



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

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*Reserved on: 13th August, 2024
Pronounced on: 10th September, 2024*

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BAIL APPLN. 2205/2023

SUKANYA MONDAL

.....Petitioner

Through: Mr. Vikas Pahwa, Senior Advocate with
Mr. Shadman Ahmed Siddiqui, Mr.
Garvil Singh and Ms. Nikita Jain,
Advocates.

versus

DIRECTORATE OF ENFORCEMENT

.....Respondent

Through: Mr. Anupam S. Sharma, Special Counsel
with Ms. Harpreet Kalsi, Mr. Prakarsh
Airan, Mr. Abhishek Batra, Mr.
Ripudaman Sharma, Mr. Vashisht Rao
and Mr. Syamantak Modgil, Advocates
for ED.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The Applicant, Sukanya Mondal, a 31 year old lady, has filed the Application for Regular Bail under Section 439 of Criminal Procedure Code 1973 (hereinafter Cr.P.C.) read with section 45 of the Prevention of Money Laundering Act, 2002 (hereinafter PMLA) in Complaint Case No. 13/2022 filed in ECIR/KLZO/41/2020 dated 25.06.2020 registered by the Directorate of Enforcement (hereinafter ED).

2. **Briefly stated** the CBI, ACB, Kolkata registered a Preliminary Enquiry (PE) vide No. PE0102018A0004 dated 06.04.2018 against Sh. Satish Kumar, Md. Enamul Haque, Sh. Bhuvan Bhaskar s/o Sh. Satish



Kumar and Others. The PE revealed that Cattle smuggling was happening from India to Bangladesh by paying illegal gratification to BSF personnel deputed on the Border during 19.12.2015 to 22.04.2017. The CBI alleged that Md. Enamul Haque used to pay Rs. 2000/- per Cattle to BSF officials and Rs. 500 to Customs Officials aside from the 10% of the auction price from successful bidders like Enamul Haque.

3. The CBI, after completion of PE, registered a RC No. RC0102020A0019, dated 21.09.2020 for offences under section 120B IPC and Sections 7, 11, & 12 of the Prevention of Corruption Act, 1988 (PC Act), against Sh. Satish Kumar, Md. Enamul Haque, Md. Anarul SK, Md. Golam Mustafa, Sh. Sudipto Roy Chowdhary, Sh. George Manjooran [the then DIG, BSF] and other officials of BSF and Indian Customs and unknown others.

4. On the basis of the information in the CBI case, ECIR/KLZO/41/2020 dated 25.09.2020 under Section 34 PMLA, 2002 punishable under Section 4 of PMLA, 2002, was registered by the Kolkata Zone, Enforcement Directorate, Government of India, which was subsequently transferred to New Delhi with the approval of the Director, ED.

5. Thereafter, the CBI filed the Chargesheet under Section 173 of Cr.P.C., 1973 before the Special Judge, CBI, Asansol, Paschim Bardhaman, West Bengal on 06.02.2021 against the accused persons, namely, Satish Kumar, Md. Enamula Haque, Md. Anarul SK, Md. Golam Mustafa, Badal Krishna Sanyal, Rasheda Bibi and Tanya Sanyal (2nd wife of Satish Kumar). The Supplementary Chargesheet was filed by the CBI before the Special Judge on 24.02.2021 against the accused persons, namely, Manoj Sana and Vinay Mishra.



6. The ED on the basis of investigation in the said ECIR filed Complaint Case No. CT13/2022 on 16.04.2022, supplementary Complaint dated 18.06.2022, and second supplementary Complaint dated 05.12.2022, and finally, third supplementary Complaint dated 04.05.2023, before the Ld. Special Judge. The details of the same are as reproduced in the table below:

| Sr. No. | Name of the Accused | Date of Complaint | Nature of Complaint |
|----------------|--------------------------------------|--------------------------|---|
| 1. | Md. Enamul Haque (in JC) | 16.04.2022 | First Complaint |
| 2. | Sh. Vinay Mishra | 16.04.2022 | First Complaint |
| 3. | Sh. Vikas Mishra | 16.04.2022 | First Complaint |
| 4. | M/s Hoque Industries Pvt. Ltd. | 16.04.2022 | First Complaint |
| 5. | M/s Hoque Mercantiles Pvt. Ltd. | 16.04.2022 | First Complaint |
| 6. | M/s Anant TradeCom Pvt. Ltd. | 16.04.2022 | First Complaint |
| 7. | Sh. Satish Kumar (in JC) | 18.06.2022 | Supplementary Complaint |
| 8. | Ms. Tania Sanyal | 18.06.2022 | Supplementary Complaint |
| 9. | Sh. Badal Krishna Sanayal | 18.06.2022 | Supplementary Complaint |
| 10. | Sh. Rajan Poddar | 18.06.2022 | Supplementary Complaint |
| 11. | M/s Tekmek Trading Company Pvt. Ltd. | 18.06.2022 | Supplementary Complaint |
| 12. | M/s Vitro Suppliers Pvt. Ltd. | 18.06.2022 | Supplementary Complaint |
| 13. | Sehgal Hossain (in JC) | 05.12.2022 | 2 nd Supplementary Complaint |
| 14. | Sh. Anubrata Mondal (in JC) | 04.05.2023 | 3 rd Supplementary Complaint |
| 15. | Ms. Sukanya Mondal (in JC) | 04.05.2023 | 3 rd Supplementary Complaint |
| 16. | M/s AN Agrochem Foods Private Ltd. | 04.05.2023 | 3 rd Supplementary Complaint |
| 17. | M/s Neer Developers Pvt. Ltd. | 04.05.2023 | 3 rd Supplementary Complaint |
| 18. | M/s Bhole Bam Rice Mill | 04.05.2023 | 3 rd Supplementary Complaint |
| 19. | M/s Shiva Sambhu Rice Mill | 04.05.2023 | 3 rd Supplementary Complaint |
| 20. | M/s Maa Durga Traders | 04.05.2023 | 3 rd Supplementary Complaint |
| 21. | M/s Kali Mata Traders | 04.05.2023 | 3 rd Supplementary Complaint |
| 22. | Manish Kothari (in JC) | 04.05.2023 | 3 rd Supplementary Complaint |



| | | | |
|-----|--------------|------------|---|
| 23. | Manoj Mahnot | 04.05.2023 | 3 rd Supplementary Complaint |
|-----|--------------|------------|---|

7. The Applicant has claimed that despite having joined the investigations on 02.11.2022, 03.11.2022 and 04.11.2022, she was again called to join the investigations and was irrationally, indiscriminately and unreasonably arrested on 26.04.2023 without any justification *vide* a vague and cryptic Order. He was sent to judicial custody after initial three days of police custody.

8. The Applicant aggrieved by her illegal arrest and remand to judicial custody, filed the W.P.(CRL) 1521/2023 for quashing of the Complaint Case No. 13/2022 and the Summoning Order dated 04.05.2023.

9. The Applicant's first regular bail Application before the Trial Court was dismissed *vide* Order dated 01.06.2023 without appreciating the facts and relevant law in true and correct perspective.

10. The ECIR is based on the CBI's case in regard to the predicate offence under Section 120B of the IPC, 1860 and Sections 7/11/12 of the PC Act, 1988. It is submitted that the respondent has miserably failed to establish any link between the Applicant and the alleged '*Cattle smuggling*'.

11. The co-accused, Tania Sanyal has already been granted bail *vide* Order dated 25.07.2022. The Applicant stands on a better footing than Tania Sanyal, who is a co-accused in the CBI case. Moreover, Tania Sanyal is the wife of main accused-Satish Kumar.

12. The only allegations against the Applicant are that she, with the help of her father who received bribes on behalf of main accused-Satish Kumar from this alleged '*Cattle Smuggling*' business, has laundered the money to the tune of Rs. 12,00,00,000/- approximately, through her various Companies & Firms.



13. It is also submitted that *Proviso* to Section 45 of PMLA, 2002 makes special provisions for *woman and sick* who deserve relaxation of the twin conditions of Section 45 of PMLA, 2002 in the case of regular bail. As per the settled law, the twin conditions are not absolute. The perusal of the Statement of Objects and Reasons of PMLA case shows that inclusion *Proviso* to Section 45(1) of PMLA, 2002 to the conditions for grant of bail, elucidates the Legislature's intent to incorporate relaxation for persons *below 16 years of age, a woman, or one who is sick or infirm*, for grant of bail.

14. It is submitted that the medical condition of the Applicant is not well as she is suffering from Gynaecological and Thyroid problems and had been undergoing treatment at Apollo Hospital, Chennai and she had been advised surgery which is due. The Applicant was to travel to Chennai for her medical treatment, but in the interim, she was arrested in the present case.

15. By way of present Application, the Applicant has sought the regular bail on the grounds that she is 31-year-old single lady, has clean antecedents and is not a previous convict. It is further submitted that the Applicant has deep roots in the society and there is no apprehension of her running from the trial. She is in judicial custody since 26.04.2023. Her custody is no more required for any purpose by the ED as the investigations are complete and the Chargesheet stands filed in the Court. Further detention in jail would amount to pre-trial conviction.

16. Moreover, the ED's case is based on documentary evidence and there is no apprehension of Applicant's tampering with the evidence. The Applicant has clean antecedents as she is not involved in any crime before she has been made scapegoat even though she has not indulged into any illegal activity. Moreover, the Applicant's arrest has been unreasonable,



unwarranted, unjustified and illegal being in contravention of the law. The allegations made by the ED in ECIR are based on frivolous and concocted facts.

17. It is submitted that the Applicant's mother had expired in 2020 because of cancer and her father is in judicial custody. The Applicant has been taking care of her childhood friend, namely, Sutapa Pal who is suffering from cancer. Furthermore, it is submitted by the learned senior counsel that the Applicant was not supplied with the grounds for arrest. The investigation qua the Applicant is complete and she is not a flight risk.

18. The Applicant undertakes to remain bound by any conditions that may be imposed on her while granting regular bail.

19. Therefore, the prayer is made that the Applicant may be granted regular bail in Complaint Case No. 13/2022 filed *vide* ECIR/KLZO/41/2020 dated 25.09.2020.

20. The learned Senior Advocate for the Applicant has argued that **knowledge is an essential ingredient for an offence under section 3** of PMLA as held in the case of Vijay Madanlal Choudhary vs. Union of India, 2022 SCC OnLine SC 929. The Supreme Court has held that in cases of twin conditions being considered at the stage of bail application, the court is expected to consider the question from the angle of accused being possessed with the requisite *mens rea*. In Nathulal vs. State of Madhya Pradesh, 1965 SCC OnLine SC 31 the Supreme Court while recognising the State's authority to exclude the element of *mens rea* and at the same time acknowledging the soundness of the *mens rea* rule, held that so far as PMLA is concerned, the provisions of the Act do not lead to the conclusion of exclusion of *mens rea* from the purview of an offence under Section 7 read with section 3 of PMLA. The learned senior counsel has also placed reliance on Dennis Sagay Jude vs. Directorate of Enforcement,



CRL Petition No. 10026/2023 dated 03.07.2024 of the Karnataka High Court, *Avtar Singh Kochhar vs. Directorate of Enforcement*, 2023 SCC OnLine Del 7518, and *Dilip Lalwani and Another vs. CBI and Anr.*, 2022 SCC OnLine P&H 4240.

21. The learned Senior Advocate has further argued that the **Pick and Choose policy** of ED adopted in arresting the accused persons, depicts the discriminatory practice of ED qua the Applicant. In the case of *Arvind Kejriwal vs. Directorate of Enforcement*, 2024 SCC OnLine SC 1703 the Apex Court observed that the doctrine of need and necessity to arrest possibly accepts the principle of parity enshrined under Article 14, and held that the ED “*should act uniformly, consistent in conduct, confirming one rule for all*”. Further reliance has been placed on *State of Madhya Pradesh vs. Sheetla Sahai & Ors.*, (2009) 8 SCC 617 wherein the Apex court observed that the Investigating Agency proceeding against the accused persons in a pick and choose manner is discriminatory. In *Ramesh Manglani vs. Directorate of Enforcement*, 2023 SCC OnLine Del 3234 the court while acknowledging that the contention that ED is not proceeding against similarly placed accused persons, would not carry much weight in bail application but is not wholly irrelevant either and the ‘*doctrine of parity*’ is not immaterial.

22. The next ground argued by learned Senior Advocate is that the **statements under section 50 of PMLA cannot be relied upon** at the stage of bail and the same is to be considered at the stage of trial, as has been observed by the Coordinate Bench of this Court in the case of *Chandra Prakash Khandelwal vs. Directorate of Enforcement*, 2023 SCC OnLine Del 1094,

23. The learned Senior Advocate has argued that **prolonged trial & indefinite pre-trial incarceration ought not to be allowed** in view of the



presumption of innocence until proven guilty. The presumption of innocence cannot be ignored “*howsoever stringent the penal law may be*” as Javed Gulam Nabi Shaik vs. State of Maharashtra, CrI. Appeal No. 2787 of 2024. Further, reliance is placed on Sheikh Javed Iqbal vs. State of Uttar Pradesh, 2024 SCC OnLine SC 1755, wherein the court while deciding an Appeal against rejection of Bail of an accused in custody for over 8 years, noted that an undertrial has a fundamental right to speedy trial and observed that “*bail cannot be denied only on the ground that the charges are very serious though there is no end in sight for the trial to conclude.*” Moreover, in Benoy Babu vs. Directorate of Enforcement, SLP (CrI.) Nos. 11644-11645 decided on 08.12.2023, granted bail owing to thirteen months long incarceration when the trial was at the stage of framing of charges. Similarly in Mohd. Muslim vs. State (NCT of Delhi), 2023 SCC OnLine SC 1109, the Apex court cautioned that though the laws which impose stringent conditions on for grant of bail may be necessary in public interest, but if the trial is not concluded within time “*the injustice wrecked on the individual is immeasurable*”. In Rabi Prakash vs. State of Odisha, 2023 SCC OnLine SC 1109, the Supreme Court granted bail to the appellant in which the trial had commenced but only 1 out of 19 witnesses had been examined, by observing that conditional liberty must override the statutory embargo created by section 37(1)(b)(ii) of the NDPS Act.

24. The learned Senior Advocate has vehemently stated that the Applicant should be given **benefit of the doctrine of parity** owing to many accused persons not even being arrested. In Kamaljeet Singh vs. State of Punjab, (2005) 7 SCC 226, Ajmer Singh vs. State of Punjab, (2010) 3 SCC 746, the Supreme Court discussed the principle of parity in a criminal case to the effect that “*where the case of the accused is similar in all aspects as that of the co-accused then the benefit extended to one*



accused should be extended to the co-accused”, Reliance is also placed on Arvind Kejriwal vs. Directorate of Enforcement, 2024 SCC OnLine SC 1703, and Sanjay Jain vs. Enforcement Directorate, 2024 SCC OnLine Del 3234.

25. The **Respondent, Directorate of Enforcement**, has countered the claim for Bail in its Status Report. It is submitted that investigations have revealed that both Sheikh Abdul Latif and Md. Enamul Hoque, partners in the business of M/s Naj Marbles, were in contact with Sehegal Hossain, a Police Constable of West Bengal Police and a personal bodyguard of Sh. Anubrata Mondal, father of the Applicant, who used to collect illegal gratification from Sk. Abdul Latif and Md. Enamul Hoque for providing protection to the illegal business of cross-border Cattle smuggling. The investigations further revealed that cash amount to the tune of Rs.12,80,98,237/- cash which was nothing but part of proceeds of crime, was deposited in 18 bank accounts related to the Anubrata Mondal, Sukanya Mondal and their family members and Firms. The Applicant and her father failed to explain the genuine source of such cash deposits.

26. The cash amount of Rs. 1,35,87,409/- was deposited in 7 bank accounts of the Applicant herself besides various amounts deposited in the business entities of the Applicant. It is submitted that the Applicant has sought to portray herself as primary school teacher, though the investigations have revealed that she was actively involved in the finances of family business which she looked after on a day-to-day basis.

27. The investigation of ED has revealed that M/s ANM Agrochem Pvt. Ltd. in which the Applicant is a Director, was acquired for a meagre sum of Rs. 1,00,000/-. Thereafter, tainted funds of proceeds of crime in cash were routed through accounts of benamidars namely Bidyut Baren Gayen, Biswajyoti Banerjee, Omar Sk, Bijoy Rajak, etc. and then



transferred to the Company to acquire movable and immovable assets in the name of the Company. Similarly, the shares of M/s Neer Developers Ltd. were also acquired by the Applicant for Rs. 2,42,00,000/- by using tainted funds and were again routed through accounts of the benamidars. In further investigations, the statements of various benamidars were recorded which revealed that the Applicant used to look after the financials of the Companies including M/s Bhole Bom Rice Mill.

28. In his statement under section 50 PMLA, *Sh. Bidyut Baren Gayen* revealed that his account was being operated by the Applicant and that her telephone number is also mentioned in his ITR. His ITR revealed cash receipt of Rs. 1.28 crores as per ITR for 2018-19 and a receipt of Rs. 65 lacs as per ITR for 2019-20. He stated that the same could be explained by the Applicant only and that he had no idea.

29. The statement of *Sh. Manoj Mahnot*, distant relative of co-accused Manish Kothari, revealed that he paid Rs. 19 lacs to four shareholders, who were previous owners of M/s Neer Developers Pvt. Ltd., a Company acquired by the Applicant. In his statement under section 50PMLA, *Sh. Subrata Biswas* stated that he had transferred Rs. 3,81,50,000/- approx. to the joint account held by the Applicant and her parents.

30. Further, *Sh. Jyotirmoy Das*, who used to work at the house of Applicant and her father, in his statement under section 50 of PMLA stated that he used to deposit cash which he got from one Akshay Kumar Pal, and did not know the source of the same.

31. Investigation has further revealed that the Applicant is also known as "Rubai Mondal" and operated the email id – ruabimondal@gmail.com and a mobile number subscribed in the name of Tufan Mridha, a family driver, was used by the Applicant. Her email id was mentioned in the ITR of *Sh. Bidyut Baren Gayen*, who had no knowledge of the various sources



of income and of his shareholding in M/s ANM Agrochem Pvt. Ltd. and M/s Neer Developers Pvt. Ltd.

32. It is submitted that the total proceeds of crime in the present case ECIR stood at Rs. 77,56,00,000/- approx. out of which Rs. 48,06,13,047/- was held by the Applicant, her father, and their family members and co-accused entities.

33. The land parcels of M/s Sree Guru Rice Mill were purchased through various demand drafts from the Applicant's bank account which was opened immediately prior to the purchase and the funds were sourced from the joint account of Applicant and her mother as also from M/s Bhole Bom Rice Mill. The Applicant and her father also bought lottery tickets from its original owners by paying cash and it was running into crores.

34. It is submitted qua the *Applicants' medical condition* that the documents submitted by the Applicant do not demonstrate any exigency or any serious condition which demands immediate intervention. The Applicant's submission of a *scheduled surgery* is not supported by any document and no recent document is submitted that would entitle the Applicant to benefit from the *proviso* to Section 45 of PMLA.

35. The Applicant is involved in the offence of money laundering which is an economic threat to national interest. Further, considering the parameters of Section 45(1) of PMLA as well as the gravity of the offence, it cannot be held that the Applicant is not guilty of the alleged offences or that she is not likely to commit any such offence while on bail.

36. Furthermore, the Applicant did not co-operate with investigation and further investigation is underway and the Applicant is required by the ED to trace further proceeds of crime.

37. The learned counsel has placed reliance on Vijay Mdanlal Choudhary & Ors. vs. Union of India, 2022 SCC OnLine SC 929 to submit



that Section 3 of the PMLA has a wider reach and captures every process and activity, direct or indirect, in dealing with the proceeds of crime and is not limited to the happening of the final act of integration of tainted property in the formal economy.

38. It is further submitted that even if it is accepted that the Applicant did not know anything about the proceeds of crime and the same could only be explained by her father, then that also is squarely covered within the definition provided under section 3 of PMLA, punishable under section 4 of PMLA. Further, there is *prima facie* involvement of the Applicant in the commission of the offence and as such, the burden of proof under section 24 PMLA is upon the Applicant to demonstrate before the Ld. Special Judge that the money involved does not fall within the proceeds of crime involved in the present ECIR.

39. **The learned counsel for the Respondent has placed reliance on**Gautam Kundu vs. Manoj Kumar, Assistant Director, Eastern Region, Directorate of Enforcement, AIR 2016 SC 106, Arun Mukherjee vs. Enforcement Directorate, AIR OnLine 2018 Cal 1446, Deepak Talwar vs. Enforcement Directorate, AIR OnLine 2019 Del 1573, Thomas Daniel vs. Directorate of Enforcement, MANU/KE/1424/2022, Bimal Kumar Jain vs. Directorate of Enforcement, Bail Appl. No. 2438/2022, Raj Singh Gehlot vs. Directorate of Enforcement, Bail Appl. No. 4295/2021, Sajjan Kumar vs. Directorate of Enforcement, Bail Appl. No. 926/2022, Union of India vs. Varinder Singh @ Raja & Anr., CrI. Apl. No. 1223/2017, Gyan Prakash Sarawgi vs. The Directorate of Enforcement (Government of India), MANU/JH/1085/2022, Mohammad Arif vs. Directorate of Enforcement, Government of India, AIR OnLine 2020 Ori 281, P. Anand vs. Assistant Director, Directorate of Enforcement, MANU/TN/8778/2022, Pooja Singhal vs. Directorate of Enforcement, Government of India,



MANU/JH/1019/2022, Gautam Thapar vs. Directorate of Enforcement, Bail Appl. No. 4185/2021, Ahmed A.R. Buhari vs. The Assistant Director, Directorate of Enforcement, CrI. O.P. No. 6205/2022, State of Gujarat vs. Mohanlal Jitmalji Porwal & Anr., AIR 1987 SC 1321, Nimmagadda Prasad vs. Central Bureau of Investigation, AIR 2013 SC 2821, Y.S. Jagan Mohan Reddy vs. Central Bureau of Investigation, 2013 Cri. L.J. 2734, State of Bihar & Anr. vs. Amit Kumar @ Bacha Rai, AIR 2017 SC 2487, Rohit Tondon vs. Enforcement of Directorate, AIR 2017 SC 5309, Himanshu Chandravasan Desai & Ors. vs. State of Gujarat, MANU/SC/1750/2005, Dr. Vinod Bhandari vs. State of M.P., 2015 Cri. L.J. 1547, Surya Kirti Thapar & Anr. vs. State of NCT of Delhi, Bail Appl. No. 334/2014, Central Bureau of Investigation vs. Ramendu Chattopadhyay, AIR OnLine 2019 SC 1516, Sunil Dahiya vs. State (Govt. of NCT of Delhi), MANU/DE/2797/2016, Mukesh Kumar Singh vs. The State, Bail Appl. No. 2382/2022, Ajay Kumar vs. State (NCT of Delhi), Bail Appl. No. 2240/2021, Deepak Kindo vs. State of Odisha, MANU/OR/0198/2023, Sanjeev Kumar Sinha vs. State (Govt. of NCT of Delhi), Bail Appl. No. 1768/2021, Prahlad Singh Bhati vs. NCT of Delhi & Anr., AIR 2001 SC 1444, State vs. R. Vasanthi Stanley and Ors., MANU/SC/1028/2015, Meenu Dewan vs. State, Bail Appl. No. 736/2008, Leela Mahesh Motewar vs. Republic of India, MANU/OR/0485/2019, Preeti Bhatia vs. Republic of India, MANU/OR/0077/2015, Indu Dewan vs. Republic of India, MANU/OR/0400/2016, Chandrawati vs. State of U.P., MANU/UP/0211/1992, Naresh T. Jain vs. Union of India & Ors., Bail Appl. No. 167/2021, Naresh T. Jain vs. Union of India & Ors., SLP (CrI.) 2175/2022, Directorate of Enforcement vs. Preeti Chandra, SLP (CrI.) 7409/2023, Tarun Kumar vs. Assistant Director, Bail Appl. No. 152/2023, Saumya Chaurasia vs. Directorate of Enforcement, 2023 SCC



OnLine SC 1674, and Kalvakuntla Kavitha vs. Directorate of Enforcement,
Bail Appl. No. 1675/2024.

40. It is finally submitted that the Application is devoid of merits and is liable to be dismissed.

41. The detailed arguments have been addressed by the learned Senior Advocate on behalf of the Applicant and Written Submissions have also filed on behalf of the Applicant, encompassing the contentions made in the Bail Application.

42. Learned Special Counsel on behalf of the Respondent has also addressed the arguments which are essentially on the same lines as detailed in its Reply by way of Status Report.

43. **Submissions heard in detail.**

44. The allegations essentially against the Applicant are that Satish Kumar who was the then Commandant of 36th Battalion of BSF and is the second husband of Tania Sanyal, had received the bribes for the business of Cattle smuggling across the border. The Applicant's father, Anubrata Mondal had received the money from Satish Kumar and the Applicant had helped in laundering the money to the tune of Rs. 12,00,00,000/- through her Companies/Firm. Even though she projected herself as a primary School teacher, but there is enormous prima facie evidence to establish that she owns/ manages various Firms and Companies, in the accounts of which the proceeds of crime generated from the predicate offence of Cattle-Smuggling are laundered.

45. Indisputably, the Applicant is not an accused in the predicate offence.

46. It has been held in the recent decision of the Apex Court in Manish Sisodia vs. Central Bureau of Investigation, 2023 SCC OnLine SC 139, that right of liberty guaranteed under Article 21 of the Constitution of India



is a sacrosanct right which needs to be accepted even in cases where stringent provisions are incorporated in the special enactments.

47. Furthermore, Proviso to Section 45(1) of PMLA, 2002 entitles a woman for special treatment, while her bail application is being considered. In the recent decision of the Apex Court in Kalvakuntla Kavitha vs. Directorate of Enforcement, Bail Application No. 2205/2023 decided on 27.08.2024, a reference has been made to Proviso to Section 45(1) of PMLA, 2002 to observe that this Proviso permits a certain category of accused including woman to be released on bail, without the twin requirement under Section 45 of the PMLA being satisfied. While the Proviso does not operate automatically in favour of the woman, but the facts and circumstances of the case are to be considered. However, while denying such benefit, the Court is required to give specific reasons as to why the benefit be denied.

48. In the case of Saumya Chaurasia vs. Directorate of Enforcement, (2024) 6 SCC 401, the Apex Court observed that the Court needs to be more sensitive and sympathetic towards the category of persons included in the first proviso to Section 45 of the PMLA and similar provisions in the other Acts. The Court observed that the persons of tender age and women who are likely to be more vulnerable may sometimes be misused by unscrupulous elements and made scapegoats for committing such crime.

49. In Kalvakuntla Kavitha (supra), it was observed that nowadays the educated and well-placed women in the society engage themselves in commercial ventures and enterprises and advertently or inadvertently engage themselves in the illegal activities. The Court, while deciding such matters, should exercise the discretion judiciously using their prudence. In the light of the Proviso to Section 45 of PMLA, 2002, the bail had been granted to the accused in the said case.



50. In the present case, the facts essentially are in *pari materia*, the Applicant is the daughter of Anubrata Mondal and the allegations essentially against her are that she had used her Company/Firm accounts to launder the money, proceeds of crime which was received by her father.

51. As has been observed in the case of Saumya Chaurasia (supra), the Applicant may be an educated woman having her business and commercial enterprise, but it cannot be overlooked that the allegations against her are essentially in the context of her father and that she in her commercial ventures, has laundered the money received by her father as a bribe.

52. Pertinently, Sh. Anubrata Mondal, the father of the Applicant, has been admitted to bail by the Apex Court *vide* SLP(Crl.) No.12769/2023 decided on 30.07.2024, essentially on the grounds of his incarceration in jail from 11.08.2022 and that the case was still at the stage of Section 207 of Cr.P.C., 1973. Looking at the number of pages in the Chargesheet which were voluminous, and some were in Bengali which were required to be translated, Sh. Anubrata Mondal was admitted to bail.

In the present case, the Applicant is in judicial custody from 26.04.2023. As has been observed in the context of this case itself while deciding bail of Anubrata Mondal (Supra) the documents involved are voluminous and the trial may take a long time to get concluded. Furthermore, the Applicant is a woman who is entitled to bail under Proviso to Section 45 of PMLA, 2002, in the circumstances as narrated above.

53. Considering the totality of the circumstances as narrated above, the Applicant is admitted to regular bail upon her furnishing a personal bond in the sum of Rs. 10,00,000/- and one surety of the like amount to the satisfaction of the learned Trial Court, subject to the following conditions:-

- a) Applicant shall appear before the Court as and when the matter is taken up for hearing;



- b) Applicant shall provide her mobile number to the IO concerned, which shall be kept in working condition at all times and he shall not change the mobile numbers without prior intimation to the Investigating Officer concerned;
 - c) Applicant shall inform the IO the address where she shall be available in Delhi;
 - d) Applicant shall not leave the country without prior permission of the learned Trial Court;
 - e) Applicant shall not try to contact, threaten or influence any of the witnesses of this case; and
 - f) Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.
54. The Registry is directed to communicate this Order to the learned Trial Court and as well as to the concerned Jail Superintendent.
55. Accordingly, the present Application is disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

SEPTEMBER 10, 2024

S.Sharma