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2023 INSC 1006

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2023
(@ SLP (Crl.) No. 9431 of 2023)

TARUN KUMAR **…APPELLANT(S)**

VERSUS

ASSISTANT DIRECTOR DIRECTORATE OF ENFORCEMENT **…RESPONDENT(S)**

J U D G M E N T

BELA M. TRIVEDI, J.

1. Leave granted.

2. The Appellant-accused being aggrieved by the Judgment and Order dated 18.07.2023 passed by the High Court of Delhi at New Delhi in Bail Application No. 152 of 2023 has preferred the present appeal. The High Court vide the impugned order has dismissed the said bail application of the appellant seeking bail in connection with the Complaint Case No. 20/2021 bearing ECIR /DLZO-1/12/2021 arising out of FIR No. RC0742020E0014, registered for the offence under Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act,

1988 and under Section 120B read with sections 420, 465, 467, 468 and 471 of IPC. The appellant was arrested on 22.06.2022 on the fourth supplementary complaint having been filed by the respondent under Sections 44 and 45 of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as the 'PML Act'), in continuation of the complaint dated 01.09.2021, 11.10.2021 and 18.11.2021 in Case No. 20/2021, for the commission of the offence of money laundering as defined under Section 3 punishable under Section 4 of PML Act.

3. The broad facts and events as discernible from the record may be stated as under:

(i) M/s. Shakti Bhog Foods Ltd. (SBFL) was engaged in manufacturing and selling food items under the brand name of "Shakti Bhog". The company was managed through its Directors/Guarantors – Sh. Kewal Krishan Kumar, Sh. Siddharth Kumar and Smt. Sunanda Kumar. The appellant is the nephew of Sh. Kewal Krishan Kumar, and was shown as one of the employees in SBFL.

(ii) The consortium of banks led by the State Bank of India vide the Letter of Engagement dated 18.05.2018 engaged the services

of a Forensic Auditor – BDO India LLP for conducting the Forensic Audit of SBFL.

(iii) The Forensic Auditor conducted audit review for the period 01.04.2013 to 31.03.2017 and submitted the report on 25.06.2019, disclosing several financial irregularities and discrepancies in the functioning of SBFL, and alleged that SBFL had failed to discharge its loan liability and caused loss to the consortium member banks to the tune of Rs.3269.42 crores.

(iv) An FIR being NO. RC0742020E0014 came to be registered on 31.12.2020 by the CBI, Bank Securities and Fraud Cell, New Delhi for the offences under Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 and under Section 120B read with Sections 420, 465, 467, 468 and 471 of IPC, on the basis of a written complaint given by the Bank Officials against the Directors/Guarantors of SBFL and against the Employees/servants and other unknown persons.

(v) Since the offences under Section 120B read with Sections 420, 467 and 471 of IPC and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act were specified as the scheduled offences under the Schedule to the PML Act, an

ECIR bearing No. ECIR/DLZO-1/12/2021 came to be recorded on 31st January, 2021 against SBFL and others with regard to the said FIR registered by the CBI against the accused for investigation of the commission of offence under Section 3 punishable under Section 4 of the PML Act.

(vi) The appellant was summoned by the respondent-authorities for the purposes of investigation and interrogation for about seven times till the first complaint was filed by the respondent on 01.09.2021. Second and third supplementary complaints were filed by the respondent on 11.10.2021 and 18.11.2021 respectively. However, the appellant was not named in the said three complaints.

(vii) When the appellant was in attendance before the respondent pursuant to the call by the investigating authorities on 22.06.2022, he was arrested and on 18.08.2022 the fourth supplementary complaint came to be filed by the respondent arraigning the appellant as the Accused No. 10.

(viii) The appellant filed a bail application in complaint case no.20/2021 before the Special Judge (PC-ACT), Rouse Avenue Court Complex, New Delhi on 18.10.2022, which came to be

dismissed by the Special Judge vide the order dated 23.12.2022.

(ix) The bail application being No. 152 of 2023 preferred by the appellant before the High Court of Delhi also came to be rejected vide the impugned order dated 18.07.2023.

4. The allegations against the appellant have been detailed in paragraph nos. 7, 7.1,7.2, & 7.11 and the summary thereof is stated in para 10 of the fourth Supplementary Complaint filed by the respondent. The role of the appellant in the commission of the alleged offence of money laundering in terms of Section 3 of PML Act reads as under:

> "Tarun Kumar was Vice President (Purchases) in Shakti Bhog Limited and was also a director in various Shakti Bhog Group companies. He was actively involved in the bank fraud committed by Shakti Bhog Foods Ltd. Tarun Kumar was directly involved in procuring fake invoices from shell companies operated by Devki Nandan Garg and Ashok Kumar Goel, Entry Operators. Investigation revealed that emails from and related to the shell entities supplying fake invoices to Shakti Bhog Foods Ltd. were also marked to Tarun Kumar. Further, Tarun Kumar used to transfer proceeds of crime to the shell companies for procuring fake invoices without any genuine business transactions and collected part thereof in cash from Vivek Prasad, Entry Operator. Besides, he used to verify the fake bills for LC settlement with the lending banks. He also was involved in the criminal conspiracy of stock manipulation and inflation of the financial results of Shakti Bhog Foods Ltd. Tarun Kumar also used the platform of group companies under his directorship and control for diversion, rotation and siphoning of the proceeds of crime. Further, he played active role in the export activities of Shakti Bhog Foods Ltd. and then in siphoning and stashing the proceeds of crime abroad.

> Tarun Kumar along with his directed company Goal Securities Pvt. Ltd. acquired proceeds of crime to the tune of Rs.3.69 Crore.
> Tarun Kumar was knowingly a party and actually involved in process and activity connected with proceeds of crime including its acquisition, use, possession, concealment and/or projecting as well claiming the same as untainted. He was beneficiary of proceed of crime acquired through the criminal activities related to scheduled offences. Therefore, Tarun Kumar has committed offence of money laundering u/s r.w.s. 4 of PMLA, 2002."

5. The learned Senior Counsel Mr. Sidharth Luthra for the appellant taking the Court through the documents on record made the following submissions:

(i) The offending transactions in the ECIR/Prosecution Complaints and FIR were common, yet the appellant was not named in the FIR or in the first three prosecution/supplementary complaints.

(ii) The co-accused Raman Bhuraria, who is similarly placed as the appellant has been granted bail by the High Court of Delhi vide the judgment and order dated 08.02.2023, and therefore the appellant is entitled to the bail on the ground of parity.

(iii) The investigation qua the appellant is complete and the further investigation is kept open with regard to the other accused persons, if any, and the trial of the case is likely to take long time. Hence, the appellant ought not to be incarcerated indefinitely. The right to bail in cases of delay, coupled with incarceration for a long period, depending on the nature of the

allegations, should be read into Section 439 of the Cr.P.C. and Section 45 of PML Act. In this regard, Mr. Luthra has relied upon the observations made by this Court in case ***of Manish Sisodia vs. Central Bureau of Investigation***[1] in Criminal Appeal arising out of SLP (Crl) No. 8167 of 2023 and in case of ***Sanjay Raghunath Agarwal Vs. Directorate of Enforcement***[2]***.***

(iv) Bail cannot be denied merely on account of the crime being an economic offence. In this regard, Mr. Luthra has relied upon the decision in case of ***Satender Kumar Antil vs. Central Bureau of Investigation and Another***[3]***.***

(v) ED failed to establish the rationale behind discriminating between the appellant and the individuals with similar roles who have not been taken as accused. In this regard, learned Senior Counsel has relied upon the observations made in ***State of Madhya Pradesh vs. Sheetla Sahai and Others***[4]***.***

(vi) Taking the Court to the allegations made against the appellant, the learned Senior Counsel submitted that the allegations and

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[1] (2023) SCC Online SC 1393
[2] (2023) SCC Online SC 455
[3] (2022) 10 SCC 51
[4] (2009) 8 SCC 617

the roles attributed to the appellant in the commission of the alleged offences are baseless.

(vii) Lastly, Mr. Luthra submitted that the parameters of bail under Section 45 of the PML Act having been made out, and the custodial detention of the appellant being not necessary, the appellant should be released on bail.

6. The learned Additional Solicitor General, Mr. S.V. Raju for the respondent however, made the following submissions:

(i) The appellant was the Vice President (Purchases) in Shakti Bhog Limited and was also a Director in various Shakti Bhog Group Companies and was actively involved in the bank fraud committed by the SBFL.

(ii) The appellant along with other accused who were the Directors, promoters and shareholders were directly involved in diversion, rotation and siphoning of proceeds of crime. During the period 2007-08 to 2016-17, under the Directorship of the appellant crores of proceeds of crime were transferred to the shell companies without any genuine business transactions. The appellant had played active role in diverting the loan funds

availed by the SBFL to shell entities on the basis of fake bills generated without any genuine business transactions.

(iii) The appellant was also involved in the export activities of SBFL.

(iv) The twin conditions contained in Section 45(1) of the PML Act would apply to the appellant having regard to the seriousness of the offence and the investigation qua other accused being still in process, the appellant could not be granted bail on the ground that the other persons allegedly involved have not been arrested. Mr. Raju has relied upon the number of decisions of this Court which shall be dealt with as found necessary.

7. At the outset, before adverting to the submissions made by the learned counsels for the parties, it would be apt to note that the PML Act has been enacted to prevent money laundering and to provide for confiscation of property derived from, or involved in money laundering, and for the matters connected therewith and incidental thereto. The said Act was enacted in view of the political declaration adopted by the special session of United Nations General Assembly in June, 1998 calling upon the member states to adopt national money laundering legislation and programme.

8. Section 3 of the PML Act which pertains to the offence of money laundering, reads as under: -

> **"3. <u>Offence of money-laundering</u>**. - 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."

9. Section 45 of the said Act being relevant for the purpose of the instant appeal is reproduced hereunder for ready reference: -

> **"45. <u>Offences to be cognizable and non-bailable.</u>** — (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:

Provided further that the Special Court shall not take cognizance of any offence punishable undersection 4 except upon a complaint in writing made by—

(i) the Director; or

(ii) any officer of the Central Government or a State Government authorised in writing in this behalf by the Central Government by a general or special order made in this behalf by that Government.

(1A) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), or any other provision of this Act, no police officer shall investigate into an offence under this Act unless specifically authorised, by the Central Government by a general or special order, and, subject to such conditions as may be prescribed.

(2) The limitation on granting of bail specified in sub-section (1) is in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.

Explanation. —For the removal of doubts, it is clarified 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 (2 of 1974), and accordingly the officers authorised under this Act are empowered to arrest an accused without warrant, subject to the fulfillment of conditions under section 19 and subject to the conditions enshrined under this section.

10. The constitutional validity of certain provisions of the PML Act and the procedure followed by the Enforcement Directorate while inquiring into/ investigating offences under the said Act having been

challenged before this Court in case of ***Vijay Madanlal Choudhary and Others vs. Union of India and Others***[5], a three Judge Bench had considered the said provisions of the Act in detail. After considering the submissions of the learned counsels for the parties with regard to the interpretation of Section 3 of the said Act, it was held therein as under: -

> **"269.** From the bare language of Section 3 of the 2002 Act, it is amply clear that the offence of money-laundering 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 process or activity can be in any form — be it one of concealment, possession, acquisition, use of proceeds of crime as much as projecting it as untainted property or claiming it to be so. Thus, involvement in any one of such process or activity connected with the proceeds of crime would constitute offence of money-laundering. <u>This offence otherwise has nothing to do with the criminal activity relating to a scheduled offence — except the proceeds of crime derived or obtained as a result of that crime</u>.
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> **270.** Needless to mention that such process or activity can be indulged in only after the property is derived or obtained as a result of criminal activity (a scheduled offence). It would be an offence of money-laundering to indulge in or to assist or being party to the process or activity connected with the proceeds of crime; and such process or activity in a given fact situation may be a continuing offence, irrespective of the date and time of commission of the scheduled offence. In other words, the criminal activity may have been committed before the same had been notified as scheduled offence for the purpose of the 2002 Act, but if a person has indulged in or continues to indulge directly or indirectly in dealing with proceeds of crime, derived or obtained from such criminal activity even after it has been notified as scheduled offence, may be liable to be prosecuted for offence of money-laundering under

[5]2022 SCC Online SC 929

the 2002 Act — for continuing to possess or conceal the proceeds of crime (fully or in part) or retaining possession thereof or uses it in trenches until fully exhausted. The offence of money-laundering is not dependent on or linked to the date on which the scheduled offence or if we may say so the predicate offence has been committed. The relevant date is the date on which the person indulges in the process or activity connected with such proceeds of crime. These ingredients are intrinsic in the original provision (Section 3, as amended until 2013 and were in force till 31.7.2019); and the same has been merely explained and clarified by way of Explanation vide Finance (No. 2) Act, 2019. Thus understood, inclusion of Clause (ii) in Explanation inserted in 2019 is of no consequence as it does not alter or enlarge the scope of Section 3 at all.

271 to 282 ……

283. Even though, the 2002 Act is a complete Code in itself, it is only in respect of matters connected with offence of money-laundering, and for that, existence of proceeds of crime within the meaning of Section 2(1)(u) of the Act is quintessential. Absent existence of proceeds of crime, as aforesaid, the authorities under the 2002 Act cannot step in or initiate any prosecution.

284. In other words, 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 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."

11. As regards the twin conditions for the grant of bail contained in Section 45(1) of the said Act, it has been held in the said decision of ***Vijay Madanlal*** **(supra)** as under: -

"**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 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."

12. In ***Gautam Kundu vs. Directorate of Enforcement (Prevention of Money-Laundering Act), Government of India Through Manoj Kumar, Assistant Director, Eastern Region***[6], it was observed as under: -

"**30.** 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. Section 65 requires that the provisions of CrPC 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. 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."

[6](2015) 16 SCC 1

13. Keeping in view of the aforestated legal position let us consider the submissions made by the learned counsels for the parties. It is trite that the court while considering an application seeking bail, is not required to weigh the evidence collected by the investigating agency meticulously, nonetheless, the court should keep in mind the nature of accusation, the nature of evidence collected in support thereof, the severity of the punishment prescribed for the alleged offences, 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 witness being tampered with, the larger interests of the public/State etc. Though, the findings recorded by the Court while granting or refusing bail would be tentative in nature, nonetheless the Court is expected to express *prima facie* opinion for granting or refusing to grant bail which would demonstrate an application of mind, particularly dealing with the economic offences.

14. The first and foremost contention raised by learned Senior Counsel Mr. Luthra would be that the appellant was not named in the FIR nor in first three prosecution/ supplementary complaints and has been implicated only on the basis of the statements of witnesses recorded

pursuant to the summons issued under Section 50 of the PML Act, without there being any material in support thereof.

15. In our opinion, there is hardly any merit in the said submission of Mr. Luthra. In ***Rohit Tandon vs. Directorate of Enforcement***[7], a three Judge Bench has categorically observed that the statements of witnesses/ accused are admissible in evidence in view of Section 50 of the said Act and such statements may make out a formidable case about the involvement of the accused in the commission of a serious offence of money laundering. Further, as held in ***Vijay Madanlal*** *(*supra), 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,

[7](2018) 11 SCC 46

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.

16. So far as facts of the present case are concerned, as transpiring from the supplementary complaint filed against the appellant, apart from the statements of witnesses recorded under Section 50 of the said Act, there has been sufficient material collected in the form of documents which *prima facie* show as to how the appellant was knowingly a party and actually involved in the process and in the activities connected with the proceeds of crime, and how he was projecting/ claiming such proceeds of crime as untainted and how he was the beneficiary of the proceeds of crime acquired through the criminal activities relating to the scheduled offences .

17. 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.

18. The submission of learned Counsel Mr. Luthra to grant bail to the appellant on the ground that the other co-accused who were similarly situated as the appellant, have been granted bail, also cannot be accepted. It may be noted that parity is not the law. While applying the principle of parity, the Court is required to focus upon the role attached to the accused whose application is under consideration. It is not disputed in that the main accused Sh. Kewal Krishan Kumar, Managing Director of SBFL, and KMP of group companies and the other accused Devki Nandan Garg, owner/ operator/ controller of various shell companies were granted bail on the ground of infirmity and medical grounds. The co-accused Raman

Bhuraria, who was the internal auditor of SBFL has been granted bail by the High Court, however the said order of High Court has been challenged by the respondent before this Court by filing being SLP (Crl.) No. 9047 of 2023 and the same is pending under consideration. In the instant case, the High Court in the impugned order while repelling the said submission made on behalf of the appellant, had distinguished the case of Raman Bhuraria and had observed that unlike Raman Bhuraria who was an internal auditor of SBFL (for a brief period statutory auditor of SBFL), the applicant was the Vice President of Purchases and as a Vice President, he was responsible for the day-to-day operations of the company. It was also observed that the appellant's role was made out from the financials, where direct loan funds have been siphoned off to the sister concerns of SBFL, where the appellant was either a shareholder or director. In any case, the order granting bail to Raman Bhuraria being under consideration before the coordinate bench of this Court, it would not be appropriate for us to make any observation with regard to the said order passed by the High Court.

19. It is axiomatic that the principle of parity is based on the guarantee of positive equality before law enshrined in Article 14 of the

Constitution. However, if any illegality or irregularity has been committed in favour of any individual or a group of individuals, or a wrong order has been passed by a judicial forum, others cannot invoke the jurisdiction of the higher or superior court for repeating or multiplying the same irregularity or illegality or for passing similar wrong order. Article 14 is not meant to perpetuate the illegality or irregularity. If there has been a benefit or advantage conferred on one or a set of people by any authority or by the court, without legal basis or justification, other persons could not claim as a matter of right the benefit on the basis of such wrong decision.

20. It is also difficult to countenance the submission of learned Counsel Mr. Luthra that the investigation qua the appellant is complete and the trial of the cases likely to take long time. According to him the appellant ought not to be incarcerated indefinitely merely because the investigation is kept open with regard to the other accused. In this regard, it may be noted that the appellant has not been able to overcome the threshold stipulations contemplated in Section 45 namely he has failed to *prima facie* prove that he is not guilty of the alleged offence and is not likely to commit any offence while on bail. It cannot be gainsaid that the burden of proof lies on the accused for

the purpose of the condition set out in the Section 45 that he is not guilty of such offence. Of course, such discharge of burden could be on the probabilities, nonetheless in the instant case there being sufficient material on record adduced by the respondent showing the thick involvement of the appellant in the alleged offence of money laundering under Section 3 of the said Act, the Court is not inclined to grant bail to the appellant.

21. The apprehension of the learned counsel for the appellant that the trial is likely to take long time and the appellant would be incarcerated for indefinite period, is also not well founded in view of the observations made by this Court in case of ***Vijay Madanlal*** (supra). On the application of Section 436A of the Code of Criminal Procedure, 1973, it has been categorically held therein that: -

> "**419**. Section 436A of the 1973 Code, is a wholesome beneficial provision, which is for effectuating the right of speedy trial guaranteed by Article 21 of the Constitution and which merely specifies the outer limits within which the trial is expected to be concluded, failing which, the accused ought not to be detained further. Indeed, Section 436A of the 1973 Code also contemplates that the relief under this provision cannot be granted mechanically. It is still within the discretion of the Court, unlike the default bail under Section 167 of the 1973 Code. Under Section 436A of the 1973 Code, however, the Court is required to consider the relief on case-to-case basis. As the proviso therein itself recognises that, in a given case, the detention can be continued by the Court even longer than one-half of the period, for which, reasons are to be recorded by it in writing and also by imposing such terms and

conditions so as to ensure that after release, the accused makes himself/herself available for expeditious completion of the trial."

22. Lastly, it may be noted that as held in catena of decisions, the 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. Undoubtedly, economic offences have serious repercussions on the development of the country as a whole. To cite a few judgments in this regard are ***Y.S. Jagan Mohan Reddy vs. Central Bureau of Investigation***[8]***, Nimmagadda Prasad vs. Central Bureau of Investigation***[9]***, Gautam Kundu vs. Directorate of Enforcement*** **(supra),** ***State of Bihar and Another vs. Amit Kumar alias Bachcha Rai***[10]***.*** This court taking a serious note with regard to the economic offences had observed as back

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[8] **(2013) 7 SCC 439**
[9] **(2013) 7 SCC 466**
[10] **(2017) 13 SCC 751**

as in 1987 in case of ***State of Gujarat vs. Mohanlal Jitamalji Porwal and Another***[11] as under:-

> **"5…** The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to books. 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…"

23. With the advancement of technology and Artificial Intelligence, the economic offences like money laundering have become a real threat to the functioning of the financial system of the country and have become a great challenge for the investigating agencies to detect and comprehend the intricate nature of transactions, as also the role of the persons involved therein. Lot of minute exercise is expected to be undertaken by the Investigating Agency to see that no innocent person is wrongly booked and that no culprit escapes from the clutches of the law. When the detention of the accused is continued by the Court, the courts are also expected to conclude the trials within

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[11] **(1987) 2 SCC 364**

a reasonable time, further ensuring the right of speedy trial guaranteed by Article 21 of the Constitution.

24. With the afore-stated observations, the appeal is dismissed.

…….. J.
[ANIRUDDHA BOSE]

…….. J.
[BELA M. TRIVEDI]

NEW DELHI;
NOVEMBER 20th, 2023