

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**BLAPL No.1569 of 2023**

***Khageswar Patra***

...

***Petitioner***

*Mr. A. Patra, Advocate*

*-versus-*

***Directorate of Enforcement,  
Government of India,  
Bhubaneswar***

...

***Opposite Party***

*Mr. G.K. Agarwal, Advocate(ED)*

**CORAM:  
JUSTICE G. SATAPATHY**

**ORDER  
12.05.2023**

**Order No.**

**04.**

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. This is a bail application U/S.439 of Cr.P.C. by the petitioner for grant of bail in connection with PMLA Case No.10 of 2022 arising out of ECIR Case No.BBZO/16 of 2022 pending in the file of learned District and Sessions Judge-Cum-Special Judge, Bhubaneswar, Khurda, for commission of offence U/S. 3 of Prevention of Money Laundering Act, 2002 (In short PML Act) punishable under Section 4 of PML Act, on the allegation of committing the offence of money laundering along with co-accused persons.

3. In the course of hearing of the bail application, Mr. A. Patra, learned counsel for the petitioner submits that although the petitioner has some transaction with co-accused persons, but that is on account of friendly loan and he has already returned back such money to the co-accused persons and the petitioner is admittedly a secondhand vehicle dealer and he has nothing to do with the co-accused persons nor has he committed any offence of money laundering. It is also submitted that none of the witnesses has ever whispered anything against the petitioner and the petitioner has loan liability of Rs.1 Crore 70 lakhs from different banks and the petitioner having detained in custody without any fault, may kindly be granted bail.

4. On the contrary, Mr. G.K. Agarwal, learned counsel for the Enforcement Directorate vehemently opposes the bail application of the petitioner and he *inter alia* submits by referring to the allegation on record that the petitioner having channelized the proceeds of crime to co-accused persons and he having not been able to satisfy the conditions as mandated U/S.45 of PMLA Act, is not entitled to bail. Learned counsel for the ED accordingly prays to reject the bail application of the petitioner.

5. After having considered the rival submissions made upon perusal of record, there appears some allegations against the petitioner for committing the offence of money laundering and a credible complaint has been instituted by the Assistant Director Enforcement Directorate, Government of India against the petitioner and three other persons in the Special Court-cum-District and Sessions Judge, Khurda at Bhubaneswar for commission of offence U/S. 3 which is punishable U/S. 4 of PML Act on the basis of allegation of indulging in concealment of proceeds of crime in the form of unaccounted cash by receiving the same from co-accused persons for investment in his proprietorship firm M/s. Supreme Automobiles. The allegation on record also reveals about some cash transaction and transaction through bank between the petitioner and co-accused persons. Grant or refusal of bail in a case of money laundering is definitely regulated by Section 45(1) of PMLA Act, which reads as under:

*"45.(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), 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 an 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.”*

*Provided that a person, who is under the age of sixteen years or is a woman or is sick or infirm, or is accused either on his own or along with other co-accused of money laundering a sum of less than one crore rupees may be released on bail, if the Special Court so directs.*

6. In this case, admittedly, learned counsel for the ED has opposed the bail application of the petitioner, but nothing was submitted on behalf of the petitioner to counter the submission of the learned counsel for the ED to satisfy the conditions as provided in Section 45(1)(ii) of PML Act.

7. In view of the above facts and taking into consideration the nature and gravity of allegation raised against the petitioner and the consequent failure of the petitioner to satisfy this Court the mandatory conditions of Section 45 of PML Act and taking into consideration the law laid down by the Apex Court in ***Vijay Madan Lal Choudhury and others v. Union of India; 2022 SCC Online SC 929***, this Court is not inclined to grant bail to the petitioner.

8. Hence, the bail application of the petitioner stands rejected. However, the petitioner may renew

his prayer for bail within a reasonable period preferably after taking cognizance of offence.

9. Accordingly, the BLAPL stands disposed of.

10. Issue urgent certified copy of the order as per Rules.

**(G. Satapathy)**  
**Judge**

**Subhasmita**

