extent of more than Rs 30 crores. ED's investigation makes it evident that although all the money of extortion on coal & iron pellet transportation was collected by the syndicate of Suryakant Tiwari, he was not the final beneficiary of this scam. He did utilise large amounts of money for purchasing benami assets, but big chunks of the money were transferred to Saumya Chaurasia, spent on political funding and transferred as per the instructions of higher powers.*

*Mr Manish Upadhyay, a relative of Mr Suryakant Tiwari, is a close associate of both Mrs Saumya Chaurasia & Mr Suryakant Tiwari. ED investigation has established that Mr Manish Upadhyay was inserted in as an extra layer of protection for cash dealings between Mr Suryakant Tiwari and Mrs Saumya*



*Chaurasia. He used to transport cash from Mr Suryakant Tiwari to Mrs Saumya Chaurasia.*

*ED investigation has established that Mrs Saumya Chaurasia and her family went on a spree of acquiring immovable assets during the period which coincided with the coal levy scam. These assets of which she is the real beneficial owner were identified and attached by issuance of provisional attachment orders(s) as detailed in succeeding paragraphs.*

*20. The evidence relating to strong relations between the appellant and Mr Suryakant Tiwari, between the appellant and Mr Manish Upadhyay, and between the appellant and Mr Anurag Chaurasia; the evidences of movement of funds acquired out of extortion syndicate run by Mr Suryakant Tiwari to Manish Upadhyay, proxy of the appellant; the utilisation of proceeds of crime and acquisition of properties by the appellant in the name of her mother Shanti Devi and cousin Mr Anurag Chaurasia along with the details of the said properties, etc. have been detailed in the said prosecution complaint, which leave no doubt in the mind of the Court that prima facie the appellant has been found involved in the commission of the offence of money laundering as defined in Section 3 of the said Act.”*

53. As the Hon’ble Supreme Court has emphasized in a catena of judgments, the offence of money laundering must be viewed in the context of the entire criminal enterprise rather than in isolation with respect to individual roles. The collective nature of the operations, the financial interlinks between the accused persons and the fraudulent intent evidenced through sustained unlawful activity, leave no doubt that the applicant was an integral part of the broader scheme to launder proceeds of crime.



54. The respondent has indicated that the applicant actively participated in multiple stages of the laundering process, including the placement, layering and integration of illicit funds into the legitimate economy. The applicant's financial transactions, his association with co-accused individuals, and his admitted involvement in acquiring equipment for repackaging counterfeit medicines, indicate a deeper level of complicity beyond mere business dealings.

55. In the same judgement, the Hon'ble Supreme Court has also emphasized that although the proviso to Section 45 of the PMLA confers discretion on the Court to grant bail where the accused falls within the conditions of the proviso, it does not mean that the person specified in the said proviso should necessarily be released on bail. The relevant part of *Saumya Chaurasia (Supra)* is reproduced herein below:

*“23. The use of the expression “may be” in the first proviso to Section 45 clearly indicates that the benefit of the said proviso to the category of persons mentioned therein may be extended at the discretion of the court considering the facts and circumstances of each case, and could not be construed as mandatory or obligatory on the part of the court to release them. Similar benevolent provision for granting bail to the category of persons below the age of sixteen years, women, sick or infirm has been made in Section 437CrPC and many other special enactments also, however by no stretch of imagination could such provision be construed as obligatory or mandatory in nature, otherwise all serious offences under such special Acts would be committed involving women and persons of tender age below 16 years. No doubt the courts need to be more sensitive and sympathetic towards the category of persons included in the first proviso to Section 45 and similar*



*provisions in the other Acts, as the persons of tender age and women who are likely to be more vulnerable, may sometimes be misused by the unscrupulous elements and made scapegoats for committing such crimes, nonetheless, the courts also should not be oblivious to the fact that nowadays the educated and well placed women in the society engage themselves in the commercial ventures and enterprises, and advertently or inadvertently engage themselves in illegal activities. **In essence, the courts should exercise the discretion judiciously using their prudence, while granting the benefit of the first proviso to Section 45 PMLA to the category of persons mentioned therein.** The extent of involvement of the persons falling in such category in the alleged offences, the nature of evidence collected by the investigating agency, etc. would be material considerations.”*

56. In view of the foregoing, this Court holds that the applicant cannot claim the benefit of the monetary threshold exemption under the proviso to Section 45 of the PMLA. The entire scheme of laundering illicit funds, as uncovered by the investigation, extends far beyond the threshold of one crore rupees, and the applicant’s role must be assessed in the broader context of the criminal conspiracy in which he actively participated.

57. Therefore, the argument that the applicant’s financial involvement falls below the statutory threshold lacks merit, as the illicit funds form part of a larger organized effort to disguise the proceeds of crime.

58. Now this Court shall decide as to the applicant has successfully discharged the burden of proving that he is not guilty of the alleged offence and is unlikely to commit any offence while on bail.



59. It is well settled, as reiterated by the Hon'ble Supreme Court in *Vijay Madanlal Choudhary (Supra)* and *Manish Sisodia (Supra)*, that while the stringent twin conditions under Section 45 restrict the right to bail, they do not impose an absolute bar. The discretion of the court in granting bail remains judicial and must be exercised in accordance with the settled legal principles. The governing principle that “bail is the rule, and jail is the exception” must be harmonized with the legislative mandate that requires satisfaction of the conditions laid down under Section 45 before bail can be granted.

60. The bank records in the instant matter reveal significant cash deposits and fund transfers that align with the proceeds of counterfeit medicines, further establishing a *prima facie* case of money laundering.

61. The contradiction in the statements of co-accused Suraj Shat, regarding the source and purpose of funds introduces some inconsistencies, however, the overall evidence shows the applicant's involvement, making it difficult to satisfy the first condition that the applicant is ‘innocent’.

62. For the second condition of Section 45 of the PMLA, the pattern of transactions and extensive network established for the distribution of spurious medicines suggests that the applicant had a well-structured setup. The involvement of multiple bank accounts, cash transactions and *hawala* channels indicate a high risk of continued engagement in similar activities if released.



63. The applicant's admission of using *hawala* channels to facilitate unaccounted transactions raises concerns about the potential interference with the investigation and further commission of the offence while on bail.

64. At this stage, it is pertinent to note that the learned senior counsel for the applicant has also contended that the applicant has been released on bail in the predicate offence in FIR No. 59/2024 vide order dated 29<sup>th</sup> July, 2024 in Bail Appln No. 2236/2024 by the Coordinate Bench of this Court.

65. It has been submitted that the present PMLA proceedings against the applicant arises out of the schedule offence in the aforesaid FIR and since the petitioner has been released on regular bail in that case, the same ruling may be applied to the present case as well, and the applicant's present bail plea may be decided accordingly.

66. It is well settled that proceedings under the PMLA and the predicate offence registered under the IPC or other statutes are distinct in nature, scope, and purpose. The offence of money laundering under Section 3 of the PMLA is an independent offence that focuses on the process of disguising the illicit origin of funds and their integration into the financial system.

67. With regard to the above, the Division Bench of the Bombay High Court in *Amar S. Mulchandani v. Enforcement, Directorate, 2024 SCC OnLine Bom 3327*, has noted that Section 3 of the PMLA is a stand-alone crime that attracts its own stringent legal provisions and conditions for bail:

*“The Enforcement Directorate represented by the Additional Solicitor General Mr Anil Singh urged that investigation of the crime by ED is an independent investigation and once ECIR is registered then the base/predicate/scheduled offence is no more*



*required for taking it to its logical end under the PMLA and the scheduled offence is necessary only for registration of an offence under PMLA and thereafter whatever may happen to predicate/scheduled offence, is totally irrelevant. It was urged that PMLA is a self-contained statute and the offence registered under it standalone, independent of predicate offence.*

*The learned Single Judge appreciated the said arguments in the backdrop of the scheme of the special enactment, which was connected with the specific object to track and investigate cases of money laundering.*

*We must quote the most pertinent observations of the learned Single Judge, which reads thus:*

*“Hypothetically, ‘an accused’ in a predicate/scheduled offence is highly influential either monetarily or by muscle power and by use of his influence gets the base offence, compromised or compounded to avoid further investigation by ED i.e. money laundering or the trail of proceeds of crime by him, either in the predicate/scheduled offence or any of the activities revealed therefrom. And, if the aforesaid contention of the learned counsel for the applicants is accepted, it will put to an end to the independent investigation of ED i.e. certainly not the intention of legislature in enacting the PMLA. Therefore, if the contention of the learned counsel for the applicants is accepted, in that event, it would be easiest mode for the accused in a case under the PMLA to scuttle and/or put an end to the investigation under the PMLA. Therefore, the said contention needs to be rejected.”*

*Based on the aforesaid observation, since the conclusion was drawn that in case of money laundering which involves many stages of “placement”, “layering”, it require systematic analysis and investigation and upholding the impugned order of remanding the applicants to the judicial custody, the application was dismissed.*

*It is to be noted that this decision was delivered on 16-3-2021, a few days before the Supreme Court in Vijay Madanlal*



*Choudhary case offered further clarification contemplating three contingencies when the ECIR i.e. investigation under PMLA, came to an end.*

*80. In the wake of the above reading, we are satisfied that grievance of the petitioners do not deserve any consideration. Necessarily, the writ petitions filed by different accused, seeking similar relief cannot be entertained. Hence, the petitions are dismissed. In view of the dismissal of the writ petitions, pending interim applications also stand disposed off.”*

68. The grant of bail in the predicate offence, therefore, does not automatically entitle the applicant to bail under PMLA proceedings. Unlike general offences under the IPC, the PMLA imposes stringent twin conditions under Section 45 of the PMLA, which require the applicant to demonstrate that he is not guilty of money laundering and that he is unlikely to commit any offence while on bail. The distinction is further reinforced by the fact that the burden of proof under Section 24 of the PMLA shifts onto the accused, which is a significant departure from the principles applicable in predicate offences under the CrPC.

69. Therefore, the mere fact that the applicant was granted bail in the predicate offence does not, *ipso facto*, justify the grant of bail in the present proceedings under PMLA.

70. In view of the facts and circumstances, this Court finds that the twin conditions prescribed under Section 45 of the PMLA have not been satisfied and the applicant's contention regarding his bail in the predicate offence holds no weight in the present case. The evidence on record, the ongoing nature of the investigation, and the applicant's alleged role in the broader



financial syndicate indicate that the applicant has failed to satisfy the rigors of Section 45 of the PMLA.

71. It is held that the applicant has failed to establish reasonable grounds to believe that he is not guilty of the offence, nor has he demonstrated that he is unlikely to commit any offence while on bail.

72. Thus, this Court does not find any merit in the contention of the applicant that he is exempted from the twin conditions under the proviso to Section 45 of the PMLA or that he satisfies the twin conditions under Section 45 of the PMLA. Accordingly, the said argument stands rejected.

73. Now advertent to the other ground contended on behalf of the applicant for grant of bail which is whether the statutory presumption of guilt under Section 24 of the PMLA applies in the present case and whether the applicant has successfully rebutted this presumption?

74. At this stage, this Court deems it necessary to analyze the statutory framework governing the burden of proof in proceedings related to proceeds of crime. Section 24 of the PMLA reads as under:

*“24. Burden of proof. --In any proceeding relating to proceeds of crime under this Act, -- (a) in the case of a person charged with the offence of money-laundering under section 3, the Authority or Court shall, unless the contrary is proved, presume that such proceeds of crime are involved in money-laundering; and  
(b) in the case of any other person the Authority or Court, may presume that such proceeds of crime are involved in money-laundering.”*



75. From the bare perusal of Section 24 of the PMLA, it is evident that once a person is charged with the offence of money laundering under Section 3, the law presumes that the proceeds of crime are involved in money laundering unless the contrary is proven by the accused.

76. 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 on financial records, WhatsApp communications, and transactional data, which indicate the applicant's active role in the alleged money laundering activities.

77. By virtue of Section 24 of the PMLA, the respondent is not required to conclusively establish the applicant's guilt at the pre-trial stage, rather, the applicant must demonstrate that the proceeds of crime attributed to him are not linked to money laundering. In the absence of any rebuttal by the applicant, the presumption under Section 24 of the PMLA stands in favor of the respondent, thereby justifying his continued detention.

78. The Hon'ble Supreme Court in *Prem Prakash (Supra)* has made the following observations:

*“In Vijay Madanlal Choudhary [Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1] dealing with Section 24 PMLA, the three-Judge Bench held as under : (SCC pp. 229-31, paras 237 & 239-40)*

*“237. Be that as it may, we may now proceed to decipher the purport of Section 24 of the 2002 Act. In the first place, it must be noticed that the legal presumption in either case is about the involvement of proceeds of crime in money-laundering. This fact becomes relevant, only if, the prosecution or the authorities have succeeded in establishing at least three basic or foundational facts. **First, that the criminal activity relating to a***



*scheduled offence has been committed. Second, that the property in question has been derived or obtained, directly or indirectly, by any person as a result of that criminal activity. Third, the person concerned is, directly or indirectly, involved in any process or activity connected with the said property being proceeds of crime. On establishing the fact that there existed proceeds of crime and the person concerned was involved in any process or activity connected therewith, itself, constitutes offence of money-laundering. The nature of process or activity has now been elaborated in the form of Explanation inserted vide Finance (No. 2) Act, 2019. On establishing these foundational facts in terms of Section 24 of the 2002 Act, a legal presumption would arise that such proceeds of crime are involved in money-laundering. The fact that the person concerned had no causal connection with such proceeds of crime and he is able to disprove the fact about his involvement in any process or activity connected therewith, by producing evidence in that regard, the legal presumption would stand rebutted.*

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*239. Be it noted that the legal presumption under Section 24(a) of the 2002 Act, would apply when the person is charged with the offence of money-laundering and his direct or indirect involvement in any process or activity connected with the proceeds of crime, is established. The existence of proceeds of crime is, therefore, a foundational fact, to be established by the prosecution, including the involvement of the person in any process or activity connected therewith. Once these foundational facts are established by the prosecution, the onus must then shift on the person facing charge of offence of money-laundering—to rebut the legal presumption that the proceeds of crime are not involved in money-laundering, by producing evidence which is within his personal knowledge. In other words, the expression “presume” is not conclusive. It also does not follow that the legal presumption that the proceeds of crime*



*are involved in money-laundering is to be invoked by the authority or the court, without providing an opportunity to the person to rebut the same by leading evidence within his personal knowledge [Sarbananda Sonowal v. Union of India, (2005) 5 SCC 665] .*

*240. Such onus also flows from the purport of Section 106 of the Evidence Act. Whereby, he must rebut the legal presumption in the manner he chooses to do and as is permissible in law, including by replying under Section 313 of the 1973 Code or even by cross-examining prosecution witnesses. The person would get enough opportunity in the proceeding before the authority or the court, as the case may be. He may be able to discharge his burden by showing that he is not involved in any process or activity connected with the proceeds of crime. In any case, in terms of Section 114 of the Evidence Act, it is open to the court to presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct, and public and private business, in their relation to the facts of the particular case. Considering the above, the provision under consideration [Section 24(a)] by no standards can be said to be unreasonable much less manifestly arbitrary and unconstitutional.”*

79. In light of the principles enunciated by the Hon’ble Supreme Court in ***Vijay Madanlal Choudhary (Supra)*** and reiterated in ***Prem Prakash (Supra)***, this Court must determine whether the foundational facts necessary to invoke the presumption under Section 24 of the PMLA have been established by the respondent. The Hon’ble Supreme Court has categorically held that the prosecution must satisfy three essential ingredients. *First*, the commission of a scheduled offence must be established. *Second*, the property in question must be shown to have been derived or obtained,



directly or indirectly, as a result of such criminal activity and *third*, the accused must be linked, directly or indirectly, to any process or activity connected with the proceeds of crime.

80. In the present case, the respondent has placed on record material indicating that the applicant actively participated in procurement and sale of spurious anti-cancer medicines. The investigation has revealed that the applicant engaged in financial transactions involving the proceeds of crime, including payments made through banking channels and hawala transactions.

81. Applying the legal presumption under Section 24(a) of the PMLA, once the respondent has demonstrated these foundational facts, the onus shifts to the applicant to rebut the presumption that the proceeds of crime were not involved in money laundering. The applicant, however, has failed to provide any credible evidence to rebut this presumption. Mere denial of involvement or assertion of being an investor in the firm without day-to-day operational control is insufficient to discharge the burden imposed by the statute.

82. Furthermore, as clarified by the Hon'ble Supreme Court, the presumption under Section 24(a) of the PMLA does not operate conclusively and allows the accused an opportunity to rebut the same through cross-examination, production of evidence, or explanations under Section 313 of the CrPC. In the absence of any such rebuttal, the presumption stands in favor of the respondent, and the applicant's continued detention is justified under the PMLA.



83. Therefore, it is observed by this Court that the respondent had sufficient material in its possession, including financial records, digital evidence, and the applicant's communications, to establish a valid 'reason to believe' that the applicant is guilty of the offence of money laundering. The procedural safeguards under the PMLA were duly followed, and the challenge to the legality of the arrest is without merit. Furthermore, the contention that the applicant's arrest was solely based on the statement of co-accused persons under Section 50 of the PMLA is unfounded and rejected.

84. Having dealt with all the issues, this Court is of the view that considering the filing of the first supplementary prosecution complaint and the ongoing nature of the investigation, it is not satisfied that the applicant has fulfilled the twin conditions under Section 45 of the PMLA. The respondent has presented sufficient material to warrant further investigation, including financial records, electronic evidence, and statements of co-accused implicating the applicant. These materials suggest an active involvement in laundering proceeds of crime and a pattern of financial transactions that need further investigation.

85. The ongoing investigation is an extensive and meticulous effort by the investigating agency to unearth a broader nexus of financial misconduct and uncover deeper layers of the alleged offence. As new evidence continues to emerge, it may further solidify the allegations against the applicant. The complexity of the financial trail and its potential societal and national ramifications require continued custodial interrogation.



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86. In light of the above discussions on facts and law, it is held that the applicant has been unable to put forth any propositions before this Court that are sufficient for grant of bail and thus, the same are rejected. In view of the same, this Court is not inclined to release the applicant on bail and the instant application, is, hereby, dismissed along with the pending applications, if any.

87. The applicant, if on interim bail, is directed to surrender before the Court concerned within a period of seven days from today and the sureties/bail bond, if any shall stand discharged. If the applicant fails to surrender as directed, the investigating agency shall take appropriate steps to take the applicant in custody to secure his presence.

88. It is made clear that any observations made herein are only for the purpose of deciding the present petition and 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.

89. The order will be uploaded on the website forthwith.

**CHANDRA DHARI SINGH, J**

**JANUARY 28, 2025**

**rk/ryp/mk**

*[Click here to check corrigendum, if any](#)*