



NC: 2025:KHC:22735
CRL.P No. 7909 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF JUNE, 2025

BEFORE

THE HON'BLE MR JUSTICE S VISHWAJITH SHETTY

CRIMINAL PETITION NO. 7909 OF 2025

BETWEEN:

DR. B.K. NAGARAJAPPA
S/O S KRISHNAPPA
AGED ABOUT 55 YEARS
R/AT NO. 1089, 4TH MAIN ROAD
M.C.R. LAYOUT, VIJAYANAGAR
BENGALURU -560 040.

...PETITIONER

(BY SRI BIPIN HEGDE, ADV., FOR
SRI B.S. JEEVAN KUMAR, ADV.)

AND:

DIRECTORATE OF ENFORCEMENT
GOVERNMENT OF INDIA
BANGALORE ZONAL OFFICE
3RD FLOOR, BLOCK-B, BMTc BUILDING
SHANTHINAGAR, K.H. ROAD
BENGALURU - 560 027
REP. BY ITS INVESTIGATION OFFICER.

...RESPONDENT

(BY SRI UNNIKRISHNAN M, ADV.)

THIS CRL.P IS FILED U/S 439 CR.PC (U/S 483 OF BNSS)
PRAYING TO ENLARGE THE PETITIONER/ACCUSED NO.2 ON
REGULAR BAIL REGISTERED BY THE ADDL. DIRECTOR,
DIRECTORATE OF ENFORCEMENT, BANGALORE, WITH THE OFFENCE
P/U/S. 3 AND 4 OF PMLA IN ECIR/BGZO/05/2025 PENDING BEFORE
THE PRL.CITY CIVIL AND SESSIONS JUDGE AT BENGALURU.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER
WAS MADE THEREIN AS UNDER:





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CORAM: HON'BLE MR JUSTICE S VISHWAJITH SHETTY

ORAL ORDER

Accused No.2 in ECIR/BGZO/05/2025 registered by the Additional Directorate, Directorate of Enforcement, Bengaluru, for the offence punishable under Section 4 of the Prevention of Money Laundering Act, 2002 (for short, 'PML Act') pending before the Court of Principal City Civil & Sessions Judge, Bengaluru is before this Court under Section 483 of BNSS, 2023 seeking regular bail.

2. Heard the learned counsel appearing for the parties.

3. The petitioner was working as a General Manager of the Karnataka Bhovi Development Corporation (herein after referred to as 'Corporation' for short) for the period between 05.04.2021 to 01.07.2022. FIR was registered before the various Police Stations in the State against the management and employees of the Corporation alleging that there was misappropriation of



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funds belonging to the Corporation and particulars of the said FIRs as follows:

Sl. No	Date	FIR/Crime No.	Name of Police Station
1	18.03.2023	Crime No.56/23	Siddapura Police Station, Bengaluru City
2	18.01.2023	Crime No.7/23	Doddaballapua Police Station, Bengaluru District
3	09.12.2022	Crime No.79/22	Kalagi Police Station, Kalburgi District
4	10.10.2024	Crime No.98/24	Vidhan Soudha Police Station, Bengaluru.

4. The respondent subsequently initiated proceedings under Section 19 of the PML Act and ECIR/BGZO/05/2025 was registered against three persons for the offence punishable under Section 4 of the PML Act and the petitioner herein is arraigned as accused no.2 in the said case. It is alleged that, aforesaid four FIRs were registered for the offences punishable under Section 420 and 120B of IPC etc., which are the scheduled offences



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and utilising the proceeds of the crime, properties were derived/obtained by the accused, which amounted to offence punishable under Section 4 of the PML Act.

5. The petitioner was arrested in the present case on 05.04.2025 and subsequently he was remanded to judicial custody. The bail application filed by the petitioner before the jurisdictional sessions Court was rejected on 28.05.2025. Therefore, he is before this Court.

6. Learned counsel for the petitioner having reiterated the grounds urged in the petition submits that charge sheet has not been filed till date in the criminal cases registered for the predicate offences. The petitioner was the person, who initially had submitted a complaint to the Hon'ble Chief Minister of the Karnataka State about the fraud and misappropriation of funds committed by the officials of the Corporation. The complaint by the petitioner was much prior to the registration of the aforesaid 4 FIRs



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for predicate offence. The petitioner is now implicated falsely in the present case.

7. During the course of investigation in the present case, no material has been recovered from the petitioner which would *prima-facie* make out the alleged offence against him. The properties, which have been attached in the present case were purchased by the petitioner, much prior to he taking charge as a General Manager in the Corporation. He submits that, except the confession statement of the co-accused in the criminal case registered for predicate offences, there is no other material collected against the petitioner in the present case. Investigation of the case is already completed and final report/complaint has been filed before the jurisdictional Court by the respondent. Accordingly, he prays to allow the petition.

8. Per contra learned counsel appearing for the respondent referring to Section 3 of the PML Act submits



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that the petitioner is an accused in the FIR registered for predicate offences and the proceeds of crime have been directly or indirectly utilised by the petitioner for purchase of properties and therefore a prima-facie case under the provisions of PML Act is made out against him. He refers to paragraph No.20 of the statement of objection and submit that the statement recorded under Section 17 of the PML Act and audio evidence clearly establishes a case of money laundering against the petitioner, which is punishable under Section 4 of the PML Act. He submits that in view of the rigor under Section 45 of the PML Act since there is *prima-facie* case against the petitioner, his bail application is liable to be rejected.

9. Section 3 of the PML Act reads as follows:

3. Offence of money-laundering.- 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 ¹[proceeds of crime including its concealment, possession, acquisition or use and projecting or



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claiming] it as untainted property shall be guilty of offence of money-laundering.

10. Proceeds of the crime has been defined under section 2(i)(u) of the PML Act, which reads as follows:

"2(i)(u)"proceeds of crime" means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property ¹⁵[or where such property is taken or held outside the country, then the property equivalent in value held within the country] ¹⁶[or abroad]".

11. Section 4 of the PML Act which provides for punishment for money laundering reads as follows:

4. "Punishment for money laundering.- Whoever commits the offence of money-laundering shall be punishable with rigorous imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine

Provided that where the proceeds of crime involved in money-laundering relates to any offence specified under paragraph 2 of Part A of the Schedule, the provisions of this section shall have effect as if for the words "which may extend to seven years", the words "which may extend to ten years" had been substituted.



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12. The petitioner was working as a General Manager in the Corporation for the period from 05.04.2021 to 01.07.2022. The material placed on record by the petitioner would go to show that, when he was so working as a General Manager in the Corporation he had made a complaint on 21.11.2021 to the Hon'ble Chief Minister of the Karnataka State bringing to his notice about the illegal grants and misappropriation of funds belonging to the Corporation. It is only thereafter the aforesaid criminal cases were registered against the management and the employees of the Corporation including the petitioner herein.

13. Undisputedly, till date no charge sheet has been filed in anyone of the criminal cases registered for the predicate offences. For the purpose of attracting the offence punishable under Section 4 of the Act, the prosecution is primarily required to prove that accused was involved in committing predicate offence and the proceeds of the said crime has been utilised by him



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directly or indirectly for the purpose of deriving or obtaining any property, the accused is directly or indirectly involved in the process or activity connected with the said property being proceeds of the crime. It is only on establishing these foundational facts, legal presumption under Section 24 of the PML Act arises against accused and unless the accused successfully rebuts the said presumption, he would be liable to be punished for the offence under Section 4 of the Act.

14. In the case of **VIJAY MADANLAL CHOUDHARY V. UNION OF INDIA - (2023) 12 SCC 1**, the Hon'ble Supreme Court at paragraph Nos.237, 239 & 240 has observed as follows:

"237. Be that as it may, we may now proceed to decipher the purport of Section 24 of the 2002 Act. In the first place, it must be noticed that the legal presumption in either case is about the involvement of proceeds of crime in money-laundering. This fact becomes relevant, only if, the prosecution or the authorities have succeeded in establishing at least three basic or foundational facts. ***First, that the criminal activity relating***



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to a scheduled offence has been committed. Second, that the property in question has been derived or obtained, directly or indirectly, by any person as a result of that criminal activity. Third, the person concerned is, directly or indirectly, involved in any process or activity connected with the said property being proceeds of crime. On establishing the fact that there existed proceeds of crime and the person concerned was involved in any process or activity connected therewith, itself, constitutes offence of money-laundering. The nature of process or activity has now been elaborated in the form of Explanation inserted vide Finance (No. 2) Act, 2019. On establishing these foundational facts in terms of Section 24 of the 2002 Act, a legal presumption would arise that such proceeds of crime are involved in money-laundering. The fact that the person concerned had no causal connection with such proceeds of crime and he is able to disprove the fact about his involvement in any process or activity connected therewith, by producing evidence in that regard, the legal presumption would stand rebutted.

239. Be it noted that the legal presumption under Section 24(a) of the 2002 Act, would apply when the person is charged with the offence of money-laundering and his direct or indirect



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involvement in any process or activity connected with the proceeds of crime, is established. The existence of proceeds of crime is, therefore, a foundational fact, to be established by the prosecution, including the involvement of the person in any process or activity connected therewith. *Once these foundational facts are established by the prosecution, the onus must then shift on the person facing charge of offence of money-laundering—to rebut the legal presumption that the proceeds of crime are not involved in money-laundering, by producing evidence which is within his personal knowledge. In other words, the expression "presume" is not conclusive.* It also does not follow that the legal presumption that the proceeds of crime are involved in money-laundering is to be invoked by the authority or the court, without providing an opportunity to the person to rebut the same by leading evidence within his personal knowledge.

240. Such onus also flows from the purport of Section 106 of the Evidence Act. Whereby, he must rebut the legal presumption in the manner he chooses to do and as is permissible in law, including by replying under Section 313 of the 1973 Code or even by cross-examining prosecution witnesses. The person would get enough opportunity in the proceeding before the authority or the court, as the case may be. He



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may be able to discharge his burden by showing that he is not involved in any process or activity connected with the proceeds of crime. In any case, in terms of Section 114 of the Evidence Act, it is open to the court to presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct, and public and private business, in their relation to the facts of the particular case. Considering the above, the provision under consideration [Section 24(a)] by no standards can be said to be unreasonable much less manifestly arbitrary and unconstitutional.”

(emphasis supplied)

15. In the present case after registration of FIR, the petitioner was arrested on 05.04.2025 and during the course of investigation, provisional attachment order was passed on 23.05.2025. Perusal of the attachment order would go to show that, in spite of efforts made, the proceeds of crime could not be traced. Insofar as the petitioner herein is concerned, two properties belonging to him which were listed for attachment, were purchased, much prior to he taking charge as a General Manager in



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the Corporation. Investigation in the case is now completed and final report/complaint is also filed. The copy of the said final report/complaint is made available before to Court by the learned counsel for the respondent. Perusal of the said Complaint would go to show that except the confession statement of the co-accused in the cases registered for predicate offence there is no other material collected by the Investigating Officer in the present case which would prima-facie goes to show that the petitioner is guilty of the offence punishable under section 4 of the PML Act.

16. In the case of **PREM PRAKASH V. UNION OF INDIA THROUGH THE DIRECTORATE OF ENFORCEMENT - (2024) 9 SCC 787**, the Hon'ble Supreme Court in paragraph No.38 and 44 has observed as follows:

"38. We have no hesitation in holding that when an accused is in custody under PMLA irrespective of the case for which he is under custody, any statement under Section 50 PMLA to the same investigating agency is inadmissible against the maker. The reason being that the



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person in custody pursuant to the proceeding investigated by the same investigating agency is not a person who can be considered as one operating with a free mind. It will be extremely unsafe to render such statements admissible against the maker, as such a course of action would be contrary to all canons of fair play and justice.

44. Being a co-accused with the appellant, his statement against the appellant assuming there is anything incriminating against the present appellant will not have the character of substantive evidence. The prosecution cannot start with such a statement to establish its case."

17. Though in the statement of co-accused in cases registered for predicate offences, it is stated that, the petitioner was a party to the predicate offences no material has been collected by the Investigating Officer, which would corroborate the said allegation made against the petitioner and in the absence of any corroborative evidence, the confession statement of the co-accused alone cannot be a basis to arrive at a *prima-facie* conclusion that, the prosecution has made out a case



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against the petitioner for the alleged offence under the PML Act.

18. The Courts while considering bail application in a case registered under the provisions of PML Act is required to place its view based on the probability of the basis and reasonable guilt during investigation. Under Section 45 of PML Act, the words used are "reasonable grounds for believing" and therefore, the Court is only required to see whether there is a *prima-facie* case made against the accused. In the present case after completing investigation, no substantive piece of evidence is filed, which would *prima-facie* establish the guilt of money laundering against the petitioner.

19. Undisputedly, in the cases registered for the predicate offences, investigation is not completed. Insofar as the present case is concerned the prosecution has cited 54 witnesses and cognizance of the alleged offences is not



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yet taken. The maximum punishment for the alleged offences is imprisonment for a period of seven years.

20. The Hon'ble Supreme Court in the case of **ANWAR DHEBAR V. DIRECTORATE OF ENFORCEMENT-CRL.A.NO.(S) 2669 OF 2025** following the law laid down in the case of **V SENTHIL BALAJI v. DEPUTY DIRECTOR, DIRECTORATE OF ENFORCEMENT - (2024) SCC ONLINE SC 2626** taking into consideration the maximum punishment for the alleged offences and that there is no possibility of trial commencing in the near future has granted bail to the accused. Similar view has been taken by the Hon'ble Supreme Court in the case of **ANIL TUTEJA V. DIRECTORATE OF ENFORCEMENT - (SLP (CRL.) NO.3148/2025**. Under these circumstances, I am of the opinion that, the prayer made by the petitioner for grant of regular bail needs to be answered affirmatively.

21. Accordingly, the following:



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ORDER

Criminal Petition is allowed.

The petitioner is directed to be enlarged on bail in ECIR/BGZO/05/2025 registered by the Additional Directorate, Directorate of Enforcement, Bengaluru, for the offence punishable under Section 4 of the Prevention of Money Laundering Act, 2002, pending before the Court of Principal City Civil & Sessions Judge, Bengaluru, subject to the following conditions:

- a) The petitioner shall execute a personal bond for a sum of Rs.1,00,000 (Rupees One Lakh only) with two sureties for the likesum, to the satisfaction of the jurisdictional Court;
- b) The petitioner shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts his appearance for valid reasons;
- c) The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;



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d) The petitioner shall not involve in similar offences in future;

Sd/-
(S VISHWAJITH SHETTY)
JUDGE

NMS