IN THE COURT OF NARENDER SURA, SESSIONS JUDGE-CUM-SPECIAL JUDGE (UNDER THE PREVENTION OF MONEY LAUNDERING ACT, 2002), GURUGRAM
(UID NO.HR0124)

HRGR01-009061-2026

CIS Registration No.	:	BA-2336-2026
Date of Institution	:	18.05.2026
Date of decision	:	15.06.2026

Sanjeev Arora, resident of House No.3311, Gurudev Nagar, Ludhiana

… Petitioner-Accused

Versus

Directorate of Enforcement, Pravartan Bhawan, New Delhi-110001

… Respondent

Bail application under section 483 of B.N.S.S, 2023

ARGUED BY:-

→ Shri Puneet Bali, Senior Advocate with Shri Arjun Dewan, Advocate, Shri Viren Sibal, Advocate, Shri Aditya Soni, Advocate, Shri Jasman, Advocate, Shri Aryan Deol, Advocate and Shri Rajat, Advocate for the petitioner.

→ Shri Zoheb Hossain, Advocate, Special Counsel along with Shri Simon Benjamin, Special Public Prosecutor, Shri Pranjal Tripathi, Advocate, Shri Siddharth Bajaj, Advocate, Shri Satyam, Advocate *assisted by* Shri Pawan Kumar Yadav, Assistant Director (Investigating Officer) on behalf of respondent/ED.

(Narender Sura)
Sessions Judge-cum-Special Judge
(under the Prevention of Money Laundering Act, 2002), Gurugram, 15.06.2026

ORDER:

Vide this order, this court is deciding the above-mentioned bail application filed by the petitioner for grant of regular bail in case pertaining to ECIR No.HIU/1/14/2026 dated 05.05.2026 which has been recorded for commission of offence punishable under Sections 3 and 4 of the Prevention of Money Laundering Act, 2002 (hereinafter it will be mentioned as 'the Act').

2. Upon notice, reply to the bail application has been filed by the prosecution/ED and copy thereof has been supplied to the learned counsel for the petitioner.

ARGUMENTS ON BEHALF OF PETITIONER

3. Learned counsel for petitioner submitted that petitioner is entitled to regular bail on the following grounds:-

> **(i)** that the applicant/Shri Sanjeev Arora was arrested in the present case on 09.05.2026 by the respondent/Enforcement Directorate, without having any incriminating evidence and on perusal of reply filed by the ED, it is clear that till date, there is no incriminating and *prima facie* evidence against him and without any evidence regarding commission of any offence, he has now suffered an incarceration for period of more than one month;

(ii) that as per the settled law in the case of *Prem Prakash Versus Union of India through the Directorate of Enforcement* [(2024) 9 SCC 787], reply to the bail application should specifically crystallise albeit briefly the material sought to be relied upon by the prosecution to establish prima facie the three foundational facts and only after the foundational facts are set out, the burden shifts upon the accused to convince the court within the parameters of the enquiry under Section 45 of the Act that for the reasons adduced by him, there are reasonable grounds to believe that he is not guilty of such offence;

(iii) that as per reply, ED has alleged and crystallized the 'Proceeds of Crime' to be ₹102.5 crores and for its case, the ED has primarily relied upon the statements of two individuals namely Kamal Ahmad and Azhar Haider and on the basis of the statements made by these two persons, the ED has set up the case that no genuine exports were undertaken by M/s Hampton Sky Realty Limited (hereinafter referred to as "HSRL") and has consequently treated the entire export value as proceeds of crime, however perusal of the reply shows that only vague allegations have been made by the investigating agency/ED;

(iv) that registration of the FIR No. 0137 dated 18.04.2026 regarding schedule offence is malafide and colourable exercise of power and ED itself was the complainant in the predicate FIR, which was registered on its own complaint during an ongoing FEMA search (17.4.2026 to 19.2.2026);

(v) that registration of FIR No. 0137 dated 18.04.2026 itself reflects pre-determined approach adopted by the ED and interestingly, in the midst of the search proceedings conducted under the Foreign Exchange Management Act, 1999 on 17.04.2026, the Investigating Officer proceeded to lodge a complaint with the Haryana Police and till then, the search was not even complete and upon reading of the FIR, it is clear that the investigating agency itself was not clear whether the exports were made with actual movements of goods or they were overvalued;

(vi) that FIR No. 0137 dated 18.04.2026 registered at Police Station Udyog Vihar, Gurugram has been registered due to raid conducted under FEMA and there is no provision under FEMA to report or submit any such information to any authority unlike Section 66 of PMLA, 2002;

(vii) that the entire FIR does not disclose which documents has been purportedly been forged and how the applicant and the people named in the FIR were involved in such forgery or other offences in any manner whatsoever, so no schedule offence has been committed. When none of the scheduled offences are prima facie made out from the allegations contained in the FIR itself, the PMLA proceedings collapses and the petitioner is entitled to the grant of regular bail in view of the judgment in the case of *Sanjay Pandey Versus Directorate of Enforcement* *(*2022 SCC OnLine Del 4279), *Sanjay Jain Versus Directorate of Enforcement* (2024 SCC OnLine Del 1656) **and** *Chitra Ramkrishna Versus Assistant Director, Enforcement Directorate* (2023 SCC OnLine Del 653);

(viii) that the case of the prosecution is that M/s S.K. Enterprises and M/s Global Traders generated forged and fabricated invoices and even if the allegations of the ED are taken to be true on their face value, the same do not satisfy the essential ingredients of the offence of forgery, in view of the law settled in the case of *Mohd. Ibrahim Versus State of Bihar, [(2009) 8 SCC 751]*, wherein it has been held that a document can be said to be forged only when it has been purportedly signed by a person claiming to be someone else or materially altered. In the present case, the FIR is completely silent as to whose signature was forged, who forged the same, when such forgery was committed and in what manner the alleged false documents were created and the entire FIR does not disclose which valuable security has been forged and all this shows that the Sections are added in the FIR without availability of ingredients of said offences and admittedly none of the alleged fake bills bears signatures of the petitioner;

(ix) that the FIR is completely silent as to who has been cheated by the applicant and even it does not disclose the identity of any person who was deceived, induced to part with property, or who suffered any wrongful loss on account of any misrepresentation made by the applicant. There is no allegation identifying any property that was delivered pursuant to such alleged deception. The ingredients of the offence of cheating are therefore conspicuously absent from the allegations contained in the FIR;

(x) that on perusal of the record, it is clear that FIR has been got registered malafidely due to political reasons and the provision contained in Section 45 of the Act will not come in the way for granting bail and to protect life and liberty of the petitioner;

(xi) that registration of the FIR clearly indicate that its sole purpose was to create the jurisdictional facts for invoking the provisions of the Prevention of Money Laundering Act, 2002 and not to actually report any cognizable offence and even on perusal of FIR of the predicate offence, it is clear that no offence was committed and even registration of the FIR is illegal and once there is no predicate offence, then accused cannot be kept in custody in this case only because of the fact that offences mentioned in the alleged FIR falls in the scheduled offence;

(xii) that from the provisions of the PMLA, it is very much clear that jurisdiction of the ED is limited only to the investigation of money laundering and proceeds of crime. So the ED is not empowered under law to investigate the allegations constituting the scheduled offence;

(xiii) that ED *has no jurisdiction to investigate the predicate Offence* and even on perusal of FIR relating to predicate offence, it is clear that there is no prima facie evidence to show that alleged offence has been committed; the ED cannot and must not be permitted to investigate the authenticity of the exports and the same is exclusively vested in the authorities under law who are empowered to investigate the said matter. In the present case, no authority has alleged that there was/is any illegality or that no exports have taken place and in fact, the records of the Customs Authorities show that the exports were conducted through 43 export orders/shipments. Thus, in the absence of any material from any other authority, whether the jurisdictional police or the Customs Authorities, the ED cannot be permitted to allege that it has found that no exports were undertaken however the entire case of ED is that the exports have not taken place, even though it is not empowered to investigate the authenticity of the exports;

(xiv) that alleged forged invoices had originated from M/s S.K. Enterprises and M/s Global Traders, none of the persons have been arraigned as accused in the present FIR, which reeks of malafide;

(xv) that it is the case of ED that Azhar Haider had issued fake bills and despite of non-having any material to supply, he had issued the invoices but it is admitted fact that he has not been made accused either in the FIR pertaining to predicate offence and even he has not been arrested by ED in the present ECIR till today and as per settled law, selective arrest of the persons by investigating agency is not permissible and the selective treatment by ED in not arresting persons, who were having a graver role, vitiates the fairness of the arrest and constitutes a relevant consideration warranting grant of bail in view of the the judgment in the case of *Ramesh Manglani Versus Directorate of Enforcement, (2023 SCC OnLine Del 3234);*

(xvi) that more that 13,000 mobile phones were sent abroad and on perusal of the documents attached with the bail application, it is clear that there was clearance of the said mobile phones from the Custom

Department and even some amount was refunded against GST claims by GST department;

(xvii) that on perusal of record, it is clear that it is the case of prosecution that accommodation entries were given by one Azhar Haider and even if it accepted that the online transaction were made by the petitioner or the companies to the account of Azhar Haider and amount was collected in cash from him, but in the year 2025, FIR has been got registered by the company against Azhar Haider when the GST amount was not refunded and it revealed that his GST refund was blocked by the competent authority and only on the ground that amount was collected in cash, it cannot be held that predicate offence has been committed or proceeds of crime were generated and at the most, Income Tax Authorities have right to take action in regard to alleged cash transactions;

(xviii) that even if it is taken that GST refund was taken against fake invoices, then also there was no loss to anyone and there is no complaint alleging that any person has suffered loss and in these circumstances, it cannot be said that any forgery has been committed or any other offence has been committed;

(xix) that on perusal of reply filed by ED, it is clear that it has not been demonstrated by ED that there was any proceeds of crime and any property has been obtained from the proceeds of crime directly or indirectly by accused or even by any family member;

(xx) that it is the case of the ED that accused has generated proceeds of crime to the tune of ₹102.5 crores, but the said amount is the total export invoice value, so the said allegation is wholly untenable both on facts as well as in law, as the Company was carrying out business of mobiles under a valid export license and it is not the case of ED that the money paid by M/s Fortbel Telecom FZCO, UAE and M/s Dragon Global FZCO, UAE was generated out of any schedule offence. Thus, it cannot be said that ₹102 crores is the proceeds of crime. The receipt of ₹102.5 Crores by the HSRL is on account of export sales made during valid export business and on perusal of the documents attached with the bail application, it is clear that proper procedure was followed for exporting the mobile phones and clearance was given by the Custom Department and it cannot be said that mobiles were not exported and even claim for refund of the duties was also accepted by the competent authorities;

(xxi) that ED has primarily relied upon the transactions involving only two entities i.e M/s S.K. Enterprises and M/s Global Traders, however, these entities do not constitute the entirety of HSRL's procurement chain for mobile phones and it is an admitted position that HSRL had also procured mobile phones from several other vendors, including Reliance and Vijay Sales, amongst others;

(xxii) that HSRL exported mobile phones pursuant to 43 separate orders, each of which was processed through the statutory customs mechanism and each export shipment was subjected to scrutiny and clearance by the Customs Authorities and the drawback was processed in accordance with Customs Standard Operating Procedure (SOP) governing export of mobile phones and electronic devices;

(xxiii) that the goods procured from M/s S.K. Enterprises and M/s Global Traders were exported to overseas purchasers through 17 separate export consignments out of the total 43 export consignments undertaken by HSRL and chain of contemporaneous documents completely vindicates the allegation that HSRL indulged in bogus exports or fictitious transactions;

(xxiv) that entire case of the ED is based on mere suspicion of generating proceeds of crime and as per settled law only on the basis of suspicion, it cannot be said that offence has been committed and accused cannot be kept in custody;

(xxv) that it is matter of record that Pawan Kumar, Investigating Officer had conducted proceedings on the day of arrest and he had prepared notice, as clear from the reply and it is also admitted fact that he is the complainant/informant in FIR No. 0137 dated 18.04.2026 registered at Police Station Udyog Vihar, Gurugram, so once he was well versed with the case file and material on record, it cannot be said that there was independent application of mind, as per requirement Section 19 of the Act;

(xxvi) that as per the settled law, illegality committed at the time of arrest can be looked into at the stage of bail and grounds qua non-compliance of S.19(1) of the Act can be taken by the applicant whilst addressing arguments seeking bail and it is matter of record that ECIR was recorded on 05.05.2026 and the applicant was arrested on 09.05.2026, only 4 days later, which is sufficient to infer that no meaningful independent investigation into the voluminous export documentation was conducted before arresting the applicant and in view of the judgment in the case of *Arvind Kejriwal Versus Directorate of Enforcement (2024 SCC OnLine SC 1703)*, the power of arrest under PMLA cannot be exercised merely for the purpose of conducting investigation and it has been held that the power of arrest under Section 19 PMLA is not a tool for investigation, arrest must be preceded by sufficient material on record, and the IO must form an independent belief of guilt based on material already available, not on material hoped to be obtained through custodial interrogation;

(xxvii) that the Investigation officer failed to verify the factum of exports to the foreign entities from the Customs Department in India and UAE and has jumped to the conclusion of guilt of the applicant and it was obligatory that investigation from the concerned authorities was done prior to causing arrest. Further, the clarity regarding exports could be sought by the IO by examining the applicant u/s 50, PMLA, thus the same is in violation of S.19, PMLA in view of the law settled in the case of Asif Hanif Thara *Versus* Enforcement Directorate (2024 SCC OnLine MP 7379);

(xxviii) that the custody of the applicant is not required as the allegations pertaining to the case are based upon documentary transactions already forming part of official statutory record, so there was no occasion to arrest the applicant as the applicant had duly cooperated in the investigation and nothing incriminating was found during the multiple searches and the applicant being a Public Servant and presently the Cabinet Minister in State of Punjab was unlikely to flee from justice or tamper with any evidence;

(xxix) that in view of the judgment in the case of 'Pranav Gupta *Versus* Union of India (2023:PHHC:157511-DB), the time mentioned on the arrest memo is immaterial and time of arrest of petitioner would be considered from the time when he was restrained and for all intents and purposes, it is to be considered that he was in custody of the ED with effect from 09.05.2026 and if it was so, then ED was required to supply grounds of arrest immediately at that time, however, it is admitted case of ED that grounds of arrest were supplied at 04:00 P.M., so custody of the petitioner is illegal and he is entitled to bail at this stage and even no notice under section 50 of the Act was given before arrest;

(xxx) that once it is the case of ED that Azhar Haider had issued fake bills/invoice, then how his reply or statement made under Section 50 of the Act can be considered by ED as satisfactory but the petitioner has been arrested on the same allegations which is sufficient to show that act of the ED is malafide and pick and choose policy has been adopted for conducting investigation;

(xxxi) that no proceedings under the provisions of Income Tax and GST Act are pending against the petitioner or HSRL;

(xxxii) that once it is admitted case of prosecution/ED that mobiles were exported, then in such circumstances, it cannot be said that any proceeds of crime were generated;

(xxxiii) that till date any competent authority from the Custom Department has not been joined in the investigation and it is the case of ED that mobiles were not exported in Dubai;

(xxxiv) that HSRL had claimed duty drawback in respect of the exported mobile phones and in terms of the Standard Operating Procedure, the pre-activation of all the IMEI numbers was to be verified by customs authority before processing the duty drawback claims and the factum of exports is also duly corroborated by the order dated 29.12.2023 passed by the Assistant Commissioner of Customs (Drawback), Air Cargo Export, IGI Airport, New Delhi and in the said order, it is duly noted that an email was sent by Assistant Commissioner to Apple to verify regarding the activation of mobile phones, wherein it was found that out of 13,930 exported mobile phones, only 62 devices were found to be pre-activated and due to that reason, duty drawback was disallowed only qua 62 devices, whereas drawback amounting to approximately ₹48.53 lakhs was approved;

(xxxv) that in view of the documents on record, the ED cannot be permitted to rely on the two statements of Kamal Ahmad and Azhar Haider recorded under Section 50 of the Act while discarding entire chain of statutory records maintained by Customs Authorities, DGFT systems, authorized carriers and foreign customs authorities by assuming that they have not done their duties in accordance with the law. Such an approach is unacceptable in view of Section 119 (e) of the Bhartiya Sakshya Adhiniyam, 2023, which permits the Court to presume that official and judicial acts have been performed in a proper manner;

(xxxvi) that it is the case of ED that the HSRL wrongfully claimed GST refund and GST authorities had rejected the claim, however it is matter of record that the GST authorities have approved all the claim except of a limited amount relating to M/s S.K. Enterprises and M/s Global Traders and all the remaining claims have found to be in order and the reason for rejection of claim in relation to the above mentioned entities is on account of their non-compliance with the applicable laws and it is matter of record that upon getting to know regarding the same, HSRL got lodged FIR being FIR No. 83 at Ludhiana;

(xxxvii) that bail can not be rejected on the basis of statements made by Kamal Ahmad and Azhar Haider as these statements have been recorded after passing of more than a year after HSRL had got registered FIR No. 83 dated 17.05.2025, wherein M/s S.K. Enterprises through its proprietor Kamal Ahmad and M/s Global Traders through its proprietor Azhar Haider were named as an accused, so they have all the reason to give a false statement in order to create their defence in FIR No. 83 and to avoid action against them in the proceedings registered at Ludhiana; **and**

(xxxviii) that commission of offence under Section 3 of the PMLA requires existence of the requisite *mens rea*, and there is no material whatsoever to show that the applicant had any knowledge of the alleged fake invoices or accommodation entries.

To substantiate his arguments, learned counsel for the petitioner has relied upon the judgments in the cases of *R.K.M. Powergen Pvt. Ltd. Versus The Assistant Director and others [2022 SCC OnLine MAD 9860], R.K.M. Powergen Pvt. Ltd. Versus The Assistant Director, Directorate of Enforcement and another [2025 SCC OnLine MAD 3272], Pankaj Bansal Versus Union of India & others [(2024) 7 SCC 576], Directorate of Enforcement Versus Subhash Sharma [2025 SCC OnLine SC 240]; Mihir Rajesh Shah Versus State of Maharashtra and another [(2026) 1 SCC 500], Dr. Rajinder Rajan Versus Union of India and others [2026(2) RCR (Criminal) 484], Sukhbir Singh Badal Versus Balwant Singh Khera and* *others [2023 SCC OnLine SC 522],* and *Bisheshar Dayal Versus State of U.P. [MANU/UP/0470/1971].*

With these submissions, learned counsel for petitioner prayed for grant of bail.

ARGUMENTS ON BEHALF OF RESPONDENT/ED

4. Learned Special Public Prosecutor for the respondent-ED opposed the present bail application while submitting:-

(i) that investigation is still pending and accused was arrested on 09.05.2026 and as per mandate of 187 of BNSS, investigating agency/ED has right to seek remand for the purpose of investigation upto 40 days from the date of arrest and although there is no absolute bar to entertain the bail application but in case of grant of bail at this stage, the same will hamper the investigation;

(ii) that judgments relied upon by the petitioner are related to the cases where investigation was concluded and there was delay in trials or some of the accused, who may be accused in said cases, were not joined in the investigation and made accused but in the present case, matter is still under investigation and it is for ED whether a person is required to be arrested or made accused or not and at this stage, bail cannot be granted to the petitioner on that ground that Kamal Ahmad and Azhar Haider have not been made accused in the predicate offence or in the present ECIR;

(iii) that it is the case of petitioner that FIR No. 83 dated 17.05.2025 was registered at Police Station Focal Point, Ludhiana, Punjab, for the commission of offences punishable under Sections 420 and 120-B of the Indian Penal Code, 1860, however it is matter of record that when GST authorities started inquiries regarding fake supply, this FIR was got registered in order to create a defence at appropriate stage in case of initiation of any proceedings or registration of any case;

(iv) that although refund of GST claim taken by the company is about ₹13 crores but in view of the provisions contained in Section 2(1)(u) and 23 of the PMLA, 2002 the amount involved in all the transaction can be considered as proceeds of crime;

(v) that even if it is taken that FIR No. 83 dated 17.05.2025 was registered at Police Station Focal Point, Ludhiana, Punjab, for the commission of offences punishable under Sections 420 and 120-B of the Indian Penal Code, 1860 at the instance of the company, it cannot be said that the petitioner has not committed the offence and it is clear that FIR was got registered just to create defence at appropriate stage;

(vi) that only from the fact that if Custom Department has not initiated any action or raise any suspicion, it cannot be said that offence in question has not been committed and in view of Section 66(ii) of the PMLA, 2002, sufficient incriminating evidence has come on record against the petitioner and co-accused and the same has been shared with the Custom Department and at this stage, it cannot be said that no action has been taken by the other authorities on the basis of fake and bogus bills and corresponding export;

(vii) that at the time of conducting raid for violation of the provisions under FEMA, incriminating material was found and Investigating Officer or Officers of the ED were duty bound to inform the jurisdictional police about the offence found committed during raid and only on the basis of that Pawan Kumar, Investigating Officer is the complainant/informant in said case and it cannot be said that false FIR got registered and being duty bound, he had informed the police and accordingly, while registering the FIR, his name has been recorded as informant;

(viii) that from the fact that transaction have been made through banking channel, it cannot be said that transactions are bonafide or genuine;

(ix) that as per settled law, it is not necessary to give notice under Section 50 of the Act, if there is sufficient incriminating matter on record for proceedings under section 19 of the Act;

(x) that in view of the judgment in the case of Vijay Madanlal Choudhary Versus Union of India [2022 SCC OnLine SC 989], the court while dealing with bail application under the Act, is not required to weigh evidence or determine guilt and that satisfaction on broad probabilities from the material collected during investigation suffices and the Court is only required to see whether there is a genuine case against the accused and the prosecution is not required to prove the charge beyond reasonable doubt;

(xi) that during investigation it has come on record that there was no inward supply but the petitioner has purchased the mobile phones from such companies who were having no inward supply to issue bills regarding sale of mobile phones;

(xii) that it is admitted case of the petitioner that alleged bills are forged;

(xiii) that during investigation it has come on record that petitioner had tried to tamper the evidence as has been disclosed by one of the witness and in case of grant of bail at this stage the petitioner may influence the other witnesses and tamper the evidence;

(xiv) that non-arrest of the person who had issued the alleged forged bill cannot be taken as a ground for seeking relief by the petitioner as investigation is still pending and the petitioner is beneficiary of the alleged forged bills;

(xv) that at this stage it cannot be said that arrest of petitioner is illegal as this Court has already given its finding regarding compliance of statutory provisions of the PMLA, 2002 at the time of passing of order dated 09.05.2026;

(xvi) that no malafide can be attributed to the ED as prima facie case has been made out by the ED against the petitioner;

(xvii) that contention of the petitioner that there is no loss to any person is baseless and on perusal of the ledge record, it is clear that the petitioner had taken refund of crores of rupees and only claim of the petitioner qua ₹2 crores was rejected by GST Department on the ground that sale purchase of the mobile phone was bogus; **and**

(xviii) that contention of petitioner that arrest of the petitioner was based on mere suspicion is baseless and wrong, as on perusal of record, it is clear that there was sufficient incriminating material against the petitioner and after recording satisfaction by the Investigating Officer, he was arrested and the matter collected against the petitioner has been corroborated by statements of witnesses under Section 50 of the accused.

To substantiate his arguments, learned Special Public Prosecutor for respondent-ED has relied upon the judgments in the cases of *Union of India Versus Kanhaiya Prasad [2025 SCC Online SC 306], Tarun Kumar Versus Enforcement Directorate [2023 SCC OnLine SC 1486], Rohit*

Tandon Versus Directorate of Enforcement [2018 11 SCC 46], Gautam Kundu Versus Directorate of Enforcement [(2015) 16 SCC 1], Y.S. Jagan Mohan Reddy Versus. C.B.I. [(2013) 7 SSC 439], Nimmagadda Prasad Versus Central Bureau of Investigation [(2013) 7 SCC 466], Pradeep Nirankarnath Sharma Versus. Enforcement Directorate [2025 SCC OnLine SC 560], Pavanna Dibbur Versus. Enforcement Directorate [2023 SCC OnLine SC 1586], Anoop Bartaria Versus Directorate of Enforcement [2023 SCC OnLine SC 477] Y Balaji Versus Karthik Desari and another [2023 SCC OnLine SC 645], Directorate of Enforcement Versus Padmanabhan Kishore [2022 SCC OnLine SC 1490], Enforcement Directorate Versus Mahanivesh Oils & Foods (P) Ltd., [2026 SCC OnLine Del 1434], Laxmipat Choraria Versus State of Maharashtra, [1967 SCC OnLine SC 30], Prithipal Singh Versus State of Punjab [(2012) 1 SCC 10], Central Bureau of Investigation Versus V. Vijay Sai Reddy [(2013) 7 SCC 452] Abdul Basit Versus Mohd Abdul Kabir Choudhary [2014 (10) SCC 754], Adalat Prasad Versus Roop Lal Jindal [2004 (7) SCC 338], Syed Nusrat Ali Versus State [2010 SCC OnLine Del 2595], Sundeep Kumar Bafna Versus State of Maharashtra [(2014) 16 SCC 623], Gautam Thapar Versus Directorate of Enforcement [2021 SCC OnLine Del 4599], Ram Kishor Arora Versus Enforcement Directorate [(2024) 7 SCC 599], Directorate of Enforcement Versus Subhash Sharma [2025 SCC OnLine SC 240] and V. Senthil Balaji Versus State [2023 SCC OnLine SC 934]

(Narender Sura)
Sessions Judge-cum-Special Judge
(under the Prevention of Money Laundering
Act, 2002), Gurugram, 15.06.2026

With these submissions, learned Special counsel for ED prayed for dismissal of the regular bail application.

5. I have heard the learned counsel for the parties and have gone through the file very carefully.

FACTS OF THE CASE

6. Brief facts of the case, as enumerated by the respondent/ED in its reply, are that the petitioner is the promoter and erstwhile Chairman and Managing Director of M/s Hampton Sky Realty Limited (HSRL), formerly known as M/s Ritesh Properties and Industries Limited, engaged in real estate development, textiles, trading in shares and derivatives, and export of mobile phones. During the financial year 2024-25, HSRL incorporated wholly owned subsidiaries, namely Hampton Sky Hotels Pvt. Ltd. and Hampton Sky Hospitality Pvt. Ltd., along with a joint venture entity, Hampton Sky Farms Pvt. Ltd. On 17.04.2026, a search and seizure operation was conducted by the Directorate of Enforcement at the premises of M/s Hampton Sky Realty Limited (M/s HSRL) under the provisions of FEMA, 1999, on the basis of credible information regarding highly suspicious inward remittances received in the guise of bogus exports in violation of the provisions of FEMA. During the course of search proceedings at the premises of M/s Hampton Sky Realty Limited (earlier known as "Ritesh Properties and Industries Ltd."), it revealed that M/s Hampton Sky Realty Limited has shown sale of goods i.e. mobile phone valued at approximately ₹157.12 Crores from 12.05.2023 to 27.10.2023

during F.Y. 2023-24 to several local and overseas entities and out of this, exports worth about ₹102.50 crore were made to two UAE-based entities:-

(i) M/s Fortbel Telecom FZCO and

(ii) M/s Dragon Global FZCO.

7. It is case of the investigating agency/ED that on 17.04.2026, search operation under FEMA was also conducted at the residential premises of Mr. Kavya Arora s/o Shri Sanjeev Arora, present Managing Director of M/s HSRL and his statement was recorded under Section 37 of FEMA, 1999 read with Section 132(4) wherein he stated that he joined M/s HSRL in year 2013 and became MD of M/s HSRL in year 2025. He further stated that M/s HSRL started exporting mobile phones from 2022 onwards to the middle-east countries while engaging in the Realty business. The mobile phones were purchased locally in India. He stated that his father Mr. Sanjeev Arora (erstwhile CMD of M/s HSRL) used to look after the export business of mobile phone carried out by M/s HSRL and export business of mobile phone was stopped in 2024 as they were not making any profit and he further stated that CFO Deepak Sharma also assisted his father in the export business. It is the case of ED that Mr. Kavya Arora (son of accused Sanjeev Arora) had disclosed that final decisions were taken by his father (Sanjeev Arora) regarding quantum and quantity in respect of purchase of mobile phones from particular unit for domestic purchase and his instruction were worked upon by Deepak Sharma, CFO. Kavya Arora denied having any knowledge regarding the export business of mobile phones and emphatically reiterated that he looked after the realty business.

8. It has been further alleged that during the course of search proceedings under FEMA, statement of Deepak Sharma, CFO, M/s HSRL was also recorded under Section 37 of FEMA, 1999 read with Section 132(4) wherein he stated that he was an employee in Femella Fashion Pvt. Ltd. from the year 2009 to 2018. M/s Femella Fashion Pvt. Ltd. was incorporated by Sanjeev Arora and later on he joined M/s Ritesh Properties and Industries Ltd. (in which Sanjeev Arora was Chairman and Managing Director) in December, 2019 as Manager (Accounts) and in the year 2022-2023, name of M/s Ritesh Properties and Industries Ltd. was changed to M/s Hampton Sky Realty Ltd (M/s HSRL). He stated that M/s HSRL is a real estate company and involved in the work of construction of houses, buildings, towers etc. and started exporting the mobile phones to Dubai in the year 2023-2024. M/s HSRL used to purchase mobile phones from local market and used to export those mobile phones to Dubai. The mobile phones which were exported, were mainly I-PHONE. He denied knowledge of the names of entities to whom mobile phones were exported from M/s HSRL and export related work of I-Phones to Dubai and UAE was handled office of M/s HSRL at Ghitorni. It is further case of the ED that pursuant thereto, a complaint was filed with the jurisdictional police, Gurugram, Haryana sharing the information collected during the search. Accordingly, FIR No. 0137 dated 18.04.2026 was registered in Udyog Vihar Police Station, Gurugram, Haryana against **Sanjeev Arora (petitioner)**, Kavya Arora, Hemant Sood, Chander Sekhar, M/s Hampton Sky Realty Limited, M/s Findoc Finvest Pvt Ltd and other person for commission of offences under Section 238(a), 316(2), 318(4), 336(3), 338, 340 and 61 of Bhartiya Nyaya Sanhita, 2023.

9. It is alleged in the FIR that M/s HSRL has reported sale of mobile phone valued at approximately ₹157.12 Crores during F.Y. 2023-24 to local and overseas entities. Out of the said amount, the exports to the extent of Rs 102.50 Crores were made to only two entities namely M/s Fortbel Telecom FZCO, UAE and M/s Dragon Global FZCO, UAE and as per information available M/s Fortbel Telecom FZCO is a related/associated entity of M/s Fortbel Gadget Pvt. Ltd., which is beneficially owned and controlled by Hemant Sood and Chander Sekhar, the other beneficial owners of Hampton Sky Realty Ltd. The said Hemant Sood and Chander Sekhar are associated with M/s Hampton Sky Realty Pvt Ltd through M/s Findoc Finvest Pvt Ltd. It has been further alleged that during the course of search operation, detailed investigation of the supply chain of purchase parties indicated that many of the supplier entities are non-existent, shell/dummy firms or entities with no financial capacity, which have issued bogus invoices without actual supply of goods. Several such entities are either non-filers of Income Tax Returns, reporting negligible income and have been de-registered/suspended under GST shortly after a brief period of operation. The written information was received from GST Department vide letter dated 17.04.2026 and e-mails dated 17.04.2026 wherein it was confirmed that GST registration of these entities is either cancelled or suspended.

10. It revealed that multiple supplier entities are interconnected through common mobile numbers, email IDs, and other identifiers, indicating that these entities are controlled by a single group of persons for the purpose of generating accommodation entries and fake invoices. Certain entities in the chain do not have any genuine upstream suppliers, clearly establishing that the invoices raised by them were fictitious in nature. The mobile number linked to these entities i.e. 9053083961 is owned by one Kartik Verma, who was also covered under FEMA search and seizure operation on 17.04.2026 conducted by ED. The investigation revealed that the number has been misused by certain individuals for generating fake invoices. Kartik Verma has also made a complaint with Haryana Police stating therein that he has been receiving SMS from GST Department regarding notices issued on certain firms which have been registered with GST by linking with his mobile number 9053083961.

11. It is further case of the ED that the said FIR has been registered for commission of the offences punishable under sections 318(4), 338, 340 and 61 of Bhartiya Nyaya Sanhita, 2023 (corresponding sections 420, 467, 471, 120-B of Indian Penal Code, 1860) are scheduled offences as defined in Part A of the Schedule to the Prevention of Money Laundering Act, 2002. It has been prima facie revealed that the proceeds of crime, being ₹157.12 Crore (approx.) were generated by committing aforesaid scheduled offences.

Accordingly, an ECIR/HIU-1/14/2026 dated 05.05.2026 has been recorded by the Directorate of Enforcement and investigation ensued into the commission of offence of money laundering and for tracing, attachment, and confiscation of the proceeds of crime and to identify the person connected with the process and activities connected with the proceeds with the crime and proceed in the accordance with law.

12. It is the case of the Investigating Agency/ED that during investigation, M/s HSRL is found to be beneficially owned and controlled by **Sanjeev Arora** and his family members with Kavya Arora s/o Sanjeev Arora as Managing Director along with Hemant Sood, Chander Sekhar, M/s Findoc Finvest Pvt Ltd and others. During F.Y. 2023-24, M/s HSRL sold mobile phones worth ₹157.12 Crores to several local and overseas entities. Petitioner Sanjeev Arora was the Chairman and Managing Director of M/s HSRL and was responsible for the conduct of the business of the company when the aforesaid illicit transactions took place. Further, a detailed analysis of exports made by M/s HSRL was undertaken wherein it was found that from May 2023 to October 2023, M/s Hampton Sky Realty Limited has purportedly exported goods (mobile phones) to the tune of ₹102.50 Crores to M/s Fortbel Telecom FZCO, UAE and M/s Dragon Global FZCO, UAE and as per material collected, Rahul Aggarwal is the beneficial owner of these two foreign entities to whom the Mobiles phones are purported to be exported. A perusal of the information available reveals that Rahul Aggarwal was employee with Findoc Group (another major shareholder of Hampton

Sky Realty Limited) and has drawn salary from M/s Findoc Sons. Further, supply chain of mobile phones purchased by M/s HSRL was analysed and scrutinized, which revealed that most of the suppliers of M/s HSRL are dummy/fake entities and were not found be dealing in supply of mobile phones and merely provided accommodation entries to M/s HSRL.

13. It is the case of ED that huge amount of funds received by M/s HSRL from M/s Fortbel Telecom FZCO, UAE and M/s Dragon Global FZCO, UAE has been either used in M/s Hampton SKY Realty Limited or transferred to the various entities which are found to be shell/fake entity.

14. As per the ED, it revealed that M/s SK Enterprises (GSTIN: 07AMQPA7187E1ZU), proprietorship concern of Kamal Ahmad operated through three different bank accounts during the period 03.08.2023 to 18.01.2024. Subsequently, the GST registration of the said entity was suspended w.e.f. 14.05.2024. During the period 05.08.2023 to 27.01.2024, a total of 41 RTGS remittances aggregating to ₹27,73,20,384/- were made from the account of M/s Hampton Sky Realty Limited bearing Account No. 088005001795 maintained with ICICI Bank in favour of M/s SK Enterprises. The funds were routed through three distinct bank accounts maintained by M/s SK Enterprises with IndusInd Bank, RBL Bank and Axis Bank respectively. It is alleged that the transactions were systematically routed through multiple bank accounts over different phases, indicating layered movement of funds. Further, the aggregate credits received in the aforesaid ICICI Bank account of M/s Hampton SKY Realty Limited corresponding to transactions with M/s SK Enterprises reveal linkages with other counter parties/entities.

15. It is further case of the ED that Kamal Ahmad, Proprietor of M/s S.K. Enterprises, in his statement dated 06.05.2026 recorded under Section50 of PMLA, 2002, stated that he is a daily wage labourer with limited education and had no knowledge or control over the affairs of M/s SK Enterprises, though the firm was registered in his name. He stated that the entire business operations, GST registration, banking activities, and financial transactions of the firm were managed by Mr. Azhar Haider alias "Monty" (Mob. Nos. 9560768313 and 8750033313), who had taken his Aadhaar and PAN documents and obtained his signatures on various documents. He further stated that Azhar Haider arranged the registered office premises, handled GST compliances, operated the bank account and net banking facilities, and linked mobile numbers/email IDs under his own control or through his associates. He received around ₹1.5-2 lakh in cash and/or through Paytm from Azhar Ahmad. It revealed that no genuine business activities were carried out by M/s S.K. Enterprises and that the firm was used by Azhar Haider for providing accommodation entries and circulation of funds in lieu of commission. He stated that transactions between M/s S.K. Enterprises and entities such as M/s Global Traders were merely transfer entries for routing money and that Azhar Haider also carried out cash trading of mobile phones. With regard to financial transactions amounting to approximately ₹26.88 crores with M/s Hampton Sky Realty

Limited, he denied having any knowledge of the company or the nature of the transactions and reiterated that all such activities were controlled and managed by Azhar Haider.

16. It is the case of ED that M/s Global Traders (GSTIN: 07ACHPH6191A2ZU), proprietorship concern of Azhar Haider, operated through one bank account during the period 22.07.2023 to 26.09.2023 and subsequently, the GST registration of the said entity was *suo moto* cancelled on account of the entity being found non-functional at its principal place of business. During the period 22.07.2023 to 26.09.2023, a total of 12 RTGS remittances aggregating to ₹2,55,25,469/- were made from the account of M/s Hampton Sky Realty Limited bearing Account No. 088005001795 maintained with ICICI Bank, in favour of M/s Global Traders. Analysis of the corresponding credits in the aforesaid ICICI Bank account during the relevant period reveals that the funds were primarily sourced from export remittances received from Fortbel Telecom FZCO, UAE, along with GST refunds and promoter-group funding. On analyzing the financial transactions of M/s HSRL, it revealed further that M/s HSRL has transferred ₹2.55 Crore to M/s Global Traders, ₹25 Lakh to Azhar Haider and ₹25 Lakh to Azhar Haider's mobile number 9560768313 against the purchase of mobile phones in the year 2023. Further, M/s Global Traders has received funds to the tune of ₹83 Lakh from M/s SK Enterprises.

17. It is the case of ED that summon dated 05.05.2026 was issued to Azhar Haider under Section 50 of the PMLA, 2002 and in compliance thereof, he appeared and his statement was recorded wherein he stated that he incorporated M/s Global Traders which was engaged in the trading of mobile phones. However, due to financial losses, the business operations were discontinued in the year 2024. He gave accommodation entries who ever approached him on commission basis. He categorically denied supplying any goods or services to M/s HSRL and M/s SK Enterprises against the payment received by him in his personal account as well as in the account of M/s Global Traders. He also stated that he used to receive 1.5-2% commission on total transactional value. He stated that he dealt his complete business in Kachcha i.e. given and taken in cash. The transactions in bank accounts were only for transfer of entries and no actual transfer of goods took place.

18. It is the case of the ED that funds received in the account of M/s Hampton SKY Realty Limited through purported export remittances, GST refunds by way to bogus purchases and promoter-linked entities were subsequently transferred to multiple shell and intermediary entities through RTGS transactions. The money which is nothing but proceeds of crime was routed through different bank accounts maintained by entities such as M/s SK Enterprises and M/s Global Traders in a phased manner to create transaction layers and obscure traceability. Parallel invoice and e-way bill generation among interconnected entities created artificial trade activity without corresponding genuine movement of goods and this is nothing but modus to conceal the proceeds of crime and to project the same as untainted.

The funds and fraudulent Input Tax Credits (ITC) ultimately accumulated at beneficiary entities such as Ritesh Properties and other active businesses, which relied heavily on these layered transactions. Rapid inward and outward fund movement, negligible operational retention and circular trading patterns indicate accommodation entries and laundering of proceeds through the banking channel. In view of the aforesaid, M/s HSRL, in connivance with its directors, employees, and other associated persons, has used a network of shell entities to generate fake purchase invoices and has used the same to show bogus sales and exports. The exports have been without actual movement of goods, and have been used as a conduit for remittance of foreign exchange from abroad to India under false pretenses.

19. It is the case of the ED that on perusal of the ledgers of the Mobile Division for FY 2023-24 and corporate records it is revealed that the Company commenced trading in mobile phones and electronic devices well before the said clause was lawfully inserted in the Memorandum of Association (MoA). The clause in the MoA was inserted vide Special Resolution passed through Postal Ballot on 24.06.2023, and the corresponding Certificate of Registration u/s 13(1) was issued by the Registrar of Companies, Delhi only on 04.08.2023. However, commercial transactions in the said line of business commenced on 19.04.2023 i.e. 107 days prior to the date on which the MoA amendment became legally effective, and 15 days prior to even the Board Meeting which proposed the amendment. It is further alleged that Mr. Sanjeev Arora being the then

Chairman and Managing Director and in charge and is responsible for the day to day affairs of the conduct of M/s Hampton Sky Realty Limited.

20. It is the case of ED that from the material collected during investigation, there is sufficient and adequate reasons to believe that Sanjeev Arora is guilty of committing the offence of money laundering as defined under Section 3 of the Prevention of Money Laundering Act (PMLA), 2002 and is punishable under Section 4 of the PMLA.2002 by knowingly and actually involved in acquiring, possessing, and concealing the proceeds of crime and there is sufficient evidence on record which adequately demonstrate that the offense of money laundering specified above has been continuously committed by Sanjeev Arora in connivance with others by generating proceeds of crime to the tune of ₹102.5 Crores by way of purported export and bogus purchases by way of forging the documents and receiving GST Refunds on exports made which he is not entitled and thereby causing loss to the govt exchequer and corresponding wrongful gains to himself.

21. It is the case of ED that Sanjeev Arora is the key person involved in the offence of money laundering by bogus billing, fraud, forgery and payment to shell entities. He is knowingly a party and is actually involved in generation, possession, acquisition and concealment and use of Proceeds of Crime and has knowingly involved in the processes and activities connected with the proceeds of crime. Therefore, he is guilty of the offence of Money Laundering. In order to bring the investigation to the logical conclusion his arrest under section 19 of PMLA, was necessary in view of above stated facts and circumstances as it will unearth the further proceeds of crime, reveal crucial evidences related to the Proceeds of crime and other persons involved in the process or activities connected with proceeds of crime. Therefore, in view of the above and in exercise of the powers conferred under Section 19(1) of PMLA, 2002, and on the basis of material in possession after recording reasons to believe that petitioner Sanjeev Arora is guilty of the offence of Money Laundering under Section 3 of PMLA, 2002, punishable under Section 4 of the PMLA, 2002, he was arrested on 09.05.2026 at 4:00 P..M. at Chandigarh and was produced before this Court on 09.05.2026 and remanded to ED custody. The petitioner was again produced before this Court on 16.05.2026 and was granted further custody for 2 days. On 18.05.2026, the petitioner was remanded to judicial custody, where he continues to be lodged till date.

DECISION:- REASONS THEREOF

22. It has been argued on behalf of the petitioner that more that 13,000 mobile phones were sent abroad after clearance of the said mobile phones from the Custom Department and even GST amount has been refunded, so the case of ED is false and he is entitled to bail. *However,* this court is of the view that merely on the basis of refund of GST, it can not be said that the transactions were legal and transparent. It is matter of record that IGST refund to the tune of ₹11.50 Cr (approx.) on purported exports has been received. The accused received duty drawback of ₹ 48,53,800/- on purported exports merely on the basis of supply of IMEI list of Apple IPhone vide order dated 29.12.2023 by office of the Deputy Commissioner of Customs Air Cargo (Export) Delhi. During investigation, it revealed that

(Narender Sura)
Sessions Judge-cum-Special Judge
(under the Prevention of Money Laundering
Act, 2002), Gurugram, 15.06.2026

inward remittance coming from Fortbel FZCO is going to M/s NP Block House Real Estate Pvt. Ltd. through M/s Hampton Sky Realty Limited (hereinafter referred as HSRL). M/s NP Block House Real Estate Pvt Ltd is associated entity of HSRL. *The trail of funds received by M/s SK Enterprises is going to unrelated entities and not to mobile companies. The amount of ₹5 Crore received from HSRL has gone to M/s Findoc Finvest Pvt Ltd which is investor as well as major shareholder of HSRL.*

23. During investigation, it has come on record that the Mobiles were purportedly exported to M/s Fortbel FZCO Dubai and this entity was hands in glove with Indian Entity HSRL. Rahul Aggarwal and Sanjeev Walia, who were handling affairs in India, were the same persons who were handling operations at Dubai and while considering these facts, this court is of the view that the entire transactions since the beginning i.e. from purchase to export appears to be dubious and has undertaken with ulterior motive.

24. Although the petitioner has relied upon various documents attached with the bail application and it has been argued that mobile phones were exported while following the procedure and mobile phones were checked physically by the Custom Department and only thereafter, clearance was given to the export of mobile phones. *However*, on perusal of the record produced by the ED, this court is of the view that the petitioner and HSRL had purchased some of the mobile phones from two firms namely M/s Global Traders and M/s S.K. Enterprises, however the said companies had no inward supply of mobile phones and without having any mobile phones in their possession, the said companies had issued the bills regarding sale of mobile phones and the said mobile phones are purported to have been exported. This Court is of the view that once the said firms were not having mobile phones, then the issuance of bills/invoices regarding sale of mobile phones are fake and actual source of said mobiles has not been disclosed by the petitioner till date.

25. It is the case of the ED that amount was sent to the said two firms, however Kamal Ahmad had made statement under Section 50 of the Act that his firm M/s S.K. Enterprises was established in his name by Azhar Haider and it is managed by Azhar only and M/s S.K. Enterprises did not carry out any business activities and it being utilized by Azhar Ahmad for providing accommodation entries for commission and some of the part was paid to him as well by Azhar Haider.

26. It is the case of the ED that Azhar Haider stated in statement under Section 50 of the Act that M/s Global Traders was engaged in trading of mobile phones, including brands such as Vivo, Oppo, Samsung, Poco, i-phone etc. and he used to provide accommodation entry for commission after the failure of the above-mentioned entity and there was no business with HSRL and the transactions with HSRL were only entries through the bank account of M/s Global Traders. He further stated that no goods were supplied to HSRL. Similar type of transactions were carried out in M/s SK Enterprises as well.

27. Once fake invoices/bills were issued by the above firms to HSRL regarding sale of mobile phones, then it can be said that the petitioner and HSRL had completed the documentation just to project that mobile phones were exported, however no mobile phones were ever sold by the said two firms. The petitioner has failed to give single proof of physical transfer of mobile phones from said two firms. It is admitted fact that claim for GST qua some of the mobile phones has even been rejected by the GST authorities too, which has been enquired into before cancellation of GST registration of the shell entities which had supplied them goods.

28. During investigation, proprietor of M/s World Wide Electronics & M/s Hayat Garments has also stated in his statement that he does not know about HSRL from where funds to the tune of ₹5.5 Cr (approx.) was received. M/s Hayat Garment is a garment based entity and only provided entries of sale/purchase of mobile phones. During investigation, statements of various other persons have been recorded under Section 50 of the Act and gist of the said statements is as under:-

Sr. No	Name and date of statement	Role of persons examined	Amount in Rs. (received from HSRL)	Gist of the statement
1.	Sh. Azhar Haider, Statement recorded on 05.05.2026 and 06.05.2026.	Proprietor of M/s Global Traders	2.55 Crores	That M/s Global Traders was engaged in trading of mobile phones, including brands such as Vivo, Oppo, Samsung, Poco, i-phone etc. That he used to provide accommodation entry for commission after the failure of the above-mentioned entity. That there was no business with HSRL (formerly known as M/ s Ritesh

				Properties) and the transactions with HSRL were only entries through the bank account of M/ s Global Traders. That no goods were supplied to HSRL. Similar type of transactions were carried out in M/ s SK Enterprises as well.
2.	Sh. Kamal Ahmad. Statement recorded on 06.05.2026	Proprietor of M/s SK Enterprises	26.88 Crores	That SK Enterprises was established in his name by Sh. Azhar Haider and it is managed by Azhar only. That SK Enterprises did not carry out any business activities and it being utilized by Sh. Azhar Ahmad for providing accommodation entries for commission and some of the part was paid to him as well by Sh. Azhar Haider.
3.	Sh. Mosabbir Ansari. Statement recorded on 06.06.2026	Proprietor of M/s Hayat Garments	4.69 Crores	That during the brief period of 7-8 months, M/s Hayat Garments which is mainly engaged in the trading of gents' garments, has shown sale and purchase of mobile phones. He also established M/s Worldwide Electronics for showing sale and purchase of mobile phones. That he is not aware about the mobile suppliers of M/s Hayat Garments and the arrangement only existed only on paper. His friend Sh. Ashish Aggarwal persuaded him to allow transactions related to sale purchase of mobile phones through his firm M/s Hayat Garments for

				good margin on these transactions. That Sh. Ashish Aggarwal was solely responsible for all the transaction through the bank accounts of M/s Hayat Garments and M/s Worldwide Electronics.
4.	Ramji Lal Aggarwal, statement recorded on 06.06.2026	Proprietor of Shree Lakshmi Medical Agency	3.89 Crores	That he is the father of Sh. Ashish Aggarwal who is proprietor of Shree Lakshmi Enterprises which deals in electronic items and mobile phones at a very small scale for sale of local products. That his son had left his residence and a missing report is also filed with the police. That Sh. Ashish Aggarwal was involved in betting and gambling activities and had borrowed money from several individuals. Sh. Ashish Aggarwal also involved in cases relating to fraud, forgery and provided entries in return for commission income.
5.	Sh. Suman Sharma	Accountant at M/s Hayat Garments	-	That in 2023-24, some transactions related to sale and purchase of mobile phones were made in the books of M/s Hayat Garments and due to certain issues related to GST compliance another firm M/s Worldwide Electronics was incorporated by Sh. Mohammad Mosabbir, proprietor of M/s Hayat Garments for the transactions related to mobile phones.

				That during 2023-24, Sh. Mohammad Mosabbir along with his associate Sh. Ashish Aggarwal started giving invoices relating to sale and purchase of mobile phones to HSRL. Ashish Aggarwal used to share the details of the bank accounts to whom the funds were transferred. That he used to carry out banking transactions solely on the instructions of Sh. Ashish Aggarwal in relation to mobile phones and he has never seen any mobile phones traded by the firm. That E-way bills were generated on the details given by Ashish Aggarwal and the details where goods were shown to be dispatched were also provided by Sh. Ashish Aggarwal. That transactions were shown in books as sale/purchase of mobile but no business of mobile phones was ever undertaken by M/s Hayat Garments and the received funds were further transferred to the entities as per the instructions of Ashish Aggarwal.

29. As per the investigation conducted till date by the ED, most of the entities from whom M/s HSRL or Ritesh Properties and Industries Limited have made purchases, have been searched by GST authorities for fake billing and are under investigation. It also revealed that M/s Global

Traders has not supplied any goods or services to M/s SK Enterprises against any payment received and these were mere accommodation entries for routing money.

30. This court is of the view that even if the HSRL has paid GST and also received remittance of GST, even then merely tax compliances does not absolve a person from the offences, if any, covered under the provisions of PMLA, 2002. It is the case of the petitioner that against the rejection of the GST refund qua the mobile phones supplied by M/s Global Traders and M/s S.K. Enterprises, appeal is pending before the competent authority and the petitioner or HSRL has got registered FIR No. 83 dated 17.05.2025 in Police Station Focal Point, Ludhiana, Punjab in this regard against M/s Global Traders and M/s S.K. Enterprises for commission of offences punishable under Sections 420 and 120-B of the Indian Penal Code, 1860, even then it cannot be said that petitioner has not committed the alleged offence, as no mobile phones were available with the said two firms and it has come on record that fake invoices were issued by the said firms and on receiving of the amount through bank transaction, amount was paid in cash by Kamal Ahmad and Azhar Haider after deducting some amount on the pretext of commission and during investigation, it has come on record that only accommodation entries were provided by the said two persons/firms and no such mobile phones were ever supplied to HSRL at any point of time. Actual source of said mobiles, which were allegedly exported against said fake bills, has not been disclosed by the petitioner till date. This court is of the view that petitioner was well aware about the fact that no mobile phones were physically handed over by the said two firms, even then he had claimed GST claims on the basis of alleged bills/invoices issued by the said firms and only to create an evidence in defence, he has got registered the FIR and filed appeal against the order of rejection of GST claim.

31. It has been argued on behalf of petitioner that only on the ground that some amount was collected in cash, it cannot be held that predicate offence has been committed or proceeds of crime were generated and at the most, Income Tax Authorities have right to take action in regard to alleged cash transactions and he can be held liable to pay income tax. On this point, judgment in the case of Rohit Tandon (supra) is relevant, wherein the Hon'ble Supreme Court has held that:-

> "33. x x x. No explanation has been offered by the appellant to dispel the legal presumption of the property being proceeds of crime. Similarly, the fact that the appellant has made declaration in the income tax returns and paid tax as per law does not extricate the appellant from disclosing the source of its receipt. No provision in the taxation laws has been brought to our notice which grants immunity to the appellant from prosecution for an offence of money laundering. In other words, the property derived or obtained by the appellant was the result of criminal activity relating to a scheduled offence."

32. It has been argued that petitioner has been arrested illegally without compliance of the provisions contained in Section 19 of the Act and the question of illegality can also be raised at this stage and petitioner is entitled to bail on this ground. After going through the record of the case, it is clear that this court has already recorded satisfaction to the compliances of the provisions contained in Section 19 of the Act at the time of passing of the order dated 09.05.2026. It is also matter of record that petitioner has challenged the order dated 09.05.2026 before the Hon'ble High Court by way of filing CRWP No. 5575 of 2026 and the same is pending before the Hon'ble High Court. Still this court is of the view that provisions of Section 19 of the Act were duly complied with and if there is any illegality in the order dated 09.05.2026, then the same is pending adjudication before the Hon'ble High Court.

33. It has been argued that no notice was issued under Section 50 of the PMLA, 2002 to the petitioner/accused prior to his arrest and non-issuance of notice under Section 50 of the Act vitiates the arrest. *However,* this court does not find any merit in this argument, as the power of summons under Section 50 and the power of arrest under Section 19 of the PMLA are two distinct, separate, and independent provisions. The scheme of the PMLA nowhere provides that the investigating officer is obliged to issue a summons under Section 50 before effecting an arrest under Section 19. The discretion to decide which person should be summoned and which should be arrested lies exclusively with the investigating officer. Accepting the argument of the Accused would amount to judicially inserting a proviso into

Section 19 making the issuance of summons a mandatory precondition, which is contrary to the scheme of the Act.

34. It has been argued on behalf of the ED that the statement of the accused was in fact duly recorded under Section 17 of the PMLA during the search proceedings on 09.05.2026 and the said statements are also given under oath. Once the Investigating Officer, after recording such statements, reached to the conclusion that the accused was not cooperating with the investigation, there was no obligation to again issue a summons under Section 50 of the Act, as the same would amount to a mere empty formality. The accused cannot be permitted to take the untenable position that he would refuse to cooperate under Section 17 but would cooperate only if summoned under Section 50. His lack of cooperation during the recording of statements under Section 17 is duly recorded.

35. Issuance of notice under Section 50 is not a necessary precondition for arrest and if it will be made pre-condition, it would amount to indirectly importing the requirement of notice under Section 35 of BNSS (41A of Cr.P.C) into Section 19 of the PMLA, which is impermissible. The PMLA is a *sui generis* legislation with its own comprehensive mechanism for arrest under Chapter V. In the case of V. Senthil Balaji (supra), the Hon'ble Supreme Court has expressly rejected the argument that Section 41A Cr.P.C needs to be followed by the respondent, while holding that following Section 41A Cr.P.C for an arrest under the PMLA would defeat and destroy the very inquiry and investigation under the PMLA.

36. It has been argued on behalf of the petitioner that FIR has been got registered malafidely due to political reasons and just to create the jurisdictional facts for invoking the provisions of the Prevention of Money Laundering Act, 2002, so the provision contained in Section 45 of the Act will not come in the way for granting bail and to protect life and liberty of the petitioner and it has been prayed that accused be released on bail. After perusing the record of the case, this court is of the view that if the alleged FIR has been got registered malafidely, then the petitioner can seek quashing of FIR by taking appropriate remedy and this question can not be decided in this bail application.

37. It has been argued on behalf of the petitioner that from the provisions of the PMLA, it is very much clear that jurisdiction of the ED is limited only to the investigation of money laundering and proceeds of crime and the ED is not empowered under law to investigate the allegations in the FIR and in the absence of any material from any other authority, whether the jurisdictional police or the Customs Authorities, the ED cannot be permitted to allege that no exports were undertaken, so entire investigation by the ED is without jurisdiction and petitioner is entitled to bail on this ground. This court does not find any merit in this argument, as during investigation it revealed that mobile were exported on the basis of fake bills/invoices and by this manner, proceeds of crime have been generated, which can be investigated by ED, as per the provisions of PMLA, 2002.

38. It has been argued on behalf of the petitioner that once it is the case of ED that Azhar Haider had issued fake bills/invoice, then how his reply or statement made under Section 50 of the Act can be considered by ED as satisfactory but the petitioner has been arrested on the same allegations which is sufficient to show that act of the ED is malafide and pick and choose policy has been adopted for conducting investigation, so the petitioner is entitled to bail on this ground. After going through the record of the case, this court is of the view that on this ground, the petitioner is not entitled to bail as **the matter is still under investigation** and it is for ED to decide whether a person is required to be arrested or made accused or not. At this stage, bail cannot be granted to the petitioner on that ground that Kamal Ahmad and Azhar Haider have not been made accused in the predicate offence or in the present ECIR;

39. Reliance of the accused/petitioner on the purported IMEI activation data as OEM-level third-party corroboration of the genuineness of the goods and exports is equally misconceived and deserves to be rejected. The order dated 29.12.2023 is of no avail, as the investigation conducted by ED reveals that HSRL's suppliers were shell entities with no inward inventory to justify outward sales, rendering the mobile phone transactions wholly fictitious. Activation of IMEI numbers outside India is insufficient proof of actual export and the evidence discloses reasonable grounds to believe that proceeds of crime were generated through bogus exports backed by forged and fabricated invoices, causing wrongful loss to the exchequer and wrongful gain to the accused. This position is further corroborated by a notice dated 23.07.2024 issued by the concerned officer, subsequent to the duty drawback order dated 29.12.2023, confirming that the supplies were received from suspended or cancelled dealers or from dealers with no corresponding inward supplies, resulting in rejection of a refund claim of ₹2,06,72,159, thereby conclusively establishing the sham nature of the underlying transactions.

40. The PMLA, 2002 has been enacted to combat the menace of money laundering and to curb the use of proceeds of crime in the formal economy, and that given the evolving complexity of financial crimes, courts must adopt a strict approach in matters concerning economic offences to ensure that perpetrators do not exploit procedural loopholes to evade justice. As per settled law, statements recorded under Section 50 of the PMLA are admissible in evidence and can make out a formidable case about the involvement of an accused in the commission of the offence of money laundering. The statements of Kamal Ahmad and Azhar Haider recorded under Section 50 of the PMLA, which categorically establish the fictitious nature of the supply chain, the accommodation entry mechanism, and the routing of proceeds of crime through shell entities, constitute cogent and admissible evidence against the accused/petitioner at this stage.

41. The Hon'ble Supreme Court in the case of *Rohit Tandon (supra)* has categorically held that statements recorded under Section 50 of the PMLA are admissible in evidence and make out a formidable case about the involvement of the accused in the commission of a serious offence of money laundering, and that on the basis of such statements, it is not possible to record satisfaction that there are reasonable grounds for believing that the accused is not guilty of such offence. As per the settled law, statements of witnesses recorded under Section 50 of the PMLA are admissible in evidence and may make out a formidable case about the involvement of the accused in the commission of the offence of money laundering. The evidentiary value of statements recorded under Section 50 of the PMLA at the stage of consideration of bail has further been upheld by in the case of Amanatullah Khan v. Enforcement Directorate (2024 SCC OnLine Del 1658).

42. It has been argued on behalf of the accused that the registration of the ECIR is illegal on the ground that the respondent could not have become the informant under the scheduled offence, but this court is of the view that this argument is totally misplaced and issue is no longer res integra. The role of the ED in the present case was limited to being an informant of cognizable offences. Whether an FIR is to be registered on such information or not, is not the decision of the ED. A perusal of the last paragraph of FIR No. 0137 dated 18.04.2026 clearly shows that the FIR was lodged by the police only upon their independent satisfaction that a cognizable offence had been committed. The ED had conducted its search under Section 37 of FEMA, 1999 and not under Sections 17, 18, and 50 of the PMLA and the ECIR was recorded only after registration of the FIR.

43. The exchange of information between two government agencies is not only permissible but is in fact a statutory obligation. Section 66(2) of the PMLA casts a mandatory duty on the ED to share the materials collected with other concerned agencies. The Hon'ble Supreme Court in *Anil Tuteja v. Union of India, (2025 SCC OnLine SC 2110)* has categorically held that the power under Section 66(2) of the PMLA is distinct and separate, that it is a mandatory duty of the investigating officer to share the materials collected with other concerned agencies, and that the investigation by such agencies, followed by registration of the FIR and filing of the charge sheet, travel on separate channels.

44. In CRM-M-24276-2022 titled *Pirtpal Singh* v. *Directorate of Enforcement and Ors, (decided on 30.5.2024)* the Hon'ble Punjab and Haryana High Court has held that where the E,D conducts searches under Section 37 of FEMA and thereafter shares information with the concerned police authority, and the police independently registers an FIR upon finding cognizable offences made out, there is no illegality in the registration of the ECIR consequent thereto, as long as the predicate offence is subsisting. The Division Bench of the Hon'ble Punjab and Haryana High Court in Ireo *(P) Ltd.* v. *Union of India*, (2024 SCC OnLine P&H 11314) has upheld the validity of Section 66 of the PMLA, holding that it enables exchange of information between various public authorities in the field of law enforcement and that the manner and method of collecting information during investigation is the exclusive domain of the investigating agency.

45. The argument of the accused/petitioner that he can be prosecuted for violations of foreign exchange under FEMA as the violations constitute civil wrongs under FEMA, can not be accepted. A perusal of the provisions of FEMA makes it clear that it only penalizes violations pertaining to foreign exchange transactions and contains no provision ousting the jurisdiction of any other law enforcement agency to initiate action where offences under other Acts or the IPC/BNS are made out from the same underlying transaction. Neither forgery nor cheating nor criminal conspiracy can be proceeded against under any provision of FEMA, and these offences, being complete in themselves, are not obliterated or subsumed merely because the underlying transactions also attract FEMA violations. As per the settled law, the civil wrongs alleged to have been committed under FEMA cannot be viewed as having been committed in one fell swoop with all preceding actions and omissions and that the offences of criminal conspiracy, cheating, forgery, and related offences under the IPC/BNS do not get obliterated or subsumed or cease to be penal offences merely because they were the underlying actions for infractions of foreign exchange regulations. The penal offences are complete in themselves before the infraction of the provisions of FEMA took place. FEMA and IPC/BNS address different and distinct infractions of the law, and the enactment of FEMA does not grant immunity for offences under the IPC/BNS since FEMA does not repeal the IPC either expressly or by implication.

46. It is well settled that the same set of facts may give rise to offences punishable under different laws and the protection under Article 20(2) of the Constitution of India is not available where the offences are distinct and their ingredients are different, as held by the Hon'ble Supreme Court in the case of Monica Bedi v. State of A.P.(2011) 1 SCC 248. Merely because the ED is conducting an inquiry under FEMA and incriminating material is found during a search under FEMA, it cannot be said that the same cannot lead to prosecution under other Acts including the IPC and the PMLA.

47. Section 45(1) of the PMLA mandates satisfaction of two cumulative conditions before an accused can be enlarged on bail; *firstly*, that there are reasonable grounds for believing that the accused is not guilty of the offence of money laundering; and *secondly*, that he is not likely to commit any offence while on bail. These conditions are mandatory in nature, operate in addition to the requirements under Section 439 Cr.P.C (483 of BNSS), and are further fortified by the overriding effect of Sections 65 and 71 of the PMLA over the general provisions of the Cr.P.C/BNSS. The statutory presumption under Section 24 of the PMLA additionally mandates that, unless the contrary is proved, the Court shall presume that the proceeds of crime are involved in money laundering, and the burden to rebut the same lies squarely upon the accused. In the case of *Vijay Madanlal Choudhary (supra),* it has been held that the Court, while dealing with a bail application under the PMLA, is not required to weigh evidence or determine guilt, and that satisfaction on broad probabilities from the material collected during investigation suffices. This Hon'ble Court is only required to see whether there is a genuine case against the accused and the prosecution is not required to prove the charge beyond reasonable doubt.

48. In the case of *Union of India v. Kanhaiya Prasad (supra)* **,** the Hon'ble Supreme Court has reiterated that consideration of the twin conditions under Section 45 is mandatory and that a casual or cavalier approach by courts in granting bail without recording a finding on the twin conditions renders such an order unsustainable and untenable in the eye of law.

49. The accused/petitioner has made attempts to demonstrate that there are reasonable grounds to believe he is not guilty of the offence of money laundering, but said attempts could not satisfy the court about twin conditions, as incorporated in Section 45. The investigation has unearthed cogent, credible and corroborated material establishing the direct and personal involvement of the accused in the generation, layering, and use of proceeds of crime to the tune of ₹102.50 crores through a sophisticated network of shell entities, fictitious purchase invoices, bogus exports, and fraudulent GST refunds. The offence of money laundering is a continuing offence by virtue of Explanation (ii) to Section 3 of the Act and the accused continues to enjoy the proceeds of crime through his business ventures and properties.

50. The petitioner has not been able to overcome the threshold stipulation contemplated in Section 45 of the Act. 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. The burden of proof lies on the accused for the purpose of the condition set out in the Section 45 of the Act 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/ED showing the thick involvement of the petitioner in the alleged offence of money laundering under Section 3 of the Act. As per settled law, at the stage of deciding bail application, this Court is not required to weigh the evidence meticulously but to arrive at a finding on the basis of broad probabilities. After considering the record of the case, this Court is of the view petitioner has failed to discharge the onus under Section 45 of the Act for grant of bail.

ATTEMPT TO TAMPER EVIDENCE

51. **During arguments,** learned counsel for the ED submitted that investigation is still pending and in case of grant of bail at this stage, the petitioner will make his best efforts to tamper with the evidence and during investigation, it has revealed that one of the person whose statement has been recorded under Section 50 of the Act, was taken to the office of an Advocate for preparing of an application to retract from his statement made under Section 50 of the Act and **even the counsel fee to the tune of ₹35,000/- was transferred to him through GPay** by two persons related to the petitioner, however due to legal advice taken from other counsel, said application was not moved before this court.

Record regarding making of payment to the tune of ₹35,000/-, which was in the form of screen shots of payment, was shown by the Investigating Officer to this Court and the case diary maintained by the investigating officer was perused by the Court. After considering the evidence, **this court is of the view that petitioner does not deserve concession of bail at this sta**ge as he may make efforts to tamper with the evidence as he is well acquainted with the persons having knowledge of the company/firm's affairs, alleged dealings and transactions and as on today, his family and other known persons are making such efforts, as clear from the facts recorded above.

52. In view of the above findings, this court is of the view that petitioner does not deserve concession of regular bail at this stage. Hence the bail application **stands dismissed.**

53. Needless to mention that, nothing observed here-in-above, would reflect, in any manner, on merits of the case during trial, as the same has been so recorded for a limited purpose of deciding the present application for regular bail only.

After due compliance, papers pertaining to the present bail application be tagged with the file of pending remand papers.

Pronounced in open Court:

Dated: 15.06.2026
(Virender Singh)

(Narender Sura)
Sessions Judge-cum-Special Judge
(under the Prevention of Money Laundering Act, 2002), Gurugram (UID No.HR0124)

Note: All fifty-nine pages of this order have been checked and signed by me.

(Narender Sura)
Sessions Judge-cum-Special Judge
(under the Prevention of Money Laundering Act, 2002), Gurugram (UID No.HR0124)

(Narender Sura)
Sessions Judge-cum-Special Judge
(under the Prevention of Money Laundering Act, 2002), Gurugram, 15.06.2026