

**(2023) 04 DEL CK 0169**

**In the Delhi High Court**

**Case No : Bail Application No. 3026, 3027 Of 2022**

Avtar Singh

APPELLANT

Vs

Enforcement Directorate

RESPONDENT

**Date of Decision : 28-04-2023**

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 439  
Prevention of Money Laundering Act, 2002 — Section 3, 4, 45

**Citation : (2023) 04 DEL CK 0169**

**Hon'ble Judges : Dinesh Kumar Sharma, J**

**Bench : Single Bench**

**Advocate : Vikas Gautam, Anupam Sharma**

**Final Decision : Dismissed**

## Judgement

Dinesh Kumar Sharma, J

1. The present bail applications have been preferred on behalf of the petitioner under Section 439 Cr.P.C. for the grant of regular bail in the case bearing No. ECIR/09/DLZO/2014 recorded by the Enforcement Directorate, under Sections 3 & 4 of PMLA Act, 2002 in the case titled Enforcement Directorate vs. A. Vennugopal Reddy & Ors.

2. Learned counsel for the petitioner has submitted that the complaint was filed by the ED in the present case before the learned Special Judge without the arrest. However, it has been submitted that after the filing of the complaint, production warrants were issued by the learned Special Court and on account of production warrants, the accused persons are not being released. In this regard, learned counsel for the petitioner relies upon an order of this Court dated 25.11.2022 in the Bail APPLN. 559/2022 titled as Rana Kapoor v. ED.

3. He submits that even otherwise rigour of Section 45 of the PMLA Act will not be applicable as the alleged laundered amount is much less than Rs. 1 Cores. Learned counsel submits that both the petitioners have been in custody for

predicate offences for more than the last 9 years and that now they have been admitted to bail in predicate offences but are not being released on account of production warrants issued in this case.

4. Mr. Anupam S. Sharma, learned Special Counsel for ED at BAR has vehemently opposed the application. Learned special counsel submits that in view of the judgment of Hon'ble Supreme Court in Satender Kumar Antil, (2022) 10 SCC 51 even if a complaint has been filed without arrest, the petitioner-accused has to meet the rigour of Section 45 of the PMLA Act. He submits that the total amount laundered in this case is of more than Rs.150 crores.

5. At this point, it is pertinent to mention that as per the petitioner, the allegations in the complaint of money laundering against petitioner Avtar Singh is that he is in possession of Rs.52,016/- and the other petitioner namely A. Vennugopal Reddy is in possession of Rs.68,245/-

6. Learned Special counsel for the CBI has also submitted that the judgment passed by this Court in Rana Kapoor (supra) as relied upon by the petitioners is in direct conflict with the other judgment of this court passed in Bail APPL. 2438/2022 Bimal Kumar Jain v Directorate of Enforcement dated 13.09.2022.

7. I have heard the submissions and perused the record carefully.

8. In the instance case, it is an admitted case that even after the issuance of production warrants, the accused persons have not been formally arrested as yet by the ED. The petitioners were in custody in predicate offences for more than 9 years and now admittedly, have been admitted to bail for the predicate offences. However, admittedly, they have not been released on account of production warrants issued by the learned Trial Court subsequent to the filing of the complaint by the ED.

9. I consider that since the petitioners have yet not been taken into formal custody in this case, the bail applications filed by the accused persons are infructuous. Hence, the bail applications along with pending applications are dismissed. However, production warrants if any, issued by the learned Trial Court stands recalled, and it is directed that the accused persons be released from jail if not required in any other case.

10. Copy of this order be sent to the concerned Jail Superintendent.

11. Order dasti.