

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

CRIMINAL PETITION Nos.11332 and 11515 of 2023

CRIMINAL PETITION NO.11332 OF 2023

Between:

Mr.Nirmal Kumar Kotecha

... Petitioner/Accused No.1

And

Directorate of Enforcement, Rep. by
Assistant Director, Hyderabad Zonal
Office, Basheerbagh, Hyderabad.

... Respondent/Complainant

CRIMINAL PETITION NO.11515 OF 2023

Between:

Kishore Kumar Tapadia

... Petitioner/Accused No.3

And

1. The State of Telangana,
Rep. by its Public Prosecutor,
High Court for the State of Telangana.

2. Directorate of Enforcement, Rep. by
its Deputy Director, Hyderabad Zonal office
Basheerbagh, Hyderabad, rep. through
its Standing Counsel.

...Respondents/Complainants

DATE OF JUDGMENT PRONOUNCED: 05.12.2023

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

- | | | |
|---|--|--------|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

K.SURENDER, J

*** THE HON'BLE SRI JUSTICE K. SURENDER**

+ CRIMINAL PETITION Nos.11332 and 11515 of 2023

% Dated 05.12.2023

CRIMINAL PETITION No.11332 of 2023

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! Counsel for the Petitioner in Crl.P.No.11332/2023: Ms.Lakshmi Aiswarya

! Counsel for the Petitioner in Crl.P.No.11515/2023: Sri G.Ashok Reddy

^ Counsel for the respondent in Crl.P.No.11332/2023:

Sri B.Narasimha Sharma,
Deputy Solicitor General appearing for the respondent

^ Counsel for the Respondents in Crl.P.No.11515/2023:

Sri B.Narasimha Sharma,
Deputy Solicitor General appearing for R2
Sri D.Narender Naik,
Learned Asst.Public Prosecutor for R1-State.

>HEAD NOTE:

? Cases referred

1. 2022 SCC OnLine SC 929 (2008)
2. 2023 SCC OnLine SC 1244
3. 2022 SCC OnLine SC 825

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION NOS.11332 AND 11515 OF 2023****COMMON ORDER:**

Criminal Petition No.11332 of 2023 is filed by Accused No.1 and Criminal Petition No.11515 of 2023 is filed by Accused No.3, seeking regular bail in connection with the Enforcement Case Information Report (ECIR) No. ECIR/HYZO/08/2023 dated 15.02.2023.

2. Since the petitioners in both the criminal petitions are accused No 1 and 3 in the said ECIR, both the petitions are disposed by this common order.

3. Briefly, the case of Enforcement Directorate (ED) is that M/s.Taksheel Solutions Limited (for short "TSL") Company made various mis-statements and failed to disclose information in the offer document. The Securities and Exchange Board of India (for short "SEBI") inquired and conducted preliminary investigation. Thereafter, an ad-interim exparte order dated 28.12.2011 was filed against TSL and its Management. Consequently, SEBI passed a levying order dated 30.06.2014 levying penalty of Rs.76,00,00,000/- against 16 different entities which were involved, for various violations under the SEBI Act. The said adjudication order was

challenged by most of the entities. The SEBI Appellate Tribunal (for short “SAT”) remanded the case back to the adjudicating authority since opportunity was not given and the orders were passed ex-parte.

4. In the preliminary investigation conducted by SEBI it was found that one Pavan Kumar Kuchana (A2)-MD & CEO of TSL company and others, created different entities showing them as vendors of TSL in the USA and siphoned off Initial Public Offering (for short “IPO”) proceeds to create an impression of business transactions for software development. However, no such software development had taken place but, the funds were rotated.

5. The said company was run by Pavan Kumar Kuchana (A2) as Managing Director. The funds which were garnered through IPO was transferred to its vendors in the USA and they again were routed back to TSL in the names of different entities.

6. After investigation conducted by SEBI, a complaint was filed on 28.01.2016 under Section 12-A(a) to (c) r/w.24 of Securities & Exchange Board of India Act, 1992 (Act 15 of 1992) (herein after referred to as “SEBI Act”) against TSL company.

7. On the basis of the said complaint, Enforcement Directorate registered the ECIR for committing irregularities in respect of IPO. Since the TSL raised 82.50 crores through IPO by adopting fraudulent methods, the said amount was considered as proceeds of crime.

8. Pursuant to the ECIR registered by the Enforcement Directorate, the premises of A2 was searched on 22.09.2023 and various incriminating documents were found. In the statement of A2, the role of these petitioners was informed. The petitioners had inflated the market value and raised IPO by misleading the facts. Initially funds of Rs.34.50 crores were arranged as Inter Corporate Deposits (for short "ICD") and the Initial Public Offer (IPO) proceeds to the extent of 53.50 crores received, was also siphoned off.

9. The officials of the Enforcement Directorate conducted search in the premises of these petitioners. Statements were recorded under Section 50 clause 2 & 3 of the PMLA Act, 2002, on 10.10.2023 and 11.10.2023. According to the Enforcement Directorate, A3 was acting as an intermediary in between A1 and A2. The understanding was that A1 would arrange for ICD in the year 2011 to an extent of 34.50 crores. The said amounts were arranged from different entities by A1. The said funds were used by

TSL for increase in turnover in its books. No interest was paid by TSL for the amount of 34.50 crores received. Having examined the petitioners, the Enforcement Directorate came to know that A1 to A3 have conspired and planned to inflate the revenue of TSL for bringing ICDs and later siphoning off the IPO proceeds. As already said A1 arranged for ICD of Rs.34.50 crores for the purpose of inflating the revenue of TSL before the IPO. After IPO proceeds were received, the initial ICD payment of Rs.34.50 crores was returned to A1 and commission was also paid to both A1 and A2. The remaining amounts were also siphoned off to offshore entities which are under the control of A1. Out of the IPO proceeds, Rs.18 crores was used for the expenses of TSL and also for payments to various vendors. However, the said payments to vendors were found to be bogus. The said circular movement of funds in between TSL and its clients which were in fact created by A2 and shown as entities in the USA, resulted in inflation of revenue and the corresponding profitability.

10. The said criminal acts committed by the petitioners and A2, attracts the offence under Section 3 of PML Act.

11. On the basis of the said information during the course of investigation the Enforcement Directorate effected the arrest of these petitioners and also A2 on 11.10.2023 and grounds of arrest was also served.

12. The Special Court for PMLA remanded the petitioners to judicial custody by a detailed order dated 12/13.10.2023. Thereafter, the petitioners and also A2 were given to ED custody.

13. During investigation, the Enforcement Directorate has identified the entities and persons who have received the ICD amount.

14. Sri T.Niranjan Reddy, learned Senior Counsel appearing for A1 would submit that the Enforcement Directorate officials have adopted illegal methods during investigation. They detained the accused illegally and arrested them without basis and in violation of the twin requirements “reason to believe” which reasons have to be recorded in writing and such person is “guilty” of an offence under the Act. A1 was illegally taken into custody and served noticed under Section 50 of the PMLA Act, 2002. If the authorities have identified the petitioners as witnesses, summons should have been served. However, the Enforcement Directorate officials served summons under Section 50 of the PMLA Act, took him into custody and arrested him on 11.10.2023. The Special Court while ordering remand of the accused has not applied its mind which is evident from the docket order passed on 12/13.10.2023.

15. In the docket order dt.12/13.10.2023 passed by the Special Court, it is stated that;

“Thus, A1, A2 and A3 were involved in the generation of proceeds of crime by commission of scheduled offence under Section 12A read with 24 of SEBI Act. Further, A1 and A2 were actually involved in the various processes and activities connected with the said proceeds of crime including its possession and acquisition in entities under their control, use of POC in the business activities of TSL and other entities, and projection of POC as untainted in the guise of proceeds from genuine business transactions. A3 also knowingly assisted A1 and A2 in the transfer of POC to entities within India and abroad. A3 also possessed and acquired POC in the form of 2.5 lakh shares of TSL which he admittedly sold to A1 for Rs.80 lakhs.”

16. Non application of mind is apparent from the fact that A1 or A3 were not shown as accused in the complaint of SEBI. The said fact of petitioners-A1 and A3 not being involved in the SEBI complaint is not disputed. It is not the case of the Enforcement Directorate that the petitioner-A1 had anything to do either with the accounts of Taksheel or other bank accounts of M/s.Genex Technologies Private Limited maintained in Royal Bank of Scotland.

17. The reason for arrest is the statement which was recorded under Section 50 of the PMLA Act, 2002 which is under duress, has formed basis for the arrest. According to the grounds of arrest the allegation is that A1 and his family members were associated with the 3 entities namely i) M/s.Asia Rich Ventures Limited, Singapore

ii) M/s.East Fortune Industries Limited, Hong Kong iii) M/s. KTP Exports Limited, Singapore. The said companies were shell companies utilized and provided by Angandias to transfer the money and the amounts were utilized to transfer the funds.

18. Learned Senior Counsel further submits that immediately after remand, the petitioner filed a statement retracting the version in the section 50 statement. A retracted statement cannot form basis to arrest the accused. He relied on the Judgments of Honourable Supreme Court in;

- i) ***Vijay Madanlal Choudhary v. Union of India and others 2022 SCC OnLine SC 929***
- ii) ***V.Senthil Balaji v. The State represented by Assistant Director and others 2023 SCC OnLine SC 934***
- iii) ***Pankaj Bansal v. Union of India and others 2023 SCC OnLine SC 1244***

Learned Counsel relied on the Judgments rendered by this Court in;

- i) ***Khagesh Kachiwal v. Directorate of Enforcement in Crl.P.No.6354 of 2022 dt.08.08.2022***
- ii) ***Pradeep Kumar and others v. Assistant Director, Directorate of Enforcement in WP.No.35434 of 2022 dated 06.07.2023***
- iii) ***Venkatram Reddy v. Union of India WP.No.19163 of 2023 dated 08.09.2023***

- iv) M/s. Satyam Computer Services Limited v. Directorate of Enforcement and others in WPMP No.47572 of 2012 in WP.No.37487 of 2012, dated 11.12.2012***
- v) Directorate of Enforcement v. M/s. Satyam Computer Services Limited in WA.No.133 of 2013, dated 31.12.2014.***

19. Sri G.Ashok Reddy, learned Counsel appearing for petitioner (A3) in CrI.P.No.11515 of 2023 would submit that the alleged offence was in October, 2011. Inquiry was conducted by SEBI and complaint was filed. However, the petitioner is not named in the said complaint. The only evidence connecting the petitioner is one E-Mail which was allegedly found during the course of investigation. The said E-Mail was in the month of March, 2011. If a person has to be prosecuted under PML Act, 2002 he should have dealt with criminal proceeds. Even according to the Enforcement Directorate, the transactions of petitioner pertaining to March, 2011, whereas the alleged IPO was in the month of October, 2011 which is six months after the alleged communication (E-Mail). Even assuming that this petitioner had asked for 2% as commission during the course of business, it does not amount to any criminal offence since an agent for his services can always raise bills for rendering his services. It is legitimate that 2% can be collected as his fee.

20. Learned counsel further submitted that no notice was given to the petitioner-A3 under Section 50 of PML Act. However, he was arrested. The documents shown to have been relied upon and filed into the Court do not in any manner make out case against the petitioner-A3. Neither the grounds nor eight enclosures which were filed along with remand report make out a case against the petitioner, leave alone the satisfaction of the authorities that the petitioner is guilty of the offence.

21. Learned Counsel further submits that it is not the case of the Enforcement Directorate that TSL and petitioner-A3 have any link so as to infer the complicity of A3. Even the case of Enforcement Directorate is that A1 has arranged for Rs.35 crores before the IPO. Even with respect to 35 crores, A3 has nothing to do with it. Neither the funds of Rs.35 crores arranged prior to the IPO, nor the amount raised through IPO which is around Rs.50 crores was dealt with by the petitioner in any manner. The provisions of Section 19(3) of the PML Act are not complied with and there is no indication by the Enforcement Directorate that the material available is enough to prima facie conclude that A3 was guilty. The arrest itself is illegal since the petitioner-A3 was kept in custody after issuance of section 50 notice and there after arrested without basis.

22. Learned Counsel for A3 relied on the very same Judgments relied on by the learned counsel for A1.

23. Sri B.Narasimha Sharma, learned Assistant Solicitor General appearing for Enforcement Directorate would submit that the procedure laid down under the PML Act, 2002 was scrupulously followed. From the scheme of the act it is evident that Enforcement Directorate can register cases once it is found that criminal offences under the schedule were committed. Further, the investigation can go on against the persons who are involved in generating the said criminal proceeds and also the persons who subsequently handled the crime proceeds. It is necessary that prima facie case is made out to the satisfaction of the authorities. The grounds of arrest and the remand report clearly indicate the *modus operandi* adopted by the accused in generating crime proceeds. Without there being any kind of business, the company TSL which was run by A2 had pumped in 35 crores through A1, only to jack-up the figures of the company and thereby went into IPO. The amounts of nearly 50 crores that were generated from the IPO were again routed back through the Companies of A2 and A1. The amount was only going in circular direction and there was no business dealings that were done with any of the entities to which the moneys transferred.

24. Learned Assistant Solicitor General submitted that the Honourable Supreme Court in ***Vijay Madanlal Choudhary and others v. Union of India and others***¹ held that the rigors of Section 45 of the PML Act are not arbitrary or unreasonable. The economic offences constitute a class apart and have to be approached differently. The Honourable Supreme Court in Y.S.Jaganmohan Reddy's case and P.Chidambaram's case further held that economic offences have deep rooted conspiracies involving huge loss of public funds and need to be viewed seriously and considered as grave offences affecting the economy and the country.

25. Learned Assistant Solicitor General further submits that Accused No.2 had floated 8 to 9 companies in the USA. When A2 was searched, incriminating material against A1 and A3 came to light. The said material seized, formed basis to make out the case against A1 and A3. In fact there was a tripartite agreement in between A1 to A3 and the monies were received by the company of A1. Further, there is no illegality committed in the process of recording statement under Section 50 of the PML Act and the consequent arrests. Due procedure has been followed and within 24 hours of the arrest, they were remanded to custody.

¹ 2022 SCC OnLine SC 929

26. Further, petitioner-A1 is citizen of another country and he is at flight risk. Learned counsel relied on the following Judgments;

- i) ***Directorate of Enforcement v. Deeepak Mahajan & others***
(1994) 3 SCC 440
- ii) ***Sundeep Kumar Bafna v. State of Maharashtra & others***
(2014) 16 SCC 623
- iii) ***Manubhai Ratilal Patel Tr.Ushaben v. State of Gujrat & others***
(2021) 1 SCC 314
- iv) ***Roshan Beevi and others v. Joint Secretary to Government of Tamil Nadu & others*** (1984) Cri LJ 134
- v) ***Harbansingh Sardar Lenasingh and others v. The State***
AIR 1970 Bom 79
- vi) ***Kanu Sanyal v. Distt.Magistrate Darjeeling & others***
(1974) 4 SCC 141
- vii) ***Serious Fraud Investigation Office and others v. Rahul Modi and others*** (2019) 5 SCC 266
- viii) ***The State of Maharashtra and others v. Tasneem Rizwan Siddiquee***
(2018) 9 SCC 745
- ix) ***Naranjan Singh Nathawan v. The State of Punjab***
(1952) 1 SCC 11
- x) ***B.Ramachandra Rao v. The State of Orissa and others***
(1972) 3 SCC 256
- xi) ***Tarun Kumar v. Assistant Director, Directorate of Enforcement***
Criminal Appeal No. of 2023 (SLP (Crl.) No.9431 of 2023).

27. Learned Assistant Solicitor General argued that custody and arrest are not synonymous. The presence of Enforcement Directorate officials during the search and seizure cannot be said to be arbitrary. Once the competent Court passes an order remanding the accused, the legality or otherwise of the arrest would become immaterial, since the Court takes note of the material that is

produced by the prosecution and applies its mind to decide whether to send the person produced, to judicial custody or police custody.

28. The learned Assistant Solicitor General had passed a sealed cover stating that it contained incriminating documents collected during the course of investigation. Firstly, this Court has not sought for any information in a sealed cover or asked to provide documents to ascertain any factual claims by the Enforcement Directorate. Having perused the grounds of arrest and remand report, all the transactions are pertaining to the year 2011 and it is clearly mentioned as to what are the alleged transactions of money rotation done. All the transactions of rotating the money and generation of alleged crime proceeds are already mentioned and argued. The documents which cannot be supplied to the accused, the accused will not have an opportunity to explain or defend himself. Since there is no direction for production of any documents touching upon any factual aspects of the case or investigation, I deem it appropriate not to open the cover and return it to the Investigating Officer.

29. The events that transpired culminating in the arrest of the petitioners are that, on 10.10.2023, three officers of the Enforcement Directorate go to the residence of A1 around 7.30 a.m.

and start search at around 9.30 a.m. The search continued till early hours of 11.10.2023 and at 4.20 a.m., the Officers informed the petitioner-A1 that he has to travel to Hyderabad. Flight tickets were arranged for A1, his brother and also the Officers at 4.20 a.m. At 5.00 a.m. summons dated 10.10.2023 was handed over on 11.10.2023. A1 was taken by the Officers to Hyderabad and was interrogated till late night of 11.10.2023. At 6.30 p.m. on 12.10.2023 A1 and A3 were produced before the Special Court and remanded to judicial custody. Both the accused filed a statement retracting the alleged statements given under Section 50 of the PML Act, 2002. From 8.30 to 11.00 p.m. arguments were heard by the Special Judge and around at 3.00 a.m. on 13.10.2023 remand orders were passed.

30. The learned Assistant Solicitor General did not dispute the sequence of events narrated by the counsel for the petitioners, however, he submits that the conduct of A1 would be relevant. Once the Officers arrived at residence in Mumbai, the door was not opened and in the meanwhile A1 tried to destroy the evidence. Since the summons were signed and taken at Hyderabad, it is dated 10.10.2023 and the same was served on 11.10.2023. It cannot be said that the summons are ante-dated.

31. The transactions in question are admittedly of the year 2011 and nearly 12 years have passed. The Agency having registered the case on 15.02.2023, searched the premises of A2 in accordance with Section 17(1) of the PML Act, 2002. The statement of A2 was recorded on 22.09.2023, 23.09.2023, 25.09.2023 and finally on 11.10.2023 under Section 50 clause 2 and 3 of the PML Act, 2002. As already stated, these petitioners A1 and A3 were investigated and statements recorded on 10/11.10.2023 and thereafter, the petitioners and A2 were remanded to judicial custody. During the course of recording statement of A2 and investigating into the matter, the Enforcement Directorate was informed by A2 that these petitioners were allegedly involved in the transactions and on their instructions to inflate the revenue of TSL, the alleged circular movement of money was done. A1 had prepared the road map towards IPO and instructed to open paper based companies in the USA for rotation of funds. Further, the amount of Rs.30.50 crores was transferred to the entities operated by A1. Several details of acts committed by these petitioners was revealed during the statements of A2. The information given by A2 is at para-9 of the remand report. The details are from para-9(a) to 9(t) of the remand report. The statement of A3 is at para-11(i) to 11(xxi). The information given by A1 is at para-12(i) to 12(xiv) and para-14(i) to 14(xii). It is

abundantly clear that the acts allegedly committed by these petitioners-A1 and A3 were informed to the Enforcement Directorate by A2 and they had knowledge about all the alleged acts done by these petitioners in September, when A2 was interrogated and his statements were recorded on three days in September.

32. The Enforcement Directorate officials having information about the petitioners went to Mumbai. From 7.30 a.m. on 10.10.2023 till they were produced before the Special Judge, the ED officials were with the petitioners all through in the house, while travelling from Mumbai to Hyderabad and taken to the ED office.

33. To effect arrest, it is not mandatory that a statement under Section 50 should be recorded. Section 50 of the PML Act, 2002 authorizes the officials to inspect, enforce attendance of person, compel production of records, receive evidence on affidavits and do all such other acts during investigation. "Any person" mentioned in Section 50 clause 2 of PML Act, 2002 would include an accused.

34. A reading of Section 50 of the PML Act, 2002 would clearly indicate that the purpose of Section 50 of PML Act, 2002 is to gather evidence in the process of investigation. Under Section 50(2) and (3) the person summoned has an opportunity to state the facts known to him, produce records as may be required in their support or the

documents required and sought for by the authorities. The opportunity given to a person summoned, to explain and produce any documents or evidence in support of his statement is writ large in the provisions.

35. The Enforcement Directorate officials having incriminating evidence against these petitioners which was collected and known through A2 had gone to Mumbai. The moment they went to the house of the petitioners, the ED officials have accosted the petitioners and stayed with them throughout, till production before the Special Court. The officials are persons-in-authority who had restricted the petitioners and confronted with the facts informed by A2 during his statement under section 50 PML Act, on three days in September. It is apparent that A2 was arrested on the basis of information provided by him in September and arrested on 11-10-2023.

36. In the said circumstances, the ground raised by the petitioners that they were not given opportunity of explanation and their statements being taken under duress, appears to be probable.

37. There is nothing new which had come to the knowledge of the Enforcement Directorate authorities pursuant to the examination of the petitioners-A1 & A3, which information they did not have at the

instance of A2. It is not the case that after the examination of petitioners-A1 & A3 any new facts were discovered or had collected any new documents which were not known when A2 was examined.

38. The Enforcement Directorate is a premier Investigating Agency which has been given the powers to investigate serious economic offences under the PML Act, 2002. There is any amount of responsibility while discharging their duties and not to adopt any such methods affecting the rights of accused. The narration in the remand report and the grounds of arrest, it is mentioned that what all information was gathered from A2 was accepted by the petitioners. The statement appears to be more in the form of confession of the facts already known to Officers.

39. The Honourable Supreme Court in ***Pankaj Bansal v. Union of India and others***² held at para-21 that the Enforcement Directorate is expected to be transparent and conform to pristine standards of fair play in action. The Enforcement Directorate mantled with far-reaching powers under stringent Act of 2002 is not expected to be vindictive in its conduct and must act with utmost probity and with the highest degree of dispassion and fairness.

² 2023 SCC OnLine SC 1244

40. The petitioners have been complaining about the misuse of the powers of the Enforcement Directorate and the mode adopted was abuse of power and authority. Having the alleged information about the involvement of the petitioners, the ED authorities have resorted to keeping the petitioners under their control restricting the movements and statements allegedly recorded under Section 50 of the PML Act, 2002 and immediately arrested them. The Ed officials have acted arbitrarily.

41. As already discussed, there is nothing new which was found during the examination of these petitioners, which was not known earlier to the Agency through A2. The evidence collected is circumstantial. Even without a statement under section 50 of the Act, case can be proved against an accused.

42. The Honourable Supreme Court in ***Vijay Madanlal Choudhary's case (supra 1)*** held that though twin conditions restrict the right of the accused for grant of bail, it does not impose an absolute restraint on the grant of bail.

43. In ***Satender Kumar Antil v. Central Bureau of Investigation***³, the Honourable Supreme Court held that arrest is not mandatory in every case. Before arrest is made, curtailing the

³ 2022 SCC OnLine SC 825

personal liberty on the basis of the relevant facts should be considered.

44. In the case of P.Chidambaram v. Directorate of Enforcement reported in (2020) 13 SCC 791, the rule of bail was discussed at paragraph 23:

“23. Thus, from cumulative perusal of the judgments cited on either side including the one rendered by the Constitution Bench of this Court, it could be deduced that the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial. However, while considering the same the gravity of the offence is an aspect which is required to be kept in view by the Court. The gravity for the said purpose will have to be gathered from the facts and circumstances arising in each case. Keeping in view the consequences that would befall on the society in cases of financial irregularities, it has been held that even economic offences would fall under the category of “grave offence” and in such circumstance while considering the application for bail in such matters, the Court will have to deal with the same, being sensitive to the nature of allegation made against the accused. One of the circumstances to consider the gravity of the offence is also the term of sentence that is prescribed for the offence the accused is alleged to have committed. Such consideration with regard to the gravity of offence is a factor which is in addition to the triple test or the tripod test that would be normally applied. In that regard what is also to be kept in perspective is that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case since there is no such bar created in the relevant enactment passed by the legislature nor does the bail jurisprudence provide so. Therefore, the underlining conclusion is that irrespective of the nature and gravity of charge, the precedent of another case alone will not be the basis for either grant or refusal of bail though it may have a bearing on principle. But ultimately the consideration will have to be on case-to-case basis on the facts involved therein and securing the presence of the accused to stand trial.”

45. All the transactions are of the year 2011 and it appears that all the transactions are to the knowledge of the Investigating Agency. The transactions are borne by record and the evidence is

circumstantial in nature. Complicity or otherwise of the petitioners can be inferred from the transactions during trial, which is unlikely in the near future. Detention cannot be by way of punishment at the stage of investigation. The apprehension of the learned Assistant Solicitor General that the petitioners are at flight risk can be dealt with by imposing conditions.

46. In the said background of arbitrariness and also that the petitioners being taken into Enforcement Directorate custody for the purpose of investigation and having investigated the case, taking the petitioners into custody, this Court deems it appropriate to grant the relief of Regular Bail to the petitioners-A1 & A3, on the following conditions.

i) The petitioners/A1 & A3 shall execute personal bonds for a sum of Rs.2,00,000/- (rupees Two Lakhs only) each with two sureties for a like sum each to the satisfaction of the Metropolitan Sessions Judge-cum-Spl.Court constituted under PML Act, 2002, at Hyderabad.

ii) Passports of the petitioners/A1 & A3 shall be surrendered before the Special Court. They shall not leave Hyderabad without permission of the Special Court, pending investigation.

iii) The address of the petitioners/A1 & A3 in Hyderabad and other details shall be furnished to the Enforcement Directorate.

iv) The petitioners/A1 & A3 shall abide by the other conditions stipulated in Section 437(3) of Cr.P.C.

47. Accordingly, both the criminal petitions are allowed.

Miscellaneous applications, pending if any, shall stand closed.

K.SURENDER, J

Date: 05.12.2023

Note: L.R. Copy to be marked.

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