

HIGH COURT OF UTTARAKHAND AT NAINITAL

First Bail Application No. 1760 of 2024

Banmeet Singh

.....Applicant

Versus

Directorate of Enforcement

.....Respondent

Present:-

Mr. Aditya Singh and Mr. M.S. Rawat, Advocates for the applicant.
Mr. Zoheb Hossain (through video conferencing), Special Counsel for the Directorate of Enforcement, with Mr. Atul Bahuguna, Retainer Counsel for the Directorate of Enforcement.

Hon'ble Ravindra Maithani, J. (Oral)

Applicant is in judicial custody in ECIR No. ECIR/DNSZO/4/2023, Special Summary Trial no.29 of 2024, Enforcement Directorate Vs. Banmeet Singh, under Sections 3 and 4 of the Prevention of Money Laundering Act, 2002 ("the Act"), filed before the District and Sessions Court (Designated Court under the Prevention of Money Laundering Act (PMLA), 2002) Registered at Dehradun Sub-Zonal Officer. He has sought his release on bail.

2. The background of the case is as follows: The applicant was investigated with regard to the offences of drug trafficking and money laundering in the United States of America. He was arrested in the month of April, 2019, in the United Kingdom on extradition request of the US authorities on drug trafficking and money laundering charges. The applicant entered into a plea agreement with the US authorities on 05.01.2024. He was convicted, but his sentence was reduced to 60 months. On 19.04.2024, the applicant was

released. On his arrival in India, he was interrogated and finally arrested. It has been the case of the Enforcement Directorate (“ED”) that as per the information received from the US authorities, the applicant along with his brother Parvinder Singh was operating an international drug trafficking group named as the Singh DTO (Drug Trafficking Organization). That used vendor marketing sites on the dark web, numerous free advertisements on clear websites, and a network of narcotic and controlled-substance distributors and distribution cells to sell drugs. In exchange, the Singh Organization received drug trafficking proceeds in the form of crypto currency and laundered these proceeds through crypto currency wallets. The Singh Organization received the drug trafficking proceeds through the sales on dark web markets, then laundered those proceeds through crypto currency transactions. Both brothers, i.e. the applicant and Parvinder Singh, used the monikers “Liston” and “Listonishere” on a variety of dark web markets. After his arrest in India, the statement of applicant was recorded under Section 50 of the Act. The statement of Parvinder Singh was also recorded under Section 50 of the Act.

3. It is the case of the ED that in US court, the applicant was prosecuted and convicted with regard to some Bitcoins (“BTC”), which he had earned through his drug trafficking business. Before the US authorities, the applicant,

as per the ED, has given a statement that he had split the business with his brother Parvinder Singh and 4250 BTC were transferred to Parvinder Singh. According to the ED, Parvinder Singh had denied acquisition of 4250 BTC. He had though revealed possession of some BTC, which have been taken into custody by the ED.

4. Complaint has already been filed by the ED in the matter. In Para 10.2.21, 10.2.22 and 10.2.23, the averments that have been made in the complaint are as follows:-

“10.2.21 That Banmeet Singh did not have any legitimate source of income in India as well as in United Kingdom during the period 2012 to 2017, and he stayed mostly at the United Kingdom during the said period along with his wife Amarpreet Kaur Chawla. On being asked, both Banmeet Singh and Amarpreet Kaur Chawla could not produce any proof for their legitimate source of income during the said period. Thus the foreign inward remittances received in their accounts are nothing but a part of proceeds of crime. Thus the proceeds of crime in the instant case have been mixed with legitimate source (in case of Surjeet Singh) in order to disguise the tainted money i.e. proceeds of crime project it as untainted.

10.2.22 That the foreign inward remittances received in the bank accounts of Banmeet Singh, Amarpreet Kaur Chawla and Surjeet Singh were further rotated to various other accounts belonging to them so as to disguise the origin of funds and project those as untainted money. The rotation of funds through various accounts to make them appear as untainted money is a classic example of Money Laundering. This clearly proves the malafide intention of Banmeet Singh and Amarpreet Kaur Chawla of projecting

the illegally earned money through sale of illegal drugs as untainted and utilizing the same for their personal use.

10.2.23 Further, the remaining PoC in the instant case i.e. 4250 Bitcoins is still untraceable and is suspected to be in possession of the Banmeet Singh or Parvinder Singh, investigation in respect of the same is undergoing.”

5. Heard learned counsel for the parties and perused the record.

6. Learned counsel for the applicant would submit that the applicant has already been tried and convicted by the US authorities with regard to all BTC, which he had. It is argued that, in fact, the applicant had been prosecuted and convicted for drug trafficking as well as money laundering. The applicant, it is argued, cannot be prosecuted in India again.

7. Reference has been made to Article 14 sub-clause 7 of the International Covenants of Civil and Political Rights, 1966 and Section 2 of the Protection of Human Rights Act, 1993, which reads as follows:-

“Article 14 sub-clause 7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.”

Human Rights Act, 1993

“2. Definition.- (1) In this Act, unless the context otherwise requires,--

.....
.....
.....

(d) "human rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.”

8. Learned counsel for the applicant has also raised the following points in his submissions:-

- (a) The US authorities have made mutual legal assistance request to India revealing all the bank accounts, but those accounts were not freezed. It is argued that the money in those accounts were not considered as Proceeds of Crime (“PoC”) or else the accounts could have been freezed by the US authorities under Section 60(2) of the Act.
- (b) The applicant is not in possession of 4250 BTC.
- (c) The applicant has not stated before any authority that he had 4250 BTC, which he split with his brother Parvinder Singh.
- (d) The statement of the applicant under Section 50 of the Act, was procured by beating him

under coercion. It is not substantive evidence; it cannot be taken into consideration unless corroborated in material particulars. Particularly, it is argued that the applicant has retracted from his statement. It has less value.

- (e) In support of his contention, learned counsel for the applicant has placed reliance upon the principles of law, as laid down in the case of A. Tajudeen Vs. Union of India, 2015 (4) SCC 435 2015 4 SCC 435, Kunal Gupta Vs. E.D, C.R.M. (SB) 84 of 2024, Sujay Krishna Bhadra Vs. ED, CRM (SB) 227 of 2023, Commissioner of Customs (Imports) Vs. Ganpati Overseas, (2023) 10 SCC 484 and Adnan Nisar Vs. DoE, in Bail Application No.3056 of 2023.

- (f) In the case of A. Tajudeen (*supra*), the Hon'ble Supreme Court, inter alia, held:-

“28. Having given our thoughtful consideration to the aforesaid issue, we are of the view that the statements dated 25-10-1989 and 26-10-1989 can under no circumstances constitute the sole basis for recording the finding of guilt against the appellant. If findings could be returned by exclusively relying on such oral statements, such statements could easily be thrust upon the

persons who were being proceeded against on account of their actions in conflict with the provisions of the 1973 Act. Such statements ought not to be readily believable, unless there is independent corroboration of certain material aspects of the said statements, through independent sources. The nature of the corroboration required, would depend on the facts of each case. In the present case, it is apparent that the appellant A. Tajudeen and his wife T. Sahira Banu at the first opportunity resiled from the statements which are now sought to be relied upon by the Enforcement Directorate, to substantiate the charges levelled against the appellant. We shall now endeavour to examine whether there is any independent corroborative evidence to support the above statements.”

(g) In the case of Kunal Gupta (*supra*), it is observed as follows:-

“8.Also, it is trite law that statement under section 50 of the PMLA cannot be treated as substantive piece of evidence and can at best lend corroboration to the material available against the accused in course of investigation.”

(h) In the case of Sujay Krishna Bhadra (*supra*), the principles of law as laid down in the case of A. Tajudeen (*supra*) have been followed.

(i) In the case of Ganpati Overseas (*supra*), the Hon’ble Supreme Court observed as follows:-

“43.1. Mr Yashpal Sharma in his statement also stated more or less the same thing as stated by Mr Suresh Chandra Sharma. He was arrested on 15-3-1999 itself under Section 135 of the Customs Act.

However, he was enlarged on bail on 30-3-1999 by the Additional Sessions Judge, Delhi subject to deposit of Rs 30 lakhs within a specified period, which he paid. It has come on record that the Additional Sessions Judge in his bail order dated 26-5-1999 had mentioned that the statement of Mr Yashpal Sharma recorded under Section 108 of the Customs Act may not have been a voluntary one. It may be mentioned that Mr Yashpal Sharma vide his letter dated 25-8-1999 had retracted the statement made by him under Section 108 of the Customs Act. CESTAT noted the factum of retraction of the statement and therefore, refused to give credence to such confessional statement. In our view, no fault can be found with the approach of CESTAT.”

(j) In the case of Adnan Nisar Vs. DoE, in Bail Application No.3056 of 2023, with regard to the statement under Section 50 of the Act, it is observed as follows:-

“108. The proceedings under Section 50 of the PMLA may be judicial proceedings for the limited purpose mentioned therein but a confession made by an accused in his statement under Section 50 of the PMLA is not a judicial confession. Even with regard to the retraction of judicial confession, the Hon'ble Supreme Court in Bhagwan Singh & Ors. vs. State of M.P., (2003) 3 SCC 21 has observed that when such a confession is found to be not voluntary and more so when it is retracted, the conviction cannot be based on such retracted judicial confession, in the absence of other reliable evidence.....”

(k) The US authorities prosecuted and convicted the applicant with regard to all 8131 BTC; nothing was recovered from the applicant; applicant is not in possession of any BTC or any PoC. Therefore, unless there is possession, no offence under the provision of the Act is made out. Reference has been made to the judgment in the case of Vijay Madanlal Choudhary and Ors. Vs. Union of India and Ors., 2022 SCC OnLine SC 929. In Para 153, the Hon'ble Supreme Court observed as follows:-

“153. In other words, the authority under the 2002 Act is to prosecute a person for offence of money laundering only if it has reason to believe, which is required to be recorded in writing that the person is in possession of “proceeds of crime”. Only if that belief is further supported by tangible and credible evidence indicative of involvement of the person concerned in any process or activity connected with the proceeds of crime, action under the Act can be taken forward for attachment and confiscation of proceeds of crime and until vesting thereof in the Central Government, such process initiated would be a stand-alone process.

(l) The proffer statement made by the applicant before the US authorities is not a substantive piece of evidence. It cannot be made basis for conviction.

(m) In support of his averment, learned counsel for the applicant has placed reliance on the principles of law, as laid down in the No.92-2205 United States Courts of Appeals, Tenth Circuit, in US Vs. Acosta-Ballardo, 8F.3d 1532 (10th Cir. 1993) Decided Nov 9, 1993, in which the Court observed as follows:-

“Statements made by a defendant in connection with a plea or an offer to plead may not be used substantively or for impeachment in any civil or criminal proceeding against the person who made the plea or offer.”

9. On the other hand, learned counsel for the ED would submit that at this stage, the Court is not required to determine the guilt or otherwise of the applicant. The Court is considering bail application. At this stage, a *mini trial* may not be conducted. He would submit that at this stage, the genuineness of the case may be examined. He would refer to the judgment in the case of Vijay Madanlal Choudhary (*supra*), and in the case of CBI Vs. Vijay Sai Reddy, (2013) 7 SCC 452. In the case of Vijay Madanlal Choudhary (*supra*), the Hon’ble Supreme Court observed that in the case of Vijay Said Reddy (*supra*), the Hon’ble Supreme Court observed:-

“401 We are in agreement with the observation made by the Court in Ranjitsing Brahmajeetsing Sharma [Ranjitsing Brahmajeetsing

Sharma v. State of Maharashtra, (2005) 5 SCC 294 : 2005 SCC (Cri) 1057] . The Court while dealing with the application for grant of bail need not delve deep into the merits of the case and only a view of the court based on available material on record is required. The court will not weigh the evidence to find the guilt of the accused which is, of course, the work of the trial court. The court is only required to place its view based on probability on the basis of reasonable material collected during investigation and the said view will not be taken into consideration by the trial court in recording its finding of the guilt or acquittal during trial which is based on the evidence adduced during the trial. As explained by this Court in Nimmagadda Prasad [Nimmagadda Prasad v. CBI, (2013) 7 SCC 466 : (2013) 3 SCC (Cri) 575] , the words used in Section 45 of the 2002 Act are “reasonable grounds for believing” which means the court has to see only if there is a genuine case against the accused and the prosecution is not required to prove the charge beyond reasonable doubt.”

10. In the case of Vijay Sai Reddy (*supra*), the Hon’ble Court observed that :-

“34. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the legislature has used the words “reasonable grounds for believing” instead of “the evidence” which means the court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution will be able to produce *prima facie* evidence in support of the charge. It is not expected, at this

stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.”

11. Learned counsel for the ED would also raise the following points in his submission:-

- (i) The applicant has not been prosecuted and convicted for 8131 BTC, which he had. In United States, the applicant has been prosecuted and convicted with regard to 3838 BTC, which he had surrendered.
- (ii) Before the US authorities, the applicant had given a statement that he had split his illegal business with his brother Parvinder Singh and 4250 BTC were transferred to Parvinder. It is argued that this act of transferring or splitting BTC, *per se*, amounts to offence under Section 3 read with 2(ra) of the Act.
- (iii) It is argued that even if for the sake of argument if we assume that the applicant has been convicted by the US court for the offences, still he can be tried in Indian Courts. He would refer to the judgment in the case of Jitendra Panchal Vs. Narcotic Control Bureau, (2009) 3 SCC 57. In the case of Jitendra

Panchal (*supra*), the Hon'ble Supreme Court observed as follows:-

“42. While the first part of the charges would attract the provisions of Section 846 read with Section 841 of Title 21 USC (Controlled Substances Act), the latter part, being offences under the NDPS Act, 1985, would be triable and punishable in India, having particular regard to the provisions of Sections 3 and 4 of the Penal Code read with Section 3(38) of the General Clauses Act, which has been made applicable in similar cases by virtue of Article 367 of the Constitution. The offences for which the appellant was tried and convicted in the USA and for which he is now being tried in India, are distinct and separate and do not, therefore, attract either the provisions of Section 300(1) of the Code or Article 20(2) of the Constitution.”

iv) In the case of Prabodh K. Mehta Vs. Charuben K. Mehta, in First Appeal No.922 of 2013 and connected matters, the Hon'ble Full Bench of Bombay High Court has formulated two questions for reference, which are as follows:-

(1)(a) Whether conviction of an Indian by a foreign Court for the offence committed in that country can be taken notice of by the Courts or authorities in India while exercising their judicial and/or quasi judicial powers? And

(1)(b) Whether such a conviction would be binding on the Courts and authorities in India while exercising their judicial and/or quasi judicial powers?

And they are answered as follows:-

“41. We therefore answer the first question viz question No. (1)(a) in the affirmative.”

“42. We now propose to consider the second question i.e. question No. (1)(b). We are of the considered view that, though the judgment and order of conviction of a foreign Court for the offence committed in India can be noticed/looked into and recognized by judicial and quasi judicial authorities in India, while exercising their judicial and quasi judicial powers, it cannot be said that the same will be ipso facto binding on such Courts and authorities. If we hold that such a judgment of a foreign Court for an offence committed in that country, is binding on the Courts and authorities in India while exercising their judicial and quasi judicial powers, it will amount to directly or indirectly enforcing the judgment of the foreign Court. What is the effect of such order of conviction, would depend upon variety of factors such as, nature of the proceedings, purpose for which the said order of conviction needs to be taken into consideration, nature of conviction and effect thereof on the proceedings, nature of consequences of the ultimate decision to be taken in the said proceedings, are some of the factors which will have to be taken into consideration while deciding as to how much and what weightage has to be given to such judgment and order of conviction. We are of the FA-922-13.sxw considered view that, no hard and fast rule can be laid for that purpose. The Courts and authorities, while exercising their judicial and quasi judicial powers will have to take a call on the facts and circumstances of each case and take a decision as to what is the effect

of such judgment and order of conviction. The question No.(1)(b) is answered accordingly.”

- (v) Any case pertaining to crypto currency may be determined where a person or company, who owns it is domiciled. He would refer to the judgment in the High Court of Justice Business and Property Courts of England & Wales Commercial Court (QBD) No. CL-2020-000840 in the case of Ion Science Limited & Duncan John. V. Persons Unknown Binance Holdings Limited, Payment Ventures Limited (unreported [2020] (Comm), in which it is observed that, **“the second of those aspects is on the basis that the lex situs of a cryptoasset is the place where the person or company who owns it is domiciled. That is an analysis which is supported by Professor Andrew Dickinson in his book Cryptocurrencies in Public and Private Law at para.5.108. There is apparently no decided case in relation to the lex situs for a cryptoasset. Nevertheless, I am satisfied that there is at least a serious issue to be tried that that is the correct analysis.”** It is argued that 4250 BTC is in the possession of

the applicant, therefore, the Indian Courts have jurisdiction to prosecute the applicant.

(vi) In the US court, the applicant was not prosecuted for bringing the PoC within India. He was prosecuted for bringing PoC into the Southern State of Ohio or elsewhere. It is argued that the word 'elsewhere' refers to other States of the United States of America. It does not refer to India. The applicant is convicted to the corresponding scheduled offences. It is also admitted that based on its plea bargain, the applicant surrendered some of the BTC, which he had.

(vii) Possession of PoC is not necessary to prosecute a person under the provisions of the Act.

(viii) He would refer to the judgment in the case of US Vs Krilich Nos. 97-2721, 97-2977 United States Court of Appeals, Seventh Circuit, 159 E.3d 1020 (7th Cir, 1998) decided Oct 27, 1998. In that case, the Court observed as follows:-

“This agreement allowed the prosecutor to use the proffer as evidence if Krilich were to “testify contrary to the substance of the proffer or otherwise present a position inconsistent with the proffer”. Introduction of the statements thus was proper if either his testimony, see *United States V. Goodapple*, 958 F.2d 1402, 1409 (7th Cir. 1992), or evidence that he presented through the testimony of others, see *United States v. Richardson*, 130 F.3d 765, 778 (7th Cir. 1997), *United States v. Dortch*, 5 F.3d 1056, 1068 (7th Cir. 1993), contradicted the proffer.”

12. It is the stage of bail. Much of the discussion is not expected of. Arguments are being appreciated with the caveat that any observation made in this order shall have no bearing at any subsequent stage of the trial or in any other proceedings.

13. Admittedly, in the United States indictment of the applicant was for three charges as follows:-

- (i) Conspiracy to Distribute and Possess with Intent to Distribute Controlled Substances (21 U.S.C. § 846).
- (ii) Conspiracy to Import Controlled Substances (21 U.S.C. §§ 952 (a), 960 (b) (2) and (b) (3), and 963)
- (iii) Money Laundering Conspiracy (18 U.S.C. 1956 (h)).

14. Thereafter, the appellant entered into plea agreement in the United States which, *inter alia*, records as follows:-

“Defendant agrees to turn over all seed phrases and passwords and to assist in the transfer to U.S. Government crypto currency wallets, all of the 8,131.80350145 BTC; 8,199.31047036 BCH;8,131.80114469 BSV;8,131.80312935 Bitcoin Gold (BTG); and 8,131.801,544.42 eCash (XEC), and currently stored on the lockchain, remote or cold storage devices, and/or at the above listed public addresses which constitute the ill-gotten gains from the offences described in Counts One and Three of the Indictment.”

15. The statement of facts with plea agreement records that “To conceal the proceeds from the distribution and importation of controlled substances, and to promote the distribution and importation of controlled substances, SINGH and his co-conspirators engaged in a conspiracy to launder the drug proceeds by conducting wire transfers, transferring cryptocurrency, and shipping U.S. currency and controlled substances in the mail, from outside of the United States to the Southern District of Ohio and elsewhere.”

16. On this ground, on behalf of the ED it is being argued that the applicant engaged in conspiracy to launder the drug proceeds by conducting wire transfers,

transferring cryptocurrency, and shipping U.S. currency and controlled substances in the mail, **from outside of the United States to the Southern District of Ohio and elsewhere**". What is being argued is that the applicant has not been prosecuted and convicted for transferring the proceeds of crime to India from outside India. In the judgment of United States, Southern District of Ohio, the title and sections are recorded as 21 U.S.C. § 846 and 18 U.S.C. 1956 (h).

17. This Court is concerned with the charges of money laundering alone. 18 U.S.C. 1956 (2) (A) is as follows:-

“(2) Whoever transports, transmits, or transfers, or attempts to transport , transmit, or transfer a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States-

(A) With the intent to promote the carrying on of specified unlawful activity: or

18. 18 U.S.C. 1956 (h) is as follows:-

“(h) Any person who conspires to commit any offense defined in this section or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.”

19. 18 U.S.C. 1956 (2) is for transferring from a place in the United States or through a place outside the United States or to a place in the United States from or through a place outside the United States, monetary instruments of funds etc. It covers everything, transferring from outside or into the United States from United States to outside and in Section 18 U.S.C.1956 (h) is conspiracy for it. But the fact statements attached with the plea statements as quoted hereinabove, is with regard to bringing in or transferring the money or cryptocurrency etc. within the Southern State of Ohio or elsewhere. Does not elsewhere qualifies other adjoining States of Ohio? Can this word “elsewhere” be extended to include India? If the word “elsewhere” does not indicate India, does not it mean the applicant was not convicted for transferring the proceeds of crime from outside India to India? These and many more related questions may fall for scrutiny during trial

20. The question is, even if a person is convicted in the United States can he be prosecuted in India again? In the case of Probodh (*supra*), the Full Bench of the Hon’ble Bombay High Court had considered the principles of law, as laid down by the Hon’ble Supreme Court in the case of Jitendra Panchal (*supra*) and answered the reference which has already been quoted hereinabove. According to

the settled law now that judgment and order of conviction of a foreign court for the offence committed in that country can be noticed/looked into and recognized by judicial and *quasi* judicial authorities in India. But, it has been held in the case of Prabodh (*supra*) that if the judgment of the foreign court is held binding on the courts and authorities in India, it would amount to directly or indirectly enforcing the judgment of the foreign courts. It was held that the effect of such order of conviction would depend upon variety of facts. In the instant case also at some later stage those factors would fall for consideration in the trial of the applicant.

21. It is positive case of the ED that the applicant under Section 50 of the Act has stated that in the year 2017, he and his brother Parvinder Singh did split as they stopped the said business. In the said split Parvinder Singh got 4250 Bitcoins. Those Bitcoins according to the ED are still in the block chain, but they could not be accessed for the want of passwords or key phrases. Search has already been made to recover those passwords and key phrases. It is further the case of the ED that in his proffer statement recorded on 05.01.2024 in the United States, the applicant stated as follows:-

“3. In October or November of 2017 SINGH returned to India after living in the UK with Amarpreet

for a few months. SINGH explained he and Parvinder were not longer selling narcotics together, and were no longer living together. SINGH and Parvinder discussed splitting the BTC located in “myth, page” during this time period. They decided that SINGH would get 3,000+ BTC and all of the forked coins and future airdropped coins, and that Parvinder would get 4,250 BTC. SINGH and Parvinder started moving the funds in December 2017 and emptied the “myth, page” wallet in order to claim the forked coins. They moved the BTC to a temporary wallet during the time claiming the forked coins. SINGH was unable to provide the seed phrase for the temporary wallet at the time of the proffer due to not remembering it. The temporary wallet was a Trezor Model 1 that was left in the backpack Parvinder took after SINGH’s arrest. Singh moved his funds to the “tail, bulb” wallet, which he said Parvinder did not have access. SINGH said the transfer was completed on December 27, 2017. SINGH said Parvinder was obligated to assist him receive and future forked assets. SINGH also said that one of the airdropped coins was SEMUX, which had said was CMAX in the earlier proffer.”

22. What is being argued is that the proffer and statement under Section 50 of the Act is not a substantive piece of evidence. There admissibility is not in dispute, but their evidentiary value depends on as to whether such statement finds independent corroboration or not?

23. Not only this, on behalf of the ED it is being argued that the act of splitting *per se* attracts the provisions of Section 3 of the Act. This aspect would also

require examination. The Court restrains to make any conclusion on it, at this stage.

24. It is the case of the ED that huge amounts were transmitted by the applicant in his or his family members in India through foreign accounts. The applicant did not have any other source of income from 2011 to 2017 and the applicant did not reveal as to how he got the money. It is argued that during the same period, the applicant was into a drug trafficking business. To some part he has accepted it. Therefore, remaining transactions are also from drug trafficking and money laundering. It may be presumed under Section 23 of the Act. Section 23 of the Act is as follows:-

“23. Where money-laundering involves two or more interconnected transactions and one or more such transactions is or are proved to be involved in money-laundering, then for the purposes of adjudication or confiscation under Section 8, it shall, unless otherwise proved to the satisfaction of the Adjudicating Authority, be presumed that the remaining transaction form part of such inter-connected transaction.”

25. Admittedly, the applicant had entered into a plea agreement in the United States. The BTC were surrendered and the applicant received the reduced sentence. The money was transmitted in the Indian accounts during that period only. In the request for assistance sought by the

United States Department of Justice, the United States authorities have informed the Indian authorities that during investigation, the US authorities identified several Pay Pal, Money Gram and Western Union accounts (Collectively, the funnel accounts) used by the Singh DTO to receive proceeds on drug trafficking. The money was transferred accordingly in the India accounts. It is also true that under Section 60 (2) of the Act, such account have not been freezed. What is it's effect? How these accounts are directly connected with the applicant? Whether the presumption under Section 23 may be extended to conclude that money which has been transferred from outside India into the Indian accounts by the applicant are proceeds of crime? These all questions would fall for deeper scrutiny during trial.

26. Having considered the entirety of the facts, this Court is of the view that there is no ground to enlarge the applicant on bail. Accordingly, the bail application deserves to be rejected.

27. The bail application is rejected.

(Ravindra Maithani, J)
07.01.2025