

(2025) 04 JH CK 1356
In the Jharkhand High Court
Case No : B.A. No.8380 Of 2024

Md. Afsar Ali @ Afshar Ali

APPELLANT

Vs

Union Of India through the Directorate Of Enforcement

RESPONDENT

Date of Decision : 25-04-2025

Acts Referred:

Code of Criminal Procedure, 1973 — Section 438, 439
Bhartiya Nagarik Suraksha Sanhita, 2023 — Section 483, 484
Indian Penal Code, 1860 — Section 34, 379, 420, 465, 466, 467, 468, 469, 471, 476
Prevention of Money Laundering Act, 2002 — Section 2(1)(u), 2(1)(v), 2(1)(x), 2(1)(y), 3, 4, 19, 24, 45, 45(1)(i), 45(1)(ii), 45(2), 50, 50(4), 65, 66(2), 71

Citation : (2025) 04 JH CK 1356

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : Nilesh Kumar, Sonal Sadhani, Priyanka Agarwal, Amit Kumar Das, Saurav Kumar

Final Decision : Allowed

Judgement

Sujit Narayan Prasad, J

Prayer

1. The instant application has been filed under Section Sections 483 and 484 of the Bhartiya Nagarik Suraksha Sanhita, 2023 praying for grant of regular bail in connection with ECIR Case No.06 of 2023, arising out of ECIR/RNZO/25/2023 for the offence under Section 3 punishable under Section 4 of Prevention of Money Laundering Act, 2002.

Factual Matrix of the Case:

2. The prosecution story in brief as per the allegation made in the instant ECIR/ complaint reads as under:

3. ECIR bearing No. RNZO/25/2023 has been recorded on the basis of F.I.R. bearing No. 272/23 dated 01.06.2023 registered by P.S.- Sadar, Ranchi against

Bhanu Pratap Prasad, Ex- Revenue Sub Inspector, Baragain under Sections 420/465/467/466/469/471/379/474 of the Indian Penal Code. This F.I.R. was the outcome of the information shared with Jharkhand Government under Section 66(2) of PLMA, 2002 which was shared in another case bearing ECIR No. RNZO/18/2022 dated 21.10.2022.

4. In the instant investigation, the scrutiny of voluminous property documents secreted at the premises of Bhanu Pratap Prasad along with the seventeen original registered revealed fresh facts and evidences about illegal activities to acquire several other properties by a syndicate which comprise of Md. Saddam Hussain, Afsar Ali (present petitioner) Bhanu Pratap Prasad, Priya Ranjan Sahay, Bipin Singh and others.

5. The accused persons namely Afsar Ali, Priya Ranjan Sahay and others largely targeted tribal lands whose sale purchase were restricted under CNT Act. Then, they used to make antedated fake deeds either to change the nature of the property (making them general lands) or to create fictitious owners.

6. It is stated that as per para 9.35 to 9.42 of the prosecution complaint the syndicate comprising of this petitioner used to identify vacant land parcels in Ranchi, where no activity was done.

7. Further in addition to the 8.86 acres of property, the accused persons namely Md. Saddam Hussain, Afsar Ali, Priya Ranjan Sahay and others are also involved with Bhanu Pratap Prasad in forgery with respect to property admeasuring 4.83 acres situated at Mauza Gari, Khata no. 53, at Plot no. 31, 32, 33, 35, 36, 38, 72 and 73, Baragain Anchal, Ranchi. The land was identified by Priya Ranjan Sahay, Md. Saddam Hussain, Shekhar Kushwaha and Bipin Singh.

8. For this property, two fake deeds, deed no. 2376 of the year 1940 and other 3954 of the year 1974 were prepared by Saddam Hussain, Md. Afsar Ali and others. Deed No. 2376 of 1940 was written by Makbul Ansari and the deed no. 3954 of 1974 was written by Md. Alauddin, by the involvement of the accused Md. Irshad, who used to work with Makbul Ansari and Md. Alauddin. The above said land admeasuring 4.83 Acres is a portion of 37.10 Acres land of Khata No. 53, Mouza-Gari, Ranchi.

9. The accused persons namely Bipin Singh and Priya Ranjan Sahay are also involved in the forgeries with government records in association with Afsar Ali, Bhanu Pratap Prasad, Shekhar Kushwaha @ Mahto and others in tampering the original Panji-II registers to acquire the said 4.83 Acres of land.

10. Further in addition to the 8.86 acres of property, the accused persons namely Md. Saddam Hussain, Afsar Ali (petitioner herein) Priya Ranjan Sahay and others are also involved with Bhanu Pratap Prasad in forgery with respect to property admeasuring 4.83 acres situated at Mauza Gari, Khata no. 53, at Plot no. 31, 32, 33, 35, 36, 38, 72 and 73, Baragain Anchal, Ranchi.

11. The land was identified by Priya Ranjan Sahay, Md. Saddam Hussain,

Shekhar Kushwaha and Bipin Singh. For this property, two fake deeds, deed no. 2376 of the year 1940 and other 1954 of the year 1974 were prepared by Saddam Hussain, Md. Afsar Ali and others. Deed No. 2376 of 1940 was written by Makbul Ansari and the deed no. 3954 of 1974 was written by Md. Alauddin, by the involvement of the accused Md. Irshad; who used to work with Makbul Ansari and Md. Alauddin. The said Makbul Ansari and Md. Alauddin are now deceased. This fact has been admitted by the accused person Md. Irshad in his statement dated 24.04.2024 recorded u/s 50 of PMLA, 2002.

12. In the backdrop of the aforesaid alleged facts the present petitioner had been taken into remand on 16.04.2024. Accordingly the petitioner had preferred the Misc. Cri. Application No.1546 of 2024 for grant of bail but the same was dismissed vide order dated 24.07.2024 passed by the learned Spl. Judge, PMLA, Ranchi.

13. Hence, the present petition has been preferred for the grant of bail.

Argument on behalf of the learned senior counsel for the petitioner:

14. The, learned senior counsel appearing on behalf of the petitioner has taken the following grounds:

i. The petitioner is innocent and has falsely been implicated in this case as he has committed no offence as alleged in the prosecution complaint.

ii. The petitioner is neither the accused in FIR No. 272 of 2023 registered by Sadar Police Station nor in ECIR Case No. 25 of 2023, which was instituted on 26.06.2023 nor in the prosecution complaint under the PMLA but only on mere suspicion and alleged confession of co-accused the petitioner has been implicated in this case.

iii. It has further been submitted that from the remand petition, it is evident that the petitioner has been implicated in this case on the basis of document recovered from the possession of one Saddam Hussain on 13.04.2023. The petitioner is having no concerned with any of the land as mentioned in the prosecution case. The petitioner is a government employee working at Rajendra Institute of Medical Sciences as Radiographer since last several years.

iv. The house of the petitioner was searched, all accounts have been verified not only of the petitioner but his entire family members but no incriminating material was found. No evidence has come that he forged any document or manufactured or prepared any individual document, save and except the vague confession of the co-accused which is having no evidentiary value in the eye of law.

v. There is only allegation against the petitioner that he assisted the other accused persons in preparation of the documents but the said allegation does not constitute any offence under the PML Act.

vi. The ground has also been taken that the prime allegation in the scheduled offence is with respect to forging of documents and there is no allegation against

the petitioner that he has forged any document, hence, no offence under Sections 468 and 476 of IPC is made out against the petitioner. Moreover, it has nowhere been alleged that the petitioner had fraudulently induced any person to deliver any property so as to attract the offence of cheating against the petitioner.

15. Learned counsel for the petitioner, based upon the aforesaid grounds, has submitted that the learned court while considering the prayer for bail ought to have taken into consideration all these aspects of the matter both legal and factual but having not done so, serious error has been committed. Hence, it is a fit case where the petitioner is to be given the privilege of bail.

Argument on behalf of the learned counsel for the respondent-ED:

16. While on the other hand, Mr. Amit Kumar Das, learned counsel for the opposite party-Enforcement Directorate has vehemently opposed the prayer for grant of regular bail by taking the following grounds:

(i) Submission has been made in the prosecution at para 9.35 to 9.42 it is alleged that the petitioner's syndicate comprising of this petitioner used to identify vacant land parcels in Ranchi, where no activity was done.

(ii) Further in addition to the 8.86 acres of property, the accused persons namely Md. Saddam Hussain, Afsar Ali, Priya Ranjan Sahay and others are also involved with Bhanu Pratap Prasad in forgery with respect to property admeasuring 4.83 acres situated at Mauza Gari, Khata no. 53, at Plot no. 31, 32, 33, 35, 36, 38, 72 and 73, Baragain Anchal, Ranchi. The land was identified by Priya Ranjan Sahay, Md. Saddam Hussain, Shekhar Kushwaha and Bipin Singh. For this property, two fake deeds, deed no. 2376 of the year 1940 and other 1954 of the year 1974 were prepared by Saddam Hussain, Md. Afsar Ali and others. Deed No. 2376 of 1940 was written by Makbul Ansari and the deed no. 3954 of 1974 was written by Md. Alauddin, by the involvement of the accused Md. Irshad.

(iii) Further, the land admeasuring 4.83 acres is a portion of 37.10 acres land which was purchased from Catholic Credit Co-operative Society by Mangal Mahto and Kaila Mahto through deed no. 2660, entered in book no.I, Volume no.32 from pages 211 to 213 in the year 1939 executed at the office of District Sub-Registrar, Ranchi. In this connection, the related index was also verified and the documents related to the said deed were also obtained from the DSR, Ranchi vide its letter no. 1143 dated 12.07.2023. During investigation, it revealed that the said properties are entered in panji II at page no.53 of volume-I of Gari Mauza. The certified copies of the same were also furnished by the Circle Officer, Baragain, Ranchi by its letter no. 234(ii) dated 19.03.24. This land belongs to Mahatos which cannot be sold or transferred to the persons belonging to the general category. Thus in order to acquire and sell the said land, the accused persons namely Md. Saddam Hussain, Afsar Ali, Priya Ranjan Sahay, Bipin Singh and others connived with Bhanu Pratap Prasad, Manoj Kumar Yadav and others and made fake deed 3954/1974 for this property in the name of Samrendra Chandra Ghoshal.

(iv) The accused persons namely Afsar Ali, Md. Saddam Hussain, Priya Ranjan Sahay and Bipin Singh indulged in the forgery as equal partners of the sale proceeds of the land along with another person namely Shekhar Prasad Mahto @ Shekhar Kushwaha. These persons were assisted by government employees namely Bhanu Pratap Prasad (ex-Renue Sub-Inspector, Baragain) and Manoj Kumar Yadav (who was posted as clerk at Shahar Anchal while the forgery was done in tampering with original records and falsifying them by making deceitful entries in name of one Samendra Chandra Ghoshal as per the instruction of the above stated accused persons.

(v) The ground has also been taken that it is incorrect on behalf of the petitioner to take the ground that the petitioner is not an accused of the predicate offence and in absence of any accusation for the predicate offence, the petitioner cannot be held guilty under the Prevention of Money Laundering Act, 2002 because the Hon'ble Supreme Court in the case of Pavana Dibbur vs. Directorate of Enforcement (Criminal Appeal No. 2779 of 2023) has held that it is not necessary that the accused for the offence of money laundering to be made accused of schedule offence as the offence of money laundering is an independent offence.

(vi) So far as the ground of parity is concerned which has been taken on behalf of the petitioner that the co-accused person, namely, Hemant Soren who was made accused in the original prosecution complaint, has already been granted bail by this Court vide order dated 28.06.2024 passed in B.A. No. 4892 of 2024, the ground is being taken that the Hon'ble Supreme Court in Tarun Kumar vs. Enforcement of Directorate, 2023 INSC 1006 has held that to apply parity, individual role of the accused must be seen and accused cannot seek bail merely because co-accused person has been granted bail.

(vii) The learned counsel contended that prayer for bail of the co-accused persons namely Sanjit Kumar @ Sanjeet Kumar, Md. Irshad and Anand Tirkey @ Antu Tirkey, have already been rejected by this Court vide order dated 21.03.2025 passed in B.A. No. 7501 of 2024, B.A No. 7598 of 2024 and B.A. No. 8022 of 2024 respectively.

(viii) The ground has also been taken that in course of investigation, the statement of various persons was recorded which corroborates the role of the petitioner in providing assistance to the accused persons.

17. Learned counsel for the opposite party-ED, based upon the aforesaid grounds, has submitted that since the nature of allegation committed by the present petitioner is serious, as such, the instant bail application is fit to be rejected.

Analysis

18. This Court, before appreciating the argument advanced on behalf of the parties, deems it fit and proper to discuss herein some of the provision of law as contained under the Act, 2002 with its object and intent.

19. The Act was enacted to address the urgent need to have a comprehensive legislation inter alia for preventing money-laundering, attachment of proceeds of crime, adjudication and confiscation thereof including vesting of it in the Central Government, setting up of agencies and mechanisms for coordinating measures for combating money-laundering and also to prosecute the persons indulging in the process or activity connected with the proceeds of crime.

20. It is evident that the Act, 2002 was enacted in order to answer the urgent requirement to have a comprehensive legislation inter alia for preventing money-laundering, attachment of proceeds of crime, adjudication and confiscation thereof for combating money-laundering and also to prosecute the persons indulging in the process or activity connected with the proceeds of crime.

21. The objective of the PMLA is to prevent money laundering which has posed a serious threat not only to the financial systems of the country but also to its integrity and sovereignty. The offence of money laundering is a very serious offence which is committed by an individual with a deliberate desire and the motive to enhance his gains, disregarding the interest of the nation and the society as a whole, and such offence by no stretch of imagination can be regarded as an offence of trivial nature. The stringent provisions have been made in the Act to combat the menace of money laundering.

22. It needs to refer herein the definition of "proceeds of crime" as provided under Section 2(1)(u) of the Act, 2002 which reads as under:

"2(u) "proceeds of crime" means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property 3[or where such property is taken or held outside the country, then the property equivalent in value held within the country] 4[or abroad]; [Explanation.—For the removal of doubts, it is hereby clarified that "proceeds of crime" include property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence;]"

23. It is evident from the aforesaid provision that "proceeds of crime" means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property or where such property is taken or held outside the country, then the property equivalent in value held within the country or abroad.

24. In the explanation it has been referred that for the removal of doubts, it is hereby clarified that "proceeds of crime" include property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence.

25. It is, thus, evident that the reason for giving explanation under Section 2(1)

(u) is by way of clarification to the effect that whether as per the substantive provision of Section 2(1)(u), the property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property or where such property is taken or held outside the country but by way of explanation the proceeds of crime has been given broader implication by including property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence.

26. The "property" has been defined under Section 2(1)(v) which means any property or assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and includes deeds and instruments evidencing title to, or interest in, such property or assets, wherever located.

27. The schedule has been defined under Section 2(1)(x) which means schedule to the Prevention of Money Laundering Act, 2002. The "scheduled offence" has been defined under Section 2(1)(y) which reads as under:

"2(y) ?scheduled offence? means— (i) the offences specified under Part A of the Schedule; or (ii) the offences specified under Part B of the Schedule if the total value involved in such offences is [one crore rupees] or more; or (iii) the offences specified under Part C of the Schedule."

28. It is evident that the "scheduled offence" means the offences specified under Part A of the Schedule; or the offences specified under Part B of the Schedule if the total value involved in such offences is [one crore rupees] or more; or the offences specified under Part C of the Schedule.

29. The offence of money laundering has been defined under Section 3 of the Act, 2002 which reads as under:

"3. Offence of money-laundering.—Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the [proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming] it as untainted property shall be guilty of offence of money-laundering. [Explanation. — For the removal of doubts, it is hereby clarified that,— (i) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following processes or activities connected with proceeds of crime, namely:— (a) concealment; or (b) possession; or

(c) acquisition; or (d) use; or (e) projecting as untainted property; or (f) claiming as untainted property, in any manner whatsoever; (ii) the process or activity connected with proceeds of crime is a continuing activity and continues

till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever.]”

30. It is evident from the aforesaid provision that “offence of money-laundering” means whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property shall be guilty of offence of money-laundering.

31. It is further evident that the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever.

32. The punishment for money laundering has been provided under Section 4 of the Act, 2002.

33. Section 50 of the Act, 2002 confers power upon the authorities regarding summons, production of documents and to give evidence.

34. The various provisions of the Act, 2002 along with interpretation of the definition of “proceeds of crime” has been dealt with by the Hon’ble Apex Court in the case of Vijay Madanlal Choudhary and Ors. Vs. Union of India and Ors., (2022) SCC OnLine SC 929 wherein the Bench comprising of Three Hon’ble Judges of the Hon’ble Supreme Court have decided the issue by taking into consideration the object and intent of the Act, 2002.

35. The predicate offence has been considered in the aforesaid judgment wherein by taking into consideration the explanation as inserted by way of Act 23 of 2019 under the definition of the “proceeds of crime” as contained under Section 2(1) (u), whereby and whereunder, it has been clarified for the purpose of removal of doubts that, the “proceeds of crime” include property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence, meaning thereby, the words “any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence” will come under the fold of the proceeds of crime.

36. So far as the purport of Section 45(1)(i)(ii) is concerned, the aforesaid provision starts from the non-obstante clause that notwithstanding anything contained in the Code of Criminal Procedure, 1973, 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 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.

37. Sub-section (2) thereof puts limitation on granting bail specific in sub-section (1) in addition to the limitations under the Code of Criminal Procedure, 1973 or any other law for the time being in force on granting of bail.

The explanation is also there as under sub-section (2) thereof which is for the purpose of removal of doubts. A clarification has been inserted 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, and accordingly, the officers authorised under this Act are empowered to arrest an accused without warrant, subject to the fulfilment of conditions under section 19 and subject to the conditions enshrined under this section.

38. The fact about the implication of Section 45 has been interpreted by the Hon'ble Apex Court in *Vijay Madanlal Choudhary and Ors. Vs. Union of India and Ors.* (supra) at paragraphs-387 and 412. For ready reference, the said paragraphs are being referred as under:

¶387.....The provision post the 2018 Amendment, is in the nature of no bail in relation to the offence of money laundering unless the twin conditions are fulfilled. The twin conditions are that there are reasonable grounds for believing that the accused is not guilty of offence of money laundering and that he is not likely to commit any offence while on bail. Considering the purposes and objects of the legislation in the form of the 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.

412. As a result, we have no hesitation in observing that in whatever form the

relief is couched including the nature of proceedings, be it under Section 438 of the 1973 Code or for that matter, by invoking the jurisdiction of the constitutional court, the underlying principles and rigours of Section 45 of the 2002 Act must come into play and without exception ought to be reckoned to uphold the objectives of the 2002 Act, which is a special legislation providing for stringent regulatory measures for combating the menace of money laundering.”

39. Subsequently, the Hon’ble Apex Court in the case of Tarun Kumar vs. Assistant Director Directorate of Enforcement, (2023) SCC OnLine SC 1486 by taking into consideration the law laid down by the Larger

Bench of the Hon’ble Apex Court in Vijay Madanlal Choudhary and Ors. Vs. Union of India and Ors. (supra), has laid down that since the conditions specified under Section 45 are mandatory, they need to be complied with. The Court is required to be satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and he is not likely to commit any offence while on bail. It has further been observed that as per the statutory presumption permitted under Section 24 of the Act, the Court or the Authority is entitled to presume unless the contrary is proved, that in any proceedings relating to proceeds of crime under the Act, in the case of a person charged with the offence of money laundering under Section 3, such proceeds of crime are involved in money laundering. Such conditions enumerated in Section 45 of PML Act will have to be complied with even in respect of an application for bail made under Section 439 Cr. P.C. in view of the overriding effect given to the PML Act over the other law for the time being in force, under Section 71 of the PML Act.

40. The Hon’ble Apex Court in the said judgment has further laid down that the twin conditions as to fulfil the requirement of Section 45 of the Act, 2002 before granting the benefit of bail is to be adhered to which has been dealt with by the Hon’ble Apex Court in Vijay Madanlal Choudhary and Ors. Vs. Union of India and Ors. (supra).

41. In the judgment rendered by the Hon’ble Apex Court in Vijay Madanlal Choudhary and Ors. Vs. Union of India and Ors. (supra) as under paragraph 284, it has been held that the Authority under the 2002 Act, is to prosecute a person for offence of money-laundering only if it has reason to believe, which is required to be recorded in writing that the person is in possession of “proceeds of crime”. Only if that belief is further supported by tangible and credible evidence indicative of involvement of the person concerned in any process or activity connected with the proceeds of crime, action under the Act can be taken to forward for attachment and confiscation of proceeds of crime and until vesting thereof in the Central Government, such process initiated would be a standalone process.

42. So far as the issue of grant of bail under Section 45 of the Act, 2002 is concerned, as has been referred hereinabove, at paragraph-412 of the judgment rendered in Vijay Madanlal Choudhary and Ors. Vs. Union of India and Ors.

(supra) it has been held therein by making observation that whatever form the relief is couched including the nature of proceedings, be it under Section 438 or 439 of the 1973 Code or for that matter, by invoking the jurisdiction of the Constitutional Court, the underlying principles and rigors of Section 45 of the 2002 must come into play and without exception ought to be reckoned to uphold the objectives of the 2002 Act, which is a special legislation providing for stringent regulatory measures for combating the menace of money-laundering.

43. The Hon'ble Apex Court in the case of Gautam Kundu vs. Directorate of Enforcement (Prevention of Money-Laundering Act), Government of India through Manoj Kumar, Assistant Director, Eastern Region, (2015) 16 SCC 1 has been pleased to hold at paragraph -30 that the conditions specified under Section 45 of PMLA are mandatory and need to be complied with, which is further strengthened by the provisions of Section 65 and also Section 71 of PMLA.

44. Section 65 requires that the provisions of Cr.P.C shall apply insofar as they are not inconsistent with the provisions of this Act and Section 71 provides that the provisions of PMLA shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. PMLA has an overriding effect and the provisions of CrPC would apply only if they are not inconsistent with the provisions of this Act.

45. Therefore, the conditions enumerated in Section 45 of PMLA will have to be complied with even in respect of an application for bail made under Section 439 CrPC. That coupled with the provisions of Section 24 provides that unless the contrary is proved, the authority or the Court shall presume that proceeds of crime are involved in money-laundering and the burden to prove that the proceeds of crime are not involved, lies on the appellant.

46. Now advertent into fact of the instant case and the allegation levelled against the present petitioner which according to learned counsel for the petitioner is being said that the same cannot be said to attract the ingredient of Section 3 of PMLA, 2002. While on the other hand, the learned counsel appearing for the ED has submitted by referring to various paragraphs of prosecution complaint that the offence is very much available attracting the offence under the provisions of PML Act.

47. This Court, in order to appreciate the rival submission, is of the view that various paragraphs of prosecution complaint upon which the reliance has been placed on behalf of both the parties, needs to be referred herein so as to come to the conclusion as to whether the parameter as fixed under Section 451(i)(ii) of the PML Act 2002 is being fulfilled in order to reach to the conclusion that it is a fit case where regular bail is to be granted or not.

48. Relevant paragraphs of prosecution complaint are referred herein:

"Background of the information shared under section 66(2) of the PMLA. 2002 to

the Chief Secretary, Govt. of Jharkhand

9.2 In one of the investigation under ECIR/RNZO/18/2022, conducted by the Directorate of Enforcement, searches were conducted at several premises including the premises of accused person namely Bhanu Pratap Prasad, Md. Saddam Hussain, Afshar Ali and others on 13.04.2023. The search was conducted in a matter of fraudulent acquisition of a defence possessed land by a group of persons on the basis of fake deed. During searches, several incriminating documents and original government records were recovered and seized from the premises of Bhanu Pratap Prasad, which were found falsified and tampered in order to acquire as well as assist other personas to acquire landed properties in illegal manner. Bhanu Pratap Prasad and six other members of the above stated syndicate including Afshar Ali and Md Saddam Hussain were arrested on 14.04.2023 under section 19 of PMLA for being involved in the above forgeries which have resulted in the generation of proceeds of crime.

9.3 Bhanu Pratap Prasad being a government servant (Revenue Sub-Inspector, Baragain) was part of a syndicate that was habitually involved in illegal activities pertaining to forgeries and tampering with government records aimed at acquiring landed properties. As such, the information with respect to Bhanu Pratap Prasad and the documents seized from his possession was shared with the Chief Secretary, Govt. of Jharkhand under section 66(2) of the PMLA, 2002 On the basis of said information, the FIR was lodged by the Sadar PS. The information shared under section 66(2) of PMLA, 2002 is an integral part of the FIR 272/2023. On the basis of the FIR no: 272/2023 the ECIR:

RNZO/25/2023 was recorded for further investigation under PMLA, 2002.

Investigation under PMLA, 2002 in ECIR: RNZO/25/2023-

9.5 During investigation, the accused person Bhanu Pratap Prasad was taken into remand in ECIR RNZO/18/2022 and the seized documents and his digital devices were scrutinized. The scrutiny of the mobile phone of Bhanu Pratap Prasad further led to the identification of one 8.80 acres property situated at Shanti Nagar, Behind DAV School, Bariatu, Ranchi, acquired and possessed by Hemant Soren Another property ad measuring (4.83) acres which were acquired by the above stated syndicate of Bharu Pratap Prasad, Afshar Ali and others was also identified.

9.9 As stated above, during investigation, another 4.83 acres property, situated at Cheshire Home Road, Mauja GarI, Ranchi was also identified to be acquired by the accused persons inducing Afshar Ali, Md Saddam Hussain and others in connivance with Bhanu Pratap Prasad. Fake deeds, diaries having hand written cash details were also seized from possession of Md. Saddam Hussain, Imtiyaz Ahmed (an accomplice of Afshar Ali and Saddam Hussain). These entries contained huge cash payments including compensatory payment to Bhanu Pratap Prasad in relation of the above stated 4.83-acre property.

9.17 During further investigation into the role of other associates of Bhanu Pratap Prasad, it has surfaced that a fake deed no. 3985/1940 has been prepared by the accused persons Md. Saddam Hussain, Afshar Ali and others, the copy of which was also seized from the possession of Md. Saddam Hussain during searches dated 13.04.2023 (in ECIR/RNZO/18/2022). The scrutiny of the said fake deed no. 3985 of year 1940 between Balka Pahan s/o Rati Pahan (Seller) and Asgar Hussain S/o Nabu Hussain (purchaser) reveals that the deed has been executed for the Bhuinhari property falling under Khewat No. 10 (the same Khewat of which, 8.86 acres property has been in use and possession of the accused person Hemant Soren) under Mauja Baragain at Thana no 184.----

9.19 During course of investigation, the said Md. Saddam Hussain was taken in remand on 19.04.2024 to 20.04. 2024 and his statement was recorded. In his statement dated 13.04 2024, he was shown deed no. 3985 of the year 1940. Book 1, Volume 80, Page no. 297 to 298, executed for property under Mauja Baragain at Thana no. 184, Ranchi, Khata no 234, Khewat no. 10/11 of various plots including plot no. 989, area 0.84 acres and plot no 996, area 0.32 acres part of total area 6.34 acres, to which he admitted that deed No 3985/1940 is a fake deed, which was made by Afshar Ali and the same was placed in the records of the Registrar of Assurances, Kolkata. The said fake deed was recovered from his residence, as he was working with Afshar Ali for disposing of the land. The involvement of Md. Saddam Hussain in the said fake deed no. 3985 is corroborated from the seizure of the said deed 3985 of the year 1940 from his possession during searches conducted on 13.04.2023 by EC IR/RNZO/18/2022)

9.20 Subsequently, the said Afshar Ali was also taken into the custody of the Directorate of Enforcement on 16.104 2024. During his custody, he stated that deed no. 3985 of the year 1940, registered at the Registrar of Assurances Kolkata, related to property under Mauja Baragain at Thana no. 184, Ranchi, Khata no 234. Khewat no 10/11, totalling to 6.34 acres, was a fake deed. He further stated that two other fake deeds were written while making this fake deed 3985 of the year 1940. The pages from the original volumes of the Registrar of Assurances, Kolkata were provided by the Shekhar Prasad Mahto, Shekhar Kushwaha, Md. Saddam Husain then handed over these pages to the accused person namely Md Irshad, r/o Hazaribagh for writing the three deeds including deed No 3985/1940. He stated to have given Rs 60.000/ to Md Irshad for writing the deeds. The statement of Md. Irshad was recorded u/s 50 of P'MLA, 2002 on 24.04 2024 in which he admitted to have written the above stated deed and further acknowledged his hand writing in which the said deed was written.

9:35 Investigation reveals that the syndicate used to identify vacant land parcels in Ranchi, where no activity was done. In addition to this the accused persons namely Afshar Ali, Priya Ranjan Sahay and others largely targeted tribal lands whose sale purchase were restricted under CNT Act. Then they used to make antedated fake deeds either to change the nature of the property (making them general lands) or to create fictitious owners. Later with the assistance of officials

of circle offices, the original records were falsified so that the land could be acquired by them. In addition, the above 8.86 acres of property as discussed above, the accused persons namely Md. Saddam Hussain, Afshar Ali. Priya Ranjan Sahay and others are involved with Bhanu Pratap Prasad in forgery with respect to property admeasuring 4.83 acres situated at Mauja Gari, Khata no. 53, at Plot No. 31 32,33,35, 36, 38, 72 and 73, Baragain Anchal, Ranchi. The Land was identified by Priya Ranjan Sahay, Md. Saddam Hussain, Shekhar Kushwaha and Bipin Singh. For this property, two take deeds, deed no. 2376 of the year 1940 and other 3954 of the year 1974 were prepared by Saddam Hussain, Md. Afshar Ali and others. Deed no 2376 of 1940 was written by Makbul Ansari and the deed no. 3954 of 1974 was written by Md. Alauddin, by the involvement of the accused Md. Irshad, who used to work with Makbul Ansari and Md Alauddin. The said Makbul Ansari and Md. Alauddin are now deceased. This fact has been admitted by the accused person Md. Irsad in his statement dated 24.04.2024 recorded u/s 50 of PMLA, 2002.

9.38 Investigation reveals that the blank page for writing the said deed was arranged by accused person Irshad Akhtar. The said accused person Irshad Akhtar arranged the blank pages with the assistance of the accused persons namely Tapas Ghosh, a deed searcher and Sanjeet Kumar, a contractual staff, both working at the office of the Registrar of Assurance, Kolkata. After the fake deed was written on blank page, the same was again planted in the records of Registrar of Assurances, Kolkata by the accused persons namely Irshad Akhtar, Sanjit Kumar and Tapas Ghosh. In addition to preparation of fake deed no 3954/1974, the accused persons namely Bipin Singh, Bhanu Pratap Prasad, Afshar Ali, Md. Irshad and others in connivance with each other entered the property admeasuring 4.83 acres in the name of Samrendra Chandra Ghoshal in page no. 139 of register II. volume I. The accused persons namely Bipin Singh, Bhanu Pratap Prasad, Md. Irshad and others have admitted this fact during their statement. The accused person Md. Irshad did the entry in his own handwriting on page 139 of the register II. volume I. The work of entering the name of Samrendra Chandra Ghoshal was done at the residence of the accused person. Md. Saddam Hussain and for this work. Re 5 lakhs was paid to Bhanu Pratap Prasad through the accused person Bipin Singh. In his statement dated 24.04.2024 recorded u/s 50 of PMLA, 2002, the accused person Md. Irshad admitted to have written a correction slip related to the property situated at Cheshire Home Road, Khata no 53, covering an area of 4.83 acres in the name of Samrendra Chandra Ghoshal in connivance with Saddam Hussain. The said correction slip was recovered from the residence of Md Saddam Hussain during search dated 13.04.2023 in ECIR-RNZO/18/2022 which has been discussed above. The accused person Md. Irshad also acknowledged his handwriting on the said correction slip. In addition to the above stated correction slip, on 13.04.2023, pages of register II related to Khata no 53 in the name of Samrendra Chandra Ghoshal were also recovered. The accused person Md. Irshad also admitted to have made the said entries in Register II. The bank account scrutiny of the

accused persons namely Sanjit Kumar, Tapas Ghosh, Md. Irshad, and Irshad Akhtar reveals interconnected transactions amongst the said persons. In addition to this frequent cash deposits made into their bank accounts during the period of commission of offence has also been identified. These cash deposits and bank account transactions corroborate the link between the accused persons and also establish the receipt of proceeds of crime in cash, out of which, some portion has been deposited by them in their bank accounts. –

9.41 The accused person Afshar Ali also admitted that another deed no 2376/1940 was prepared by him in relation to a part of land admeasuring 2.83 acres out of the 4.83 acres of the above stated land. The blank page for this deed was obtained with the assistance of the accused person Irshad Akhtar, Sanjit Kumar and Tapas Ghosh.

9.42 Investigation reveals that when the fake deed no. 3954 of 1974 was prepared by Afshar Ali and others in relation to property ad measuring 4.83 acres, they missed to enter Plot no. 32 out of the several plots of 4.83 acres. It is revealed that in the month of May, 2022, Afshar Ali and Md Saddam Hussain went to Kolkata to enter the said plot no. 32 in the fake deed which was affixed in original volume kept at Registrar of Assurances, Kolkata. Both of them stayed at the Hotel Peerless Inn, Kolkata. During their stay the accused person Irshad Akhtar, r/o Bariatu, Ranchi brought an original volume from the Registrar of Assurances, Kolkata. After making fake entries, Irshad Akhtar took the volume back to the Registrar of Assurances in Kolkata for depositing the same. Afshar Ali made fake entries on page 299 of the deed while their stay at Hotel Peerless Inn. In addition to entering Plot no 32, they erased some portion of previously written deed using blade, and re-wrote the sentences "two registered deeds of sale dated 15.7.1939 and 24.7.1940 executed by".-----

At the said Hotel Peerless Inn, the original volume 169, (in which the fake deed no. 3954 of 1974 in the name of Samrendra Chandra Ghosal was earlier affixed) was brought for corrections by the accused person Irshad Akhtar. The accused persons namely Md. Saddam Hussain and Afshar Ali were present inside the hotel room. On the said day, at Hotel Peerless Inn, the original volume was provided by the accused persons Tapas Ghosh and Sanjit Kumar to Irshad Akhtar who brought it to Hotel Peerless and the said correction was made. During correction, a photograph of Afshar Ali was captured by Md. Saddam Hussain which was recovered from his mobile phone.

10. Gist of the statements recorded during course of investigation under PMLA 2002

Afshar Ali (accused no. 7)

His statement dated 16.04.2024 reveals that he is habitually involved in making fake deeds and using them to acquire landed properties in connivance with several accomplices including Md. Irshad (accused no. 14), Tapas Ghosh (accused no. 13), Md. Saddam Hussain (accused no. 6), Bipin Singh (accused no.

8), Priya Ranjan Sahay (accused no. 9) and others. In his statement dated 16.04.2024, he admitted about his involvement in making fake deeds 3985/1940 in relation to 6.34 acres property falling under Khata no. 234 of which, plot no. 989 and 996 are in possession of Hemant Soren. He also admitted his involvement in preparation of fake deed no. 3954/1974 and 2376 of 1940 in respect of property admeasuring 4.83 acres at Mauja Gari, Cheshire Home Road, Ranchi.

In his statement dated 18.04.2024, he admitted to have re-tampered the fake deed 3954 with Md. Saddam Hussain at Hotel The Peerless Inn, Kolkata. In his statement dated 19.04.2024, he admitted his involvement in fake entries in name of Samrendra Chandra Ghoshal in the correction slip in respect of 4.83 acres property. In his statement dated 22.04.2024, he acknowledged the cash expenses amounting to Rs. 66,56,600/- on account of the 4.83 acres property at Khata no. 53, Mauja Gari. Process and activity connected with proceeds of crime and role of the accused persons in offence of money laundering –

Process and activity connected with proceeds of crime and role of the accused persons in offence of money laundering –

[16:00, 24/04/2025] Alok: The accused person is directly involved in the preparation three fake deeds (no(s). 2376/1940, 3985/1940 and 3954/1974) to acquire properties under Khata no. 53 at village Gari, Cheshire Home Road, Ranchi as well as Khata no. 234 at Mauja Baragain, Ranchi. The deed no. 3985 of the year 1940 was made by him in relation to a Bhuinhari property admeasuring 6.34 acres at Baragain Anchal, Ranchi. Two plots i.e., 989 and 996 of the said 6.34 acres property whose measurement is around 1.16 acres are in possession of Hemant Soren. The accused person Afshar Ali is a party with Saddam Hussain, Bipin Singh, Bhanu Prapat Prasad and others in activities linked to the acquisition of proceeds of crime by using fake property deeds. The accused person knowingly prepared fake deed no. 3985 of the year 1940 for the above-stated property admeasuring 6.34 acres at Baragain Anchal, Ranchi, pertaining to Khata no. 234, a Bhuinhari property out of which, plot no.(s) 989 and 996 (total area 1.16 acres) are in possession of Hemant Soren. The accused person is directly a party with Bhanu Pratap Prasad and Md. Saddam Hussain in preparation of fake deeds aimed at acquiring properties in a deceitful manner. The accused person connived with Bhanu Pratap Prasad in falsification of government records. He was directly a party with Bhanu Pratap Prasad who was assisting Hemant Soren in acquiring and possessing the said 8.86 acres property. The accused person Afshar Ali in connivance with Md. Saddam Hussain and others assisted Bhanu Pratap Prasad in falsifying government records and tampering with Register II for the benefit of Hemant Soren. [16:01, 24/04/2025] Alok: The accused person Afshar Ali prepared fake deed no. 3954 of the year 1974 in name of Samrendra Chandra Ghoshal to acquire the property admeasuring 4.83 acres in connivance with co-accused persons namely Md. Saddam Hussain, Bhanu Pratap Prasad and others. Property documents related to fake deed 3954 of the year 1974 were

recovered and seized during searches dated 13.04.2023 from the possession of the accused person. Bank account transactions, cash dealings and call records of mobile numbers for the corresponding period corroborate the involvement of the accused person Afshar Ali with other co-accused persons in falsification of original deeds in order to acquire the property admeasuring 4.83 acres illegally which are proceeds of crime having present value of Rs. 22,61,84,553/- (Urban residential @ Rs 4,68,291/- per decimal as per the revised Circle rate w.e.f 01.08.2023.)

Thus, the accused person is directly a party with his co-accused person namely Md. Saddam Hussain, Bhanu Pratap Prasad, Md. Irshad, Bipin Singh, Priya Ranjan Sahay and others in activities connected with the preparation of fake deeds to acquire proceeds of crime (in form of landed properties) and further selling them to acquire further proceeds of crime in movable form, ie, cash and bank balances. Therefore, the accused is knowingly involved in the processes and activities connected with proceeds of crime and hence, has committed the offence of money laundering as defined under section 3 of the PMLA, 2002 and is liable to be punished under section 4 of the PMLA, 2002.

49. It is evident from the prosecution complaint that the instant case ECIR RNZO/25/2023 has been recorded on the basis of the FIR no 272/2023 lodged under sections

465/467/468/469/476/466/420/379/474 of IPC by Sadar PS, Ranchi on the complaint of Manoj Kumar, ex-Circle Officer, Baragain, Ranchi.

50. The complaint of Manoj Kumar was the result of action taken on the information shared by the Directorate of Enforcement under section 66(2) of the PMLA, 2002 to the Chief Secretary, Govt. of Jharkhand against Bhanu Pratap Prasad and other persons of his syndicate.

51. It has come during investigation that the petitioner along with other accused persons was involved in preparation of fake deed.

52. It has come in investigation that the present petitioner Afshar Ali and Md. Saddam Hussain were indulged in preparing fake deeds in order to project them as untainted property deeds.

53. Thus, the petitioner has involved himself in the processes and activities connected with tampering with original government records for illegally acquiring properties, which are proceeds of crime and hence, has committed the offence of money laundering as defined under section 3 of the PMLA, 2002 and is liable to be punished under section 4 of the PMLA, 2002.

54. Further in the ECIR it has come that the above referred conspiracy was hatched by the accused persons in order to change the nature of the non-saleable land into saleable land so that the property could be acquired fraudulently and further could be sold at higher rates. The accused persons in connivance with each other became equal partners in the purported sale

proceeds derived out by disposal of the said land.

55. The present petitioner has also admitted that deed no. 2376/1940 was prepared by him in relation to a part of land admeasuring 2.83 acres out of the 4.83 acres of the above stated land. The blank page for this deed was obtained with the assistance of the accused person Irshad Akhtar, Sanjit Kumar and Tapas Ghosh.

56. Thus, from the aforesaid prima facie, it is evident that the present applicant/petitioner was directly a party with accused persons namely Saddam Hussain and others in their activities linked to acquiring landed properties fraudulently, i.e, on the basis of fake deeds and he has knowingly involved in the process and activities connected to proceeds of crime and has directly connived with above named accused persons in preparation of fake deeds and instruments to acquire proceeds of crime (in form of landed properties) and using and claiming as well as projecting the said fake deeds/instruments as untainted property.

57. Thus, from aforesaid imputation and discussion prima-facie it appears that the involvement of present petitioner in alleged crime cannot be lightly brushed out.

58. Now coming to the contentions as raised by the learned counsel for the petitioner, wherein, he has taken the ground that the petitioner is not accused in the predicate offence, hence, cannot be made liable for money laundering offence. But the contention of the learned counsel appears to be misplaced reason being that it is settled proposition of law that the offence of money laundering is independent of the scheduled offence, particularly in matters related to the proceeds of crime.

59. It is evident that as per Section 3, there are six processes or activities identified therein. They are, (i) concealment; (ii) possession; (iii) acquisition; (iv) use; (v) projecting as untainted property; and (vi) claiming as untainted property. Even if a person does not retain the money generated as proceeds of crime but "uses" it, he will be guilty of the offence of money-laundering, since "use" is one of the six activities mentioned in Section 3. In the instant case the proceeds obtained from alleged activities are laundered through diverse methods, one of which involves making cash deposits in respective bank accounts. This is done in a piecemeal manner with the intention of presenting the tainted property as untainted.

60. Keeping in mind these essential elements that make up the molecular structure of Section 3, this Court adverts into facts of the instant case as discussed in preceding paragraph is of view that the contention of the learned counsel for the petitioner has no substance.

61. Further, the burden of proof is on the Petitioner until the contrary is proved, the same is observed in various judicial pronouncements and upheld in Vijay Madanlal Choudhary (2022) SCC Online 929. In Rohit Tandon v. Directorate of

Enforcement, (2018) 11 SCC 46 wherein the Hon'ble Supreme Court observed that the provisions of section 24 of the PMLA provide that unless the contrary is proved, the authority or the Court shall presume that proceeds of crime are involved in money laundering and the burden to prove that the proceeds of crime are not involved, lies on the appellant.

62. Further it is settled proposition of law that if a person who is unconnected with the scheduled offence, knowingly assists the concealment of the proceeds of crime or knowingly assists the use of proceeds of crime, in that case, he can be held guilty of committing an offence under Section 3 of the PMLA. Therefore, it is not necessary that a person against whom the offence under Section 3 of the PMLA is alleged must have been shown as the accused in the scheduled offence.

63. So far as the facts of the present case are concerned, the respondent ED has placed heavy reliance on the statements of witnesses recorded and the documents produced by them under Section 50 of the said Act to prima facie show the involvement of petitioner in the alleged offence of money laundering under Section 3 thereof.

64. The three Judges Bench of the Hon'ble Apex Court in the case of Rohit Tandon vs. Directorate of Enforcement (2018) 11 SCC 46 has held that the statements of witnesses recorded by Prosecution – ED are admissible in evidence in view of Section 50. Such statements may make out a formidable case about the involvement of the accused in the commission of the offence of money laundering

65. In the instant case, it has been found that during the course of investigation from the statements of witnesses recorded under Section 50 that the petitioner had indulged, knowingly as the party and is actually involved in all the activities connected with the offence of money laundering.

66. Further, it is evident from the judicial pronouncement as discussed above that in order to constitute any property as proceeds of crime, it must be derived or obtained directly or indirectly by any person as a result of criminal activity relating to a scheduled offence. The explanation clarifies that the proceeds of crime include property, not only derived or obtained from scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence. Clause (u) also clarifies that even the value of any such property will also be the proceeds of crime and in the instant case from perusal of paragraph of the prosecution complaint it is evident that the petitioner is not only involved rather his involvement is direct in procuring the proceeds of crime by way of connivance with the other accused persons.

67. At the cost of repetition, it is pertinent to mention here that the offence of money laundering under Section 3 of the Act is an independent offence regarding the process or activity connected with the proceeds of crime which had been derived or obtained as a result of criminal activity relating to or in relation to a

scheduled offence. The offence of money laundering is not dependent or linked to the date on which the scheduled offence or predicate offence has been committed. The relevant date is the date on which the person indulges in the process or activity connected with the proceeds of crime. Thus, the involvement of the person in any of the criminal activities like concealment, possession, acquisition, use of proceeds of crime as much as projecting it as untainted property or claiming it to be so, would constitute the offence of money laundering under Section 3 of the Act.

68. Thus, on the basis of the discussion made hereinabove, the contention of the learned counsel for the petitioner that even if the entire ECIR will be taken into consideration, no offence will be said to be committed so as to attract the ingredients of Sections 3 & 4 of the P.M.L. Act, 2002, is totally misplaced in the light of accusation as mentioned in prosecution complaint.

69. Further, the contention has been raised that a prosecution complaint against the petitioner has already been filed and, thus, investigation is complete and therefore, no purpose would be served in keeping the petitioner in judicial custody.

70. In the aforesaid context, it is settled position of law that the mere fact that investigation is complete does not necessarily confer a right on the accused/petitioner to be released on bail.

71. In the context of aforesaid contention, it would be relevant to note here that in the instant case mere filing of the charge-sheet does not cause material change in circumstances.

72. Further, it is settled proposition of law that the filing of charge-sheet is not a circumstance that tilts the scales in favour of the accused for grant of bail and needless to say, filing of the charge-sheet does not in any manner lessen the allegations made by the prosecution.

73. At this juncture, it would be apposite to refer the decision of Hon'ble Supreme Court rendered in the case of Virupakshappa Gouda vs. State of Karnataka, (2017) 5 SCC 406, wherein, at paragraph-12, the Hon'ble Apex Court has observed which reads as under:

"12. On a perusal of the order passed by the learned trial Judge, we find that he has been swayed by the factum that when a charge-sheet is filed it amounts to change of circumstance. Needless to say, filing of the charge-sheet does not in any manner lessen the allegations made by the prosecution. On the contrary, filing of the charge-sheet establishes that after due investigation the investigating agency, having found materials, has placed the charge-sheet for trial of the accused persons."

74. Thus, this Court, after taking note of the settled legal proposition, is of view that the aforesaid contention is not tenable in the eye of law.

75. Now in the light of aforesaid discussion, at this juncture, this Court thinks it fit to revisit the scope of section 45 of the PML Act 2002. As discussed in preceding paragraphs that Section 45 of the PMLA Act, 2002 provides twin test. First 'reason to believe' is to be there for the purpose of reaching to the conclusion that there is no prima facie case and second condition is that the accused is not likely to commit any offence while on bail.

76. It is, thus, evident by taking into consideration the provision of Sections 19(1), 45(1) and 45(2) of PML Act that the conditions provided therein are required to be considered while granting the benefit of regular bail in exercise of power conferred under Section 439 of Cr.P.C., apart from the twin conditions which have been provided under Section 45(1) of the Act, 2002.

77. The power of the Court to grant bail is further conditioned upon the satisfaction of the twin conditions prescribed under Section 45(1) (i) and (ii) PMLA. While undertaking this exercise, the Court is required to take a prima facie view on the basis of materials collected during investigation. The expression used in Section 45 of PMLA are "reasonable grounds for believing" which means that the Court has to find, from a prima facie view of the materials collected during investigation, that there are reasonable grounds to believe that the accused has not committed the offence and that there is no likelihood of him committing an offence while on bail. Recently, in *Tarun Kumar v Assistant Directorate of Enforcement*, 2023 SCC Online SC 1486, the Hon'ble Supreme Court has held as under:

"As well settled by now, the conditions specified under Section 45 are mandatory. They need to be complied with. The Court is required to be satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and he is not likely to commit any offence while on bail. It is needless to say that as per the statutory presumption permitted under Section 24 of the Act, the Court or the Authority is entitled to presume unless the contrary is proved, that in any proceedings relating to proceeds of crime under the Act, in the case of a person charged with the offence of money laundering under Section 3, such proceeds of crime are involved in money laundering. Such conditions enumerated in Section 45 of PML Act will have to be complied with even in respect of an application for bail made under Section 439 Cr. P.C. in view of the overriding effect given to the PML Act over the other law for the time being in force, under Section 71 of the PML Act."

78. Further, it is pertinent to mention here that the process envisaged under Section 50 of PMLA is in the nature of an inquiry against the proceeds of crime and it is not an investigation and the authorities who are recording the statements are not police officers and therefore, these statements can be relied upon as admissible piece of evidence before the Court. The summons proceedings and recording of statements under PMLA are given the status of judicial proceedings under Section 50(4) of PMLA. When such is the sweep of Section 50 of PMLA, the statements have been recorded which has been relied

upon in the complaint must be taken to be an important material implicating the petitioner. The statements that were recorded during the investigation has been dealt with in prosecution complaint and many of the statements clearly implicate the petitioner. Therefore, the statements that have been recorded and which has been relied upon, is also a strong material that prima facie establishes the offence of money laundering against the present petitioner.

79. It is pertinent to mention here that the Hon'ble Apex Court in P. Chidambaram v. Central Bureau Investigation reported in 2020 13 SCC 337 has come up with triple test under Section 439 of Cr.PC, while dealing with cases involving economic offences. The principles that were summarized in this judgment is extracted hereunder:

"21. The jurisdiction to grant bail has to be exercised on the basis of the well-settled principles having regard to the facts and circumstances of each case. The following factors are to be taken into consideration while considering an application for bail: (i) the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution;

(ii) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses; (iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; (iv) character, behaviour and standing of the accused and the circumstances which are peculiar to the accused; (v) larger interest of the public or the State and similar other considerations."

80. This Court, on the basis of aforesaid discussions, factual aspects as also the legal position, is of prima facie view that there is no reason to believe by this Court that the petitioner is not involved in alleged commission of crime.

81. This Court, while considering the prayer for regular bail, has taken into consideration that though, the Court is not sitting in appeal on the order passed by learned Court, since, this Court is exercising the power of Section 439 Cr.P.C but only for the purpose of considering the view which has been taken by learned court while rejecting the prayer for bail. This Court is also in agreement with the said view based upon the material surfaced in course of investigation, as referred hereinabove.

On the issue of Parity:

82. The learned counsel for the petitioner has raised the ground of parity with respect to co-accused person, namely, Hemant Soren who was made accused in the original prosecution complaint, has already been granted bail by this Court vide order dated 28.06.2024 passed in B.A. No. 4892 of 2024.

83. Now coming to the ground of parity as raised by the learned counsel for the petitioner, the law is well settled that the principle of parity is to be applied if the case on fact is exactly similar then only the principle of parity in the matter of

passing order is to be passed but if there is difference in between the facts then the principle of parity is not to be applied.

84. It is further settled connotation of law that Court cannot exercise its powers in a capricious manner and has to consider the totality of circumstances before granting bail and by only simple saying that another accused has been granted bail is not sufficient to determine whether a case for grant of bail on the basis of parity has been established. Reference in this regard may be made to the judgment rendered by the Hon'ble Apex Court in Ramesh Bhavan Rathod vs. Vishanbhai Hirabhai Makwana, (2021) 6 SCC 230, wherein, it has been held as under:

"25. We are constrained to observe that the orders passed by the High Court granting bail fail to pass muster under the law. They are oblivious to, and innocent of, the nature and gravity of the alleged offences and to the severity of the punishment in the event of conviction. In Neeru Yadav v. State of U.P. [Neeru Yadav v. State of U.P., (2014) 16 SCC 508 :] , this Court has held that while applying the principle of parity, the High Court cannot exercise its powers in a capricious manner and has to consider the totality of circumstances before granting bail. This Court observed : (SCC p. 515, para 17)

"17. Coming to the case at hand, it is found that when a stand was taken that the second respondent was a history-sheeter, it was imperative on the part of the High Court to scrutinise every aspect and not capriciously record that the second respondent is entitled to be admitted to bail on the ground of parity. It can be stated with absolute certitude that it was not a case of parity and, therefore, the impugned order [Mitthan Yadav v. State of U.P., 2014 SCC OnLine All 16031] clearly exposes the non-application of mind. That apart, as a matter of fact it has been brought on record that the second respondent has been charge-sheeted in respect of number of other heinous offences. The High Court has failed to take note of the same. Therefore, the order has to pave the path of extinction, for its approval by this Court would tantamount to travesty of justice, and accordingly we set it aside.

26. Another aspect of the case which needs emphasis is the manner in which the High Court has applied the principle of parity. By its two orders both dated 21-12-2020 [Pravinbhai Hirabhai Koli v. State of Gujarat, 2020 SCC OnLine Guj 2986] , [Khetabhai Parbatbhai Makwana v. State of Gujarat, 2020 SCC OnLine Guj 2988] , the High Court granted bail to Pravin Koli (A-10) and Kheta Parbat Koli (A-15). Parity was sought with Sidhdhraisinh Bhagubha Vaghela (A-13) to whom bail was granted on 22-10-2020 [Siddhraisinh Bhagubha Vaghela v. State of Gujarat, 2020 SCC OnLine Guj 2985] on the ground (as the High Court recorded) that he was ?assigned similar role of armed with stick (sic)?. Again, bail was granted to Vanraj Koli (A-16) on the ground that he was armed with a wooden stick and on the ground that Pravin (A-10), Kheta (A-15) and Sidhdhraisinh (A-13) who were armed with sticks had been granted bail. The High Court has evidently misunderstood the central aspect of what is meant by

parity. Parity while granting bail must focus upon the role of the accused. Merely observing that another accused who was granted bail was armed with a similar weapon is not sufficient to determine whether a case for the grant of bail on the basis of parity has been established. In deciding the aspect of parity, the role attached to the accused, their position in relation to the incident and to the victims is of utmost importance. The High Court has proceeded on the basis of parity on a simplistic assessment as noted above, which again cannot pass muster under the law.”

85. The Hon’ble Apex Court in Tarun Kumar Vs. Assistant Director Directorate of Enforcement (supra) wherein at paragraph-18, it has been held that parity is not the law and while applying the principle of parity, the Court is required to focus upon the role attached to the accused whose application is under consideration.

86. Now, this court is advertent into facts of instant case to decide the issue of parity in the backdrop of aforesaid settled legal ratio and further taken into consideration the aforesaid settled position of law, thinks fit to refer herein distinguishable facts in the case of present petitioner to that of the case of co-accused and petitioner of B.A No.4892 of 2024.

87. This Court, in order to verify the application of principle of parity, has gone through the order passed in B.A No.4892 of 2024, by which, co-accused has been enlarged on the bail and found that there is allegation upon the said petitioner about using the State machinery for his own benefit and to frustrate the investigation.

88. The allegation against the petitioner as mentioned in the prosecution at para 9.35 to 9.42 is that the petitioner’s syndicate comprising of this petitioner used to identify vacant land parcels in Ranchi, where no activity was done.

89. Further in addition to the 8.86 acres of property, the present petitioner along with accused persons namely Md. Saddam Hussain, Priya Ranjan Sahay and others are also involved with Bhanu Pratap Prasad in forgery with respect to property admeasuring 4.83 acres situated at Mauza Gari. The land was identified by Priya Ranjan Sahay, Md. Saddam Hussain, Shekhar Kushwaha and Bipin Singh. For this property, two fake deeds, deed no. 2376 of the year 1940 and other 1954 of the year 1974 were prepared by present petitioner with connivance of Saddam Hussain and others.

90. Thus, it appears that the petitioner is directly a party with his co-accused person namely Md. Saddam Hussain, Bhanu Pratap Prasad, Md. Irshad, Bipin Singh, Priya Ranjan Sahay and others in activities connected with the preparation of fake deeds to acquire proceeds of crime (in form of landed properties) and further selling them to acquire further proceeds of crime in movable form, ie, cash and bank balances.

91. Applying the principle of parity, this Court is of the view as per the judgment rendered by the Hon'ble Apex Court rendered in Tarun Kumar (Supra) that the

benefit of parity is to be given if the facts/involvement of the petitioner, is identical to the persons with whom parity is being claimed.

92. This Court, on the basis of the discussion of the involvement of the petitioner, vis-à-vis, the other co-accused person, is of the view that the case of the petitioner is quite distinguishable to that of the case of the co-accused/petitioner of B.A no.4892 of 2024, therefore, it is considered view of this Court that it is not a fit case for applying the principle of parity herein.

93. Further it needs to refer herein that prayer for bail of the co-accused persons namely Sanjit Kumar @ Sanjeet Kumar, Md. Irshad and Anand Tirkey @ Antu Tirkey, have already been rejected by this Court vide order dated 21.03.2025 passed in B.A. No. 7501 of 2024, B.A No. 7598 of 2024 and B.A. No. 8022 of 2024 respectively.

94. Further, it is required to refer herein that the Money Laundering is an economic offence and economic offences comes under the of grave offences hence needs to be visited with a different approach in the matter of bail as held by the Hon'ble Apex court in the case of Y. S Jagan Mohan Reddy v/s C. B. I., reported in (2013) 7 SCC 439. For ready reference, the relevant paragraphs of the aforesaid judgments are being quoted as under:

"34. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need 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."

95. Similarly, the Hon'ble Apex Court in case of Nimgadda Prasad Vs. C.B.I., reported in (2013) 7 SCC 466 has reiterated the same view in paragraphs-23 to 25 which reads as under:

"23. Unfortunately, in the last few years, the country has been seeing an alarming rise in white-collar crimes, which has affected the fibre of the country's economic structure. Incontrovertibly, economic offences have serious repercussions on the development of the country as a whole. In State of Gujarat v. Mohanlal Jitmalji Porwal [(1987) 2 SCC 364 : 1987 SCC (Cri) 364] this Court, while considering a request of the prosecution for adducing additional evidence, inter alia, observed as under: (SCC p. 371, para 5)

"5. ... The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-

handed manner without fear of criticism from the quarters which view white-collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest.”

24. 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. It has also to be kept in mind that for the purpose of granting bail, the legislature has used the words “reasonable grounds for believing” instead of “the evidence” which means the court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.

25. 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 a grave offence affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.”

96. This Court is conscious of this fact that while deciding the issue of grant bail in grave economic offences, it is utmost duty of this Court that the nature and gravity of the alleged offence should have been kept in mind.

97. Having regard to the entirety of the facts and circumstances of the case, this Court, is of the view that the petitioner has miserably failed to satisfy this Court that there are reasonable grounds for believing that he is not guilty of the alleged offences. On the contrary, there is sufficient material collected by the respondent-ED to show that he is prima facie guilty of the alleged offences.

98. For the foregoing reasons, having regard to facts and circumstances, as have been analysed hereinabove, since the petitioner has failed to make out a case to exercise the power to grant bail and considering the facts and parameters, necessary to be considered for adjudication of bail, this Court does not find any exceptional ground to exercise its discretionary jurisdiction to grant bail.

99. Therefore, this Court is of the view that it is not a case where the prayer for bail is to be granted, as such, the instant application stands dismissed.

100. It is made clear that the views expressed in this order are prima-facie for consideration of matter of bail only.