



ITEM NO.5

COURT NO.2

SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 17476/2024

[Arising out of impugned final judgment and order dated 02-12-2024 in SBCRMBA No. 12518/2024 passed by the High Court of Judicature for Rajasthan at Jaipur]

PADAM CHAND JAIN

Petitioner(s)

VERSUS

ENFORCEMENT DIRECTORATE

Respondent(s)

(FOR ADMISSION and I.R. and IA No.288606/2024-EXEMPTION FROM FILING O.T.)

Date : 16-01-2025 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE K. VINOD CHANDRAN

For Petitioner(s) :

Mr. Sidharth Luthra, Sr. Adv.
Mr. Siddharth Agrawal, Sr. Adv.
Mr. Pankaj Singhal, Adv.
Ms. Ashima Gupta, Adv.
Mr. Sarthak Karol, Adv.
Mr. Sougat Pati, Adv.
Mr. Anushasit Arya, Adv.
Mr. Abhishek Sharma, Adv.
Ms. Srutee Priyadarshani, Adv.
Mr. Ayush Anand, AOR

For Respondent(s) :

Mr. Suryaprakash V. Raju, A.S.G.
Mr. Zoheb Hossain, Adv.
Mr. Annam Venkatesh, Adv.
Mr. Chandra Prakash, Adv.
Mr. Arvind Kumar Sharma, AOR
Mr. Prakhar Bharadwaj, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. This is a petition seeking bail.
2. We have heard Shri Sidharth Luthra and Shri Siddharth Agrawal, learned senior counsel appearing on behalf of the petitioner and Shri Suryaprakash V. Raju, learned Additional Solicitor General appearing for the respondent.
3. Shri Luthra and Shri Agrawal, learned senior counsel, submits that the other co-accused, who are assigned the similar role, have already been granted bail either by this Bench or by another Bench of this Court.
4. Shri Raju, on the contrary submits that the petitioner is involved in a crime of defalcation of huge sum of Rs.136.41 Crores in the matter of managing the award of tenders to PHED. He submits that the role attributed to the petitioner herein is of much serious nature as compared to the role attributed to Shri Peeyush Jain, who is the son of the present petitioner and Shri Sanjay Badaya. He further submits that unless the twin conditions contained in Section 45 of the Prevention of Money Laundering Act, 2002 (for short, 'PMLA') are complied with bail in the matters concerning PMLA cannot be granted.
5. We have perused the material on record in the present case. The son of the petitioner herein, namely, Shri Peeyush Jain has been granted bail by a coordinate Bench of this Court in Criminal Appeal No.3754 of 2024 so also another accused, namely, Sanjay Badaya has been granted bail by this Court on 17.12.2024 in SLP(Crl) No.15953 of 2024.
6. Learned Single Judge of the High Court, while considering the law laid down by this Court in Manish Sisodia v. Directorate of Enforcement, 2024 SCC OnLine 1920, has observed that this Court has granted bail in the said matter in exercise of powers under Article 142 of the Constitution of India.
7. We may clarify that in the case of Manish Sisodia (supra) the

Court has not exercised the powers under Article 142 of the Constitution of India. The Court has held that the twin conditions under Section 45 of the PMLA cannot override the constitutional safeguards, as provided under Article 21 of the Constitution of India. This Court has held that a prolonged incarceration cannot be permitted to be converted pre-trial detention into a sentence without trial. Like in the case of Manish Sisodia (supra) in the present case also thousands of documents are required to be considered at the stage of trial, so also around 50 witnesses are required to be examined. The main evidence in the present case is documentary in nature, which is already seized by the prosecution agency. As such, there is no possibility of the same being tampered with.

8. It is further to be noted that the Minister, for whose benefit the alleged transactions have taken place, has also not been implicated as an accused in the present case. The petitioner has already been released on bail in the predicate offences.

9. In that view of the matter, we are inclined to grant bail to the petitioner herein.

10. The petitioner is directed to be released on bail in connection with Complaint Case dated 08.08.2024 in ECIR/JPZO/29/2023, to the satisfaction of the Trial Court.

11. The special leave petition is, accordingly, disposed of.

12. Pending application(s), if any, shall stand disposed of.

(NARENDRA PRASAD)
DEPUTY REGISTRAR

(ANJU KAPOOR)
COURT MASTER