

1. Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 1518 of 2023

Applicant :- Ramji Singh

Opposite Party :- Directorate Of Enforcement Allahabad Sub Zonal Office

Counsel for Applicant :- Purnendu Chakravarty, Annuj Taandon, Rishabh Chauhan

Counsel for Opposite Party :- Rohit Tripathi

2. Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 1523 of 2023

Applicant :- Ramji Singh

Opposite Party :- Directorate Of Enforcement Allahabad Sub Zonal Office

Counsel for Applicant :- Annuj Taandon, Atul Krishna, Purnendu Chakravarty

Counsel for Opposite Party :- Rohit Tripathi

3. Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 1602 of 2023

Applicant :- Ramji Singh

Opposite Party :- Directorate Of Enforcement Allahabad Sub Zonal Office

Counsel for Applicant :- Purnendu Chakravarty, Annuj Taandon

Counsel for Opposite Party :- Rohit Tripathi

4. Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 1611 of 2023

Applicant :- Ravindra Aggarwal

Opposite Party :- Govt. Of India Thru. Assistant Director Directorate Of Enforcement

Counsel for Applicant :- Himanshu Hemant Gupta

Counsel for Opposite Party :- Rohit Tripathi

5. Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 1617 of 2023

Applicant :- Ravindra Aggarwal

Opposite Party :- Govt. Of India Thru. Assistant Director Directorate Of Enforcement Sub Zonal Office Allahabad

Counsel for Applicant :- Himanshu Hemant Gupta

Counsel for Opposite Party :- Rohit Tripathi

6. Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 1639 of 2023

Applicant :- Jai Narayan Agarwal

Opposite Party :- Govt. Of India Thru. Assit. Director Directorate Of Enforcement Allahabad

Counsel for Applicant :- Himanshu Hemant Gupta

Counsel for Opposite Party :- Rohit Tripathi

7. Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/ S 438 CR.P.C. No. - 1636 of 2023

Applicant :- Subhash Chandra Tulsian

Opposite Party :- Govt. Of India Thru Assistant Director Directorate Of Enforcement

Counsel for Applicant :- Himanshu Hemant Gupta

Counsel for Opposite Party :- Rohit Tripathi

8. Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/ S 438 CR.P.C. No. - 1638 of 2023

Applicant :- Subhash Chandra Tulsian

Opposite Party :- Govt. Of India Thru. Assistant Director Directorate Of Enforcement

Counsel for Applicant :- Himanshu Hemant Gupta

Counsel for Opposite Party :- Rohit Tripathi

Hon'ble Subhash Vidyarthi J.

1. Heard Sri Ajit Kumar Sinha Senior Advocate assisted by Sri Himanshu Hemant Gupta, Sri Aishwarya Sinha and Sri Raghav Tiberwal Advocates appearing on behalf of the applicants in Anticipatory Bail Application Nos. 1611 of 2023, 1617 of 2023, 1636 of 2023, 1638 of 2023 and 1639 of 2023, Sri. Purnendu Chakravarty Advocate for the applicants in Anticipatory Bail Application Nos. 1518 of 2023, 1523 of 2023 and 1602 of 2023, and Sri Rohit Tripathi Advocate, the learned counsel for the respondent - Directorate of Enforcement and perused the records.
2. All the aforesaid applications seek anticipatory bail for different accused persons in different cases, but on similar set of allegations arising out of a joint surprise check carried out on 25.03.2011 by some officers of Railways and Northern Coalfields Ltd. (NCL) at the factory premises of (1) M/s Swastik Cement Products Ltd., (2) M/s Fertico Marketing and Investments Pvt. Ltd., (3) M/s Jai Durga Industries, (4) M/s Sri Ram Fuels Pvt. Ltd. and (5) M/s Drolia Coke Industries Pvt. Ltd. It was found that the aforesaid companies used to receive coal from Northern Coal Fields Ltd. (NCL) for manufacture of Special Smokeless Fuel (SSF) and instead of processing the coal, the

companies sold it in black market at a high premium causing wrongful loss to the government and wrongful gain to the accused persons.

3. On 13.04.2011, the C.B.I./ACB Lucknow filed 5 F.I.Rs. under Sections 120-B, 420 of I.P.C. and Section 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988 for causing wrongful gain to the companies by diverting the coal received from NCL to open market without processing to SSF. RC 4(A) 2011 was filed against M/s Swastik Products Ltd., RC 5 (A) 2011 against M/s Fertico Marketing & Investment Pvt. Ltd., RC 6(A) 2011 against M/s Jai Durga Industries, RC 7 (A) 2011 against M/s Sri Ram Fuels and RC 8 (A) against Ms Drolia Code Industries Pvt. Ltd. Unknown officials of District Industries Centre (DIC) and unknown officials of NCL have also been made accused in all the F.I.Rs. The C.B.I. filed five different charge-sheets dated 31.05.2012 in respect of the aforesaid 5 F.I.Rs.
4. The particulars of the cases in respect of which the aforesaid 8 applications have been filed, are being mentioned below: -

Sl.no.	ABAIL No.	FIR No.	ECIR No.	Complaint No.	Date of Complaint	Session Case No.
1	1518	05	02	02/2019	03.06.2019	512/2023
2	1523	06 & 08	01 & 03 Merged in 01	08/2022	24.06.2023	124/2023
3	1602	04	04	06/2018	12.07.2018	492/2023
4	1611	07	05	02/2016	April 2016	513/2023
5	1617	06 & 08	01 & 03 Merged in 01	08/2022	24.06.2023	124/2023
6	1636	04	04	06/2018	12.07.2018	492/2023
7	1638	05	02	02/2019	03.06.2019	512/2023
8	1639	05	02	02/2019	03.06.2019	512/2023

5. ECIR/03/VSI/LZO/2012 was merged with ECIR/01/VSI/LZO/2012 on 29.03.2016.
6. The charge-sheets filed by CBI state that up to the year 2000, coal was a controlled commodity and industrial units used to get coal upon recommendation and sponsoring by the Directorate of Industries. In

the Year 2000, the Government of India notified the Colliery Decontrol Order and thereafter no recommendation of the Directorate of Industries was required for allotment of coal to industrial units and the sponsoring of coal from Directorate of Industries was stopped in the year 2003. The Government announced the New Coal Distribution Policy (NCDP) in October 2007 under which coal was to be supplied to non-core Small Scale Industrial consumers through Fuel Supply Agreements (FSA) directly from Coal India Ltd. / subsidiary coal companies.

7. Clause 4.4 of FSA provides that the purchaser would not sell/divert or transfer the coal for any other purpose whatsoever and it would be treated as a material breach of the agreement. In the event of the purchaser engaging or planning to engage in any resale of coal, the seller (NCL/CIL) would terminate the agreement forthwith without any liability or damages whatsoever payable to the purchaser.
8. Upon joint inspection of the factories, it was found that the factories were non-functional and they had sold away the coal in breach of the condition contained in clause 4.4 of the FSA, without processing the same into SSF.
9. Regarding Ramji Singh - the applicant in Anticipatory Bail Application Nos. 1518 of 2023, 1523 of 2023 and 1602 of 2023, it is stated in the complaints filed by E.D. that he and Yogendra Nath Pandey - another officer of the DIC, had misused their official positions by certifying falls/fabricated reports prepared by the companies regarding proper utilization of coal received from NCL and about functioning of SSF manufacturing units without proper physical inspection. Their act facilitated continuous supply of coal from NCL, which resulted in generation of wrongful gain. The applicant Ramji Singh and Yogendra Nath Pandey were indirectly involved in the activity of abetment with regard to generation of proceeds of crime and thereby they committed the offence of money-laundering.

10. The complaint further states that three summons were issued to the applicant Ramji Singh and in reply to the last summon, he sought exemption from appearance due to his medical conditions.
11. In the affidavits filed in support of the anticipatory bail applications of the applicant Ramji Singh, it has been stated that no coal was supplied at a notified price on the basis of status report submitted by the applicant, because the coal was supplied under FSA and as per clause 4.4 of the agreement, it was the duty of NCL to inspect/call for any documents from the purchaser and physically verify the end use of coal and satisfy itself about its correctness. The applicant Ramji Singh has not received any money as a result of any criminal activity.
12. It has been stated that the applicant Ramji Singh is a 72 years old person, who is infirm and sick and he is suffering from numerous old age related ailments. Several documents indicating continuing treatment of the applicant from Medanta Hospital, Gurugram, have been annexed which indicate that the applicant is suffering from Hypertension, Diabetes, Lacunar Stroke, Depression and some cardiac problems and he has been a patient of T.B.
13. Regarding Ravindra Aggarwal, the applicant in Anticipatory Bail Application Nos. 1611 of 2023 and 1617 of 2013, it is alleged that he is the owner of M/s S.B.C. Minerals Pvt. Ltd. which had purchased undersized coal from M/s Sri Ram Fuels Pvt. Ltd., M/s Jai Durga Industries and M/s Drolia Coke Industries during year 2010-11 and the transaction was proved to be false. Ravindra Aggarwal has been charged for involvement in criminal conspiracy of illegal diversion of coal by showing fake purchase of undersized coal. The complaint records the statement of Ravindra Aggarwal that the coal so purchased from Shri Ram Fuels Pvt. Ltd., M/s Jai Durga Industries and M/s Drolia Coke Industries was further sold to M/s Dalmia Cement Bharat Ltd. and other purchasers. Rupees ten lacs were paid to the seller through bank transfer and the balance payment was made in cash.
14. Jai Narayan Agarwal, the applicant in Criminal Miscellaneous Anticipatory Bail Application No. 1639 of 2023, is the Proprietor of

Ananda Coal Movers, M/s Shivam Coal Movers and M/s Trishul Industries, which had purchased coal from M/s Fertico Marketing and Investment Pvt. Ltd., without the same having been processed into SSF. The complaint records the statement of the applicant that the coal so purchased from M/s Fertico Marketing and Investment Pvt. Ltd. was further sold to other purchasers. The entire amount towards purchase of coal was paid through cheques and bank transfers, except an amount of Rs.1,00,000/- which was paid in cash.

15. Subhash Chandra Tulsian, the applicant in Anticipatory Bail Application Nos. 1636 of 2023 and 1638 of 2023, is the owner of M/s Tulsian Coal Syndicate and M/s Purnagiri Holding Pvt. Ltd. The allegation against him is that during year 2010-11 M/s Swastik Cement Products and M/s Fertico Marketing and Investments Pvt. Ltd. had purchased the coal from NCL under FSA for processing and converting it into special smokeless fuel (SSF) but they wrongfully sold the coal in open market without processing the same to M/s Tulsian Coal Syndicate and M/s Purnagiri Holding Pvt. Ltd. It is alleged that some sale transactions appeared to be fake. Subhash Chandra Tulsian has been charged as being involved in criminal conspiracy of illegal diversion of coal by showing fake purchase of SSF. The complaints record the statement of the applicant that the coal so purchased from M/s Swastik Cement Products and M/s Fertico Marketing and Investments Pvt. Ltd. was further sold to other purchasers. The entire consideration for the coal was paid through cheques only.
16. The learned counsel for the applicants in ABAIL Nos. 1611, 1617, 1636, 1638 and 1639 of 2023, namely Ravindra Aggarwal, Jai Narayan Agarwal and Subhash Chandra Tulsian, has submitted that the applicants have not committed any offence by purchasing the coal from Sri Ram Fuels Pvt. Ltd., M/s Jai Durga Industries, M/s Drolia Coke Industries, M/s Fertico Marketing and Investment Pvt. Ltd. and M/s Swastik Cement Products. At the most, the aforesaid companies are guilty of breach of agreement with NCL, which prohibited sale of coal in open market and under which the companies were obliged to

process the coal, convert it into SSF and thereafter sell it in the open market. The applicants or their concerns were not parties to the contract between the NCL and the aforesaid three companies. No proceeds of crime have been recovered from any of the aforesaid applicants and none of their properties has been attached.

17. Considering the aforesaid facts, all the applicants have been granted anticipatory bail in the scheduled offences.
18. Besides the aforesaid cases arising out of allegations regarding illegal sale of coal leveled in furtherance of the joint inspection carried out on 25.03.2011, none of the applicants is involved in any other case.
19. The applicant Ramji Singh has been granted bail in Complaint Case No. 02 of 2016 under Section 3/4 of PMLA by means of an order dated 31.10.2017 passed by this Court sitting at Allahabad in Criminal Misc. Bail Application No. 32061 of 2017.
20. Keeping in view the facts that the applicant Ramji Singh has retired from the position of General Manager of the DIC and presently he is aged about 72 years; that he is suffering from various ailments; that there is no allegation of recovery of any proceeds of crime from the applicant, he was granted interim order anticipatory bail on the following conditions and subject to any other conditions that may be fixed by the Trial Court:-
 - (i). That the applicant shall appear before the trial court on each date fixed unless personal presence is exempted;
 - (ii). That the applicant shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer or tamper with the evidence;
 - (iii). That the applicant shall not leave India without the previous permission of the court;
 - (iv). That the applicant shall not pressurize/ intimidate the prosecution witness.
21. The other applicants have also been granted interim anticipatory bail on similar terms.

22. The respondent – E.D. has filed counter affidavits in ABAIL Nos. 1518 of 2023, 1523 of 2023, 1602 of 2023, 1617 of 2023 & 1636 of 2023. It has not been disputed in the counter affidavits that the applicants have cooperated with the investigation and they were not arrested during investigation, but it has been stated that these facts are hardly relevant for deciding the application. The counter affidavits state that the proceeds of crime need not be relatable or traceable to any particular accused so long as the same is identifiable and can be related with the case.
23. The counter affidavits refers to the law laid down by the Hon'ble Supreme Court in the cases of **Vijay Madanlal Choudhary versus Union of India** 2022 SCC OnLine SC 929, **Directorate of Enforcement versus M. Gopal Reddy and another** 2022 SCC OnLine SC 1862, **Y. S. Jagan Mohan Reddy versus Central Bureau of Investigation**, (2013) 7 SCC 439, **State of Bihar and another versus Amit Kumar**, (2017) 13 SCC 751 and **Rohit Tandon versus Directorate of Enforcement**, (2018) 11 SCC 46.
24. In **Directorate of Enforcement versus M. Gopal Reddy and another** and **Vijay Madanlal Chaudhary versus Directorate of Enforcement** (Supra), the Hon'ble Supreme Court held that the rigors of Section 45 of PMLA apply to the applications under Section 438 Cr.P.C.
25. In **Y.S. Jagan Mohan Reddy v. CBI**, (2013) 7 SCC 439, the Hon'ble Supreme Court had held that: -

“34. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.”
26. In **State of Bihar v. Amit Kumar**, (2017) 13 SCC 751, the students of one College were successful in occupying first ten places in the merit list of Intermediate Examination conducted by Bihar Intermediate Education Council. An FIR was registered under Sections 420, 465, 468, 471, 120-B I.P.C. Investigation revealed

fraudulent practices prevailing in Bihar Intermediate Examination involving students and management of the College resulting in the arrest of the respondent. The High Court had granted bail to the respondent. In appeal the Hon'ble Supreme Court held that: -

“8. A bare reading of the order impugned discloses that the High Court has not given any reasoning while granting bail. In a mechanical way, the High Court granted bail more on the fact that the accused is already in custody for a long time. When the seriousness of the offence is such the mere fact that he was in jail for however long time should not be the concern of the courts. We are not able to appreciate such a casual approach while granting bail in a case which has the effect of undermining the trust of people in the integrity of the education system in the State of Bihar.”

(Emphasis supplied)

27. In **Rohit Tandon v. Directorate of Enforcement**, (2018) 11 SCC 46, during a raid conducted jointly by the Crime Branch and the Income Tax Department at the office premises of the appellant sometime after demonetization, currency of Rs 13.62 crores was recovered, including new currency in the denomination of Rs 2,000/- amounting to Rs 2.62 crores. In addition, the appellant had surrendered Rs 128 crores during the raids conducted by the Income Tax Department in his office and residential premises. The bail application of the appellant was rejected by the High Court. The appellant preferred second bail application before the High Court of Delhi and he filed an application for his interim release on the assertion that his mother was seriously ill and she required immediate medical attention. The Second Bail Application was dismissed as withdrawn on the request of the applicant, yet the High Court granted interim bail to the appellant for 3 weeks, taking into account the period of incarceration of the petitioner, submission of the charge-sheet in the main case and the illness of the mother of the petitioner. In the aforesaid factual background, the Hon'ble Supreme Court held that: -

“21. The consistent view taken by this Court is that economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country. Further, when attempt is made to project the proceeds of crime as untainted money and also that the allegations may not ultimately be established, but having been

made, the burden of proof that the monies were not the proceeds of crime and were not, therefore, tainted shifts on the accused persons under Section 24 of the 2002 Act.”

28. The counter affidavit also makes a reference to the following passage from a judgment dated 12.03.2001 passed by the Hon’ble Supreme Court in the case of **Rakesh Kumar Pandey versus Munni Singh @ Mata Bux Singh**, S.L.P. No. 4059 of 2000: -

“The High Court on being moved, has considered the application for bail and without bearing in mind the relevant materials on record as well as the gravity of offence released the accused-respondent on bail, since the accused, who had been ascribed similar role, had been granted bail earlier.”

29. The counter affidavit has been verified by an Assistant Director of ED, who has disclosed his qualification to be graduation, and all the averments made in the counter affidavit regarding various judgments of the Hon’ble Supreme Court have been verified on the basis of personal knowledge of the deponent. The reference made to the order passed by the Hon’ble Supreme Court in **Rakesh Kumar Pandey** (Supra) indicates an unfounded and unwarranted misapprehension in the mind of the deponent that this court will decide the bail application without bearing in mind the relevant materials on record or the gravity of the offence.

30. Section 45 of PMLA provides the following conditions for grant of bail to an accused person: –

“45. Offences to be cognizable and non-bailable.—

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no person accused of an offence under this Act shall be released on bail or on his own bond unless—

- (i) the Public Prosecutor has been given an opportunity to oppose the application for such release; and*
- (ii) where the Public Prosecutor opposes the application, **the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:***

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

Provided further that ...

** * **

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

** * *”*

(Emphasis supplied)

31. It is relevant to note that Section 44 of the PMLA contains the following provision: -

“44. Offences triable by Special Courts.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) an offence punishable under Section 4 and any scheduled offence connected to the offence under that section shall be triable by the Special Court constituted for the area in which the offence has been committed:

Provided that the Special Court, trying a scheduled offence before the commencement of this Act, shall continue to try such scheduled offence; or

(b) a Special Court may, upon a complaint made by an authority authorised in this behalf under this Act take cognizance of offence under Section 3, without the accused being committed to it for trial.

Provided that after conclusion of investigation, if no offence of money-laundering is made out requiring filing of such complaint, the said authority shall submit a closure report before the Special Court; or

(c) if the court which has taken cognizance of the scheduled offence is other than the Special Court which has taken cognizance of the complaint of the offence of money-laundering under sub-clause (b), it shall, on an application by the authority authorised to file a complaint under this Act, commit the case relating to the scheduled offence to the Special Court and the Special Court shall, on receipt of such case proceed to deal with it from the stage at which it is committed.

(d) a Special Court while trying the scheduled offence or the offence of money-laundering shall hold trial in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974), as it applies to a trial before a Court of Session.

Explanation.—For the removal of doubts, it is clarified that,—

(i) the jurisdiction of the Special Court while dealing with the offence under this Act, during investigation, enquiry or trial under this Act, shall not be dependent upon any orders passed in

respect of the scheduled offence, and the trial of both sets of offences by the same court shall not be construed as joint trial;

(ii) the complaint shall be deemed to include any subsequent complaint in respect of further investigation that may be conducted to bring any further evidence, oral or documentary, against any accused person involved in respect of the offence, for which complaint has already been filed, whether named in the original complaint or not.]

(2) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under Section 439 of the Code of Criminal Procedure, 1973 (2 of 1974) and the High Court may exercise such powers including the power under clause (b) of sub-section (1) of that section as if the reference to “Magistrate” in that section includes also a reference to a “Special Court” designated under Section 43.”

(Emphasis supplied)

32. Surprisingly, Section 45 of the PMLA, which contains certain restrictions on the Courts’ power to grant bail, does not contain any provision saving the special powers to grant bail conferred upon the High Courts by Section 439 Cr.P.C., whereas Section 44 of the PMLA, which confers jurisdiction for trial of offences under the Act upon Special Courts and which does not contain any provision which may affect the powers of any Court regarding grant of bail, provides that nothing contained in Section 44 shall affect the High Court’s special powers regarding bail under Section 439 Cr.P.C.
33. It appears that the provision contained in Section 44 (2) of PMLA saving special powers of the High Courts regarding grant of bail was meant to be incorporated in Section 45 of the Act, but it has erroneously been placed just above Section 45. This conclusion is supported by a study of similar provisions contained in other Statutes which are being referred to in the following paragraphs.
34. Section 12 (1) and 12 (2) of the **Anti-Hijacking Act, 2016** contains a provision similar to Section 45 (1) and 45 (2) of PMLA, but a provision similar to Section 44(2) of PMLA is also contained Section 12(3) of the **Anti-Hijacking Act**. The aforesaid section reads thus: -

“12. Provision as to bail.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond, unless,—
(a) the Public Prosecutor has been given an opportunity to oppose the application for such release; and

(b) where Public Prosecutor opposes the application, the Designated Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

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

(3) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under Section 439 of the Code of Criminal Procedure, 1973 (2 of 1974)."

(Emphasis Supplied)

35. The High Courts' special powers for grant of bail under Section 439 Cr.P.C. have been saved even when the punishment for the offence of hijacking provided in Section 4 is upto death.
36. Similarly, the offences under the **Suppression of Unlawful Acts Against Safety of Civil Aviation Act, 1982** carry a punishment of imprisonment for life and Section 6A of the Act provides that: -

"6-A. Provision as to bail.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond unless—

(a) the Public Prosecutor has been given an opportunity to oppose the application for such release; and

(b) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

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

(3) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under Section 439 of the Code of Criminal Procedure, 1973 (2 of 1974)."

37. Section 3 of the **Maritime Anti-Piracy Act, 2022** provides that the offence of piracy will carry a maximum punishment of imprisonment upto life and in case the person committing piracy cause death of any person or attempts to cause death, he may be punished with death. Section 12 of the aforesaid Act provides that: -

“12. Provisions as to bail.—(1) Notwithstanding anything contained in the Code, no person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond unless—

(a) the Public Prosecutor has been given a reasonable opportunity to oppose the application for such release; and

(b) where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding grant of bail under section 439 of the Code.”

38. Offences under **Suppression of Unlawful Acts Against Safety of Maritime Navigation and Fixed Platforms on Continental Shelf Act, 2002** carry punishment upto death and Section 8 of the aforesaid Act provides that: -

“8. Provision as to bail.—(1) Notwithstanding anything in the Code, no person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond unless
—

(a) the Public Prosecutor has been given an opportunity to oppose the application for such release; and

(b) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in sub-section (1) are in addition to the limitations under the Code or any other law for the time being in force on granting of bail.

(3) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under Section 439 of the Code.”

39. Offences under the **Drugs and Cosmetics Act, 1940** carry a punishment of imprisonment upto life and Section 36 AC of the **Drugs and Cosmetics Act, 1940** provides that: -

“36-AC. Offences to be cognizable and non-bailable in certain cases.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) every offence, relating to adulterated or spurious drug and punishable under clauses (a) and (c) of sub-section (1) of Section 13, clause (a) of sub-section (2) of Section 13, sub-section (3) of Section 22, clauses (a) and (c) of Section 27, Section 28, Section 28-A, Section 28-B and sub-sections (1) and (2) of Section 30 and other

offences relating to adulterated drugs or spurious drugs, shall be cognizable.

(b) no person accused, of an offence punishable under clauses (a) and (c) of sub-section (1) of Section 13, clause (a) of sub-section (2) of Section 13, sub-section (3) of Section 22, clauses (a) and (c) of Section 27, Section 28, Section 28-A, Section 28-B and sub-sections (1) and (2) of Section 30 and other offences relating to adulterated drugs or spurious drugs, shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release; and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:

Provided that a person, who, is under the age of sixteen years, or is a woman or is sick or infirm, may be released on bail, if the Special Court so directs.

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

(3) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under Section 439 of the Code of Criminal Procedure, 1973 (2 of 1974) and the High Court may exercise such powers including the power under clause (b) of sub-section (1) of that section as if the reference to “Magistrate” in that section includes also a reference to a “Special Court” designated under Section 36-AB.”

40. The aforesaid Acts deal with heinous offences like hijacking of aero planes, unlawful acts against safety of civil aviation, maritime piracy, unlawful acts against safety of maritime navigation and fixed platforms on continental shelf, and offences relating to manufacture and sale of adulterated or spurious drugs, which would affect a very large number of population, and the offences carry punishment upto death. All the Acts contain restrictions of Courts’ power to grant bail to an accused person, which are similar to the restriction provided in Section 45 (1) and (2) of PMLA. All the acts provide that the aforesaid restrictions can be waved by the Special Courts in case of a person, who, is under the age of sixteen years, or is a woman or is sick or infirm, like the provision contained in the proviso appended to Section 45 (1) of PMLA.

41. Although the High Courts' discretion in the matter of grant of bail has been saved in respect of offences as serious as hijacking of aeroplanes and piracy on ships or manufacture or sale of adulterated or spurious drugs, by inserting a sub-section in the particular Section which contains restrictions against grant of bail, in PMLA, the clause saving the special powers of High Courts has been placed at a wrong place in Section 44, as noted above.
42. A similar error appears to have crept in **Narcotic Drugs and Psychotropic Substances Act, 1985**. Section 36-A of the Act provides for jurisdiction of Special Courts for trial of offences under the Act and it provides that: -

“36-A. Offences triable by Special Courts.—(1)
Notwithstanding anything contained in the Code of Criminal Procedure, 1973—

(a) all offences under this Act which are punishable with imprisonment for a term of more than three years shall be triable only by the Special Court constituted for the area in which the offence has been committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the Government;

(b) where a person accused of or suspected of the commission of an offence under this Act is forwarded to a Magistrate under sub-section (2) or sub-section (2A) of Section 167 of the Code of Criminal Procedure, 1973, such Magistrate may authorise the detention of such person in such custody as he thinks fit for a period not exceeding fifteen days in the whole where such Magistrate is a Judicial Magistrate and seven days in the whole where such Magistrate is an Executive Magistrate:

Provided that in cases which are triable by the Special Court where such Magistrate considers—

(i) when such person is forwarded to him as aforesaid; or

(ii) upon or at any time before the expiry of the period of detention authorised by him;

that the detention of such person is unnecessary, he shall order such person to be forwarded to the Special Court having jurisdiction;

(c) the Special Court may exercise, in relation to the person forwarded to it under clause (b), the same power which a Magistrate having jurisdiction to try a case may exercise under Section 167 of the Code of Criminal Procedure, 1973, in relation to an accused person in such case who has been forwarded to him under that section;

(d) a Special Court may, upon perusal of police report of the facts constituting an offence under this Act or upon complaint

made by an officer of the Central Government or a State Government authorised in his behalf, take cognizance of that offence without the accused being committed to it for trial.

(2) When trying an offence under this Act, a Special Court may also try an offence other than an offence under this Act with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial.

(3) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under Section 439 of the Code of Criminal Procedure, 1973, and the High Court may exercise such powers including the power under clause (b) of sub-section (1) of that section as if the reference to “Magistrate” in that section included also a reference to a “Special Court” constituted under Section 36.

** * **

43. Section 37 of NDPS Act contains restrictions against grant of bail, which are similar to the restrictions provided in PMLA and other Acts referred to above and it provides that: -

“37. Offences to be cognizable and non-bailable.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for offences under Section 19 or Section 24 or Section 27-A and also for offences involving commercial quantity shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor oppose the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

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

44. Section 37 of the NDPS Act, which contains the restrictions on the Courts’ power to grant of bail, does not contain any provision saving the special powers to grant bail conferred upon the High Courts by Section 439 Cr.P.C., whereas Section 36-A of the NDPS Act, which confers jurisdiction for trial of offences under the Act upon Special Courts and which does not contain any provision which may affect the powers of any Court regarding grant of bail, provides that nothing

contained in Section 36-A shall affect the High Court's special powers regarding bail under Section 439 Cr.P.C.

45. It appears that the provision contained in Section 36-A(3) of NDPS Act regarding special powers of the High Courts regarding grant of bail was meant to be incorporated in Section 37 of the Act, but it has erroneously been placed just above Section 37.
46. From the aforesaid study of *pari materia* provisions contained in several Statutes dealing with heinous offences carrying punishment upto death, the only irresistible conclusion that can be drawn is that the provision contained in Section 44 (2) of PMLA saving special powers of the High Courts regarding grant of bail was meant to be incorporated in Section 45 of the Act, but it has erroneously been placed just above Section 45. In present times of use of computers, such errors are commonly referred to as the "copy-paste errors".
47. In paragraph 274 of the judgment in the case of **Vijay Madanlal Chaudhary** (Supra), the Hon'ble Supreme Court referred to a King's Bench judgment in the case of *Seaford Court Estates Ltd.*, which is as follows: -

"274. We may profitably advert to the judgment in Seaford Court Estates Ltd. [1949] 2 K.B. 481, which states:

"...A judge, believing himself to be fettered by the supposed rule that he must look to the language and nothing else, laments that the draftsmen have not provided for this or that, or have been guilty of some or other ambiguity. It would certainly save the judges trouble if Acts of Parliament were drafted with divine prescience and perfect clarity. In the absence of it, when a defect appears a judge cannot simply fold his hands and blame the draftsman. He must set to work on the constructive task of finding the intention of Parliament, and he must do this not only from the language of the statute, but also from a consideration of the social conditions which gave rise to it, and of the mischief which it was passed to remedy, and then he must supplement the written word so as to give "force and life" to the intention of the legislature. That was clearly laid down by the resolution of the judges in Heydon's case, (1584) 3 Co. Rep. 7a, and it is the safest guide today. Good practical advice on the subject was given about the same time by Plowden in his second volume Eyston v. Studd (1574) 2 Plowden 465. Put into homely metaphor it is this : A judge should ask himself the question : If the makers of the Act had themselves come across this ruck in the texture of it, how would they have straightened it out? He must then do as they would have done. A judge must

not alter the material of which it is woven, but he can and should iron out the creases.”

48. In **Rajendra Prasad Yadav v. State of M.P.**, (1997) 6 SCC 678, the Hon’ble Supreme Court reiterated the well established principle of interpretation of Statutes that *“all the provisions should be harmoniously interpreted to give effect to all the provisions and no part thereof rendered surplusage or otiose.”*
49. In case we look at the bare language of Sections 44 and 45 of PMLA, the defect of misplacement of the provision contained in Section 44(2) becomes manifest. Section 44 does not contain any restriction on the powers of any Court regarding grant of bail, yet Section 44(2) provides that nothing contained in this section shall affect the Special powers of the High Courts under Section 439 Cr.P.C. reading Section 44(2) with Section 44(1) only would render Section 44(2) of PMLA redundant and otiose, but this Court cannot chose an interpretation which will render the provision contained in Section 44 (2) of the PMLA redundant or otiose.
50. Apparently, Section 44(2) was inserted by the Parliament with the intention to save the special power of the High Courts under Section 439 Cr.P.C., which intention cannot be fulfilled due to an erroneous placement of the provision as pointed above. This Court has to interpret the provisions contained in Sections 44 and 45 of PMLA collectively so as to give “force and life” to the intention of the legislature behind inserting Section 44(2) in the Act. Undoubtedly, if the makers of the Act had themselves come across this jumbling of the provisions in Sections 44 and 45 due to a copy-paste error, they have surely have straightened it out by reading Section 44(2) and Section 45 in conjunction with each other. Therefore, in order to correct the defect without altering the provisions of the Statute, the provisions of Sections 44 and 45 have to be read together and interpreted harmoniously so that Section 44(2) does not become redundant or otiose.
51. The only irresistible conclusion that can be drawn from the foregoing discussion, is that the intention of the Legislature was clear and unambiguous while making the provisions contained in Sections 44

and 45 of PMLA and it was that the Special Courts will have jurisdiction to try the offences under the Act and no Court shall grant bail to an accused person unless : -

- (i) *the Public Prosecutor has been given an opportunity to oppose the application for such release; and*
- (ii) *where the Public Prosecutor opposes the application, **the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:***

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

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

Nothing contained in sections 44 or 45 shall be deemed to affect the special powers of the High Court regarding bail under Section 439 of the Code of Criminal Procedure, 1973 (2 of 1974) and the High Court may exercise such powers including the power under clause (b) of sub-section (1) of that section as if the reference to “Magistrate” in that section includes also a reference to a “Special Court” designated under Section 43.

52. In view of the aforesaid discussion, I am of the considered view that the restrictions contained in Section 45 of the PMLA were meant to be applicable to Courts other than the Constitutional Courts and in view of the provision contained in Section 44 (2) of PMLA, those restrictions do not apply to the Constitutional Courts.
53. Sri. Rohit Tripathi, the learned Counsel for the respondent has next submitted that the C.B.I. has already submitted charge-sheets in respect of the scheduled offences and 23 applications filed under Section 482 Cr.P.C. challenging the validity of the charge-sheets have been dismissed by means of a common judgment and order dated 17.03.2021 passed by a coordinate Bench of this Court, the leading application being Application Under Section 482 No. 4253 of 2012. Sri. Tripathi has submitted that the dismissal of applications under Section 482 Cr.P.C. establishes *prima facie* involvement of the applicants in commission of the scheduled offence and this Court

cannot go into the question whether the applicants are *prima facie* guilty of commission of the scheduled offence.

54. As has already been held in the preceding paragraphs, the restriction contained in Section 45 of PMLA that bail cannot be granted to a person accused of an offence under the PMLA without recording a *prima facie* satisfaction of innocence of the applicant, is not applicable to the Constitutional Courts in view of the harmonious interpretation of Sections 44 and 45 of PMLA and, therefore, irrespective of the fate of the applications under Section 482 Cr.P.C., this Court need not record a *prima facie* satisfaction of innocence of the applicants. However, I proceed to consider the submission regarding effect of rejection of the applications under Section 482 Cr.P.C. on the anticipatory bail application.
55. The scope of scrutiny required for deciding an application under Section 482 Cr.P.C. and the scope of scrutiny required for deciding an application for anticipatory bail, are entirely different.
56. In **State of Haryana v. Bhajan Lal**, 1992 Supp (1) SCC 335, the Hon'ble Supreme Court had explained the scope of jurisdiction under Section 482 Cr.P.C. by holding that the inherent powers under Section 482 Cr.P.C. could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not *prima facie* constitute any offence or make out a case against the accused, or where the allegations in the first information report and other materials accompanying the FIR do not disclose a cognizable offence, or where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused, or where there is an express legal bar engrafted in the Cr.P.C. or any Act to the institution and continuance of the proceedings or where a criminal proceeding is manifestly attended with *mala fide* or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance

on the accused and with a view to spite him due to private and personal grudge. The Hon'ble Supreme Court gave the following note of caution in this regard: -

“103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”

57. The factors to be taken into consideration while considering an application for bail are entirely different from those to be taken while deciding an application for quashing of the proceedings and those have been reiterated in paragraph 21 of the judgment in **P. Chidambaram v. CBI**, (2020) 13 SCC 337, which is being reproduced below: -

“21. The jurisdiction to grant bail has to be exercised on the basis of the well-settled principles having regard to the facts and circumstances of each case. The following factors are to be taken into consideration while considering an application for bail:

- (i) the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution;*
- (ii) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses;*
- (iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence;*
- (iv) character, behaviour and standing of the accused and the circumstances which are peculiar to the accused;*
- (v) larger interest of the public or the State and similar other considerations.”*

58. In **P. Chidambaram v. Directorate of Enforcement**, (2020) 13 SCC 791, the Hon'ble Supreme Court stated in the context of economic offences that: -

*“23. Thus, from cumulative perusal of the judgments cited on either side including the one rendered by the Constitution Bench of this Court, it could be deduced that **the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial. However,***

while considering the same the gravity of the offence is an aspect which is required to be kept in view by the Court. The gravity for the said purpose will have to be gathered from the facts and circumstances arising in each case. Keeping in view the consequences that would befall on the society in cases of financial irregularities, it has been held that even economic offences would fall under the category of “grave offence” and in such circumstance while considering the application for bail in such matters, the Court will have to deal with the same, being sensitive to the nature of allegation made against the accused. One of the circumstances to consider the gravity of the offence is also the term of sentence that is prescribed for the offence the accused is alleged to have committed. Such consideration with regard to the gravity of offence is a factor which is in addition to the triple test or the tripod test that would be normally applied. In that regard what is also to be kept in perspective is that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case since there is no such bar created in the relevant enactment passed by the legislature nor does the bail jurisprudence provide so. Therefore, the underlining conclusion is that irrespective of the nature and gravity of charge, the precedent of another case alone will not be the basis for either grant or refusal of bail though it may have a bearing on principle. But ultimately the consideration will have to be on case-to-case basis on the facts involved therein and securing the presence of the accused to stand trial.”

(Emphasis Supplied)

59. In **Satender Kumar Antil v. CBI**, (2022) 10 SCC 51, the Hon’ble Supreme Court has quoted with approval the above quoted passage from **P. Chidambaram** (Supra) and has reiterated that “The principle that bail is the rule and jail is the exception has been well recognized through the repetitive pronouncements of this Court.”
60. In **Sushila Aggarwal v. State (NCT of Delhi)**, (2020) 5 SCC 1, the Hon’ble Supreme Court held that: -

“7.1. ...there is no distinction or difference between the pre-arrest bail order under Section 438 and the bail order under Sections 437 and 439 CrPC. The only difference between the pre-arrest bail order under Section 438 and the bail order under Sections 437 and 439 is the stages at which the bail order is passed. The bail order under Section 438 CrPC is prior to his arrest and in anticipation of his arrest and the order of bail under Sections 437 and 439 is after a person is arrested.”

61. After taking into consideration various precedents on the point of grant of anticipatory bail in economic offences, in **Sushila Aggarwal** (Supra), the Hon'ble Supreme Court held that: -

*75. For the above reasons, the answer to the first question in the reference made to this Bench is that **there is no offence, per se, which stands excluded from the purview of Section 438, except the offences mentioned in Section 438(4). In other words, anticipatory bail can be granted, having regard to all the circumstances, in respect of all offences.** At the same time, if there are indications in any special law or statute, which exclude relief under Section 438(1) they would have to be duly considered. Also, whether anticipatory bail should be granted, in the given facts and circumstances of any case, where the allegations relating to the commission of offences of a serious nature, with certain special conditions, is a matter of discretion to be exercised, having regard to the nature of the offences, the facts shown, the background of the applicant, the likelihood of his fleeing justice (or not fleeing justice), likelihood of cooperation or non-cooperation with the investigating agency or police, etc. There can be no inflexible time-frame for which an order of anticipatory bail can continue.*

*76. Therefore, this Court holds that the view expressed in **Salauddin Abdulsamad Shaikh v. State of Maharashtra**, (1996) 1 SCC 667, **K. L. Verma v. State**, (1998) 9 SCC 348, **Nirmal Jeet Kaur v. State of M.P.**, (2004) 7 SCC 558, **Satpal Singh v. State of Punjab**, (2018) 13 SCC 813, **Adri Dharan Das v. State of W.B.**, (2005) 4 SCC 303, **HDFC Bank Ltd. v. J.J. Mannan**, (2010) 1 SCC 679 and **Naresh Kumar Yadav v. Ravindra Kumar**, (2008) 1 SCC 632 about the Court of Session, or the High Court, being obliged to grant anticipatory bail, for a limited duration, or to await the course of investigation, so as the “normal court” not being “bypassed” or that in certain kinds of serious offences, anticipatory bail should not be granted normally — including in economic offences, etc.—are not good law.”*

(Emphasis supplied)

62. In **Kamlesh and another versus State of Rajasthan and another**, 2019 SCC OnLine SC 1822, the High Court of Rajasthan had rejected the application for anticipatory bail only on the ground that petition under Section 482 Cr.P.C., praying for quashing of FIR, had already been rejected. The Hon'ble Supreme Court allowed the appeal filed against the order of the High Court by holding that: -

“5. We are of the view that the order of the High Court cannot be sustained. High Court ought to have considered the application

on merits. The fact that petition under Section 482 Cr.P.C. was dismissed for quashing was not conclusive and could not be the reason for rejecting the application.”

63. In view of the foregoing discussion, I find no force in the aforesaid submission of Sri. Tripathi that the rejection of the application under Section 482 establishes *prima facie* involvement of the applicants in commission of the scheduled offence and it would lead to rejection of the anticipatory bail application. This Court has to decide the application for anticipatory bail on its own merits, without being influenced by rejection of the application under Section 482 Cr.P.C. Accordingly, I proceed to consider the facts of the case.
64. In the present case, the joint surprise check was carried out on 25.03.2011. The C.B.I/ACB Lucknow filed 5 F.I.Rs. on 13.04.2011 and it submitted 5 charge-sheets on 31.05.2012. The E.D. has filed the complaints on 12.07.2018, 03.06.2019 and 24.06.2013, i.e. after more than 7 to 12 years since lodging of the F.I.Rs. and after more than 6 to 11 years since submission of the charge-sheets by the C.B.I. The Special Court has registered the complaints as a Session Cases in the year 2023.
65. The applicants claim that the allegations made in the FIRs. make out a case of merely breach of the conditions of FSAs, which was a bilateral commercial agreement between two parties. The consequence of such a breach can only be cancellation of the agreements, as provided in Clause 4.4 of the agreement. The coal was supplied at the notified rates and no subsidy was paid in response to information sought under the Right to Information Act, the Coal India Ltd. has admitted that no subsidy or financial support is given by any Government and the price of Coal was fixed and notified by the Coal India Ltd. Therefore, *prima facie* it appears that no loss was occasioned to the Government and no offence of cheating is made out against any accused person.
66. No proceeds of crime have been recovered from the applicant Ramji Singh and the only allegation against the applicant is that he was indirectly involved in the activity of abetment with regard to generation of proceeds of crime, and even as per the complaint, there

is no allegation of his direct involvement in commission of any offence. Meanwhile the applicant Ramji Singh has attained the age of 72 years and obviously he has retired long ago and he does not appear to be in a position to influence the witnesses or tamper with the evidence. Having retired, there appears no reasonable apprehension of the applicant Ramji Singh indulging in commission of a similar offence after grant of anticipatory bail to him.

67. Ravindra Aggarwal the applicant in ABAIL Nos. 1611 of 2023 and 1617 of 2023 is proprietor of M/s SBC Minerals Pvt. Ltd., which had purchased coal from M/s Shree Ram Fuels Pvt. Ltd., M/s Jai Durga Industries and M/s Drolia Coke Industries during year 2010-11. Ravindra Aggarwal has been charged for involvement in criminal conspiracy of illegal diversion of coal in violation of conditions of FSA and showing fake purchase of undersized coal. The complaint records the statement of Ravindra Aggarwal that the coal so purchased was further sold to other purchasers. M/s S.B.C. Minerals Pvt. Ltd. was not a party to the contract between the NCL and the aforesaid three companies. No proceeds of crime have been recovered from Ravindra Aggarwal and none of his properties has been attached.
68. Jai Narayan Agarwal, the applicant in ABAIL No. 1639 of 2023, is the proprietor of M/s Ananda Coal Movers, M/s Shivam Coal Movers and M/s Trishul Industries, which had purchased coal from M/s Fertico Marketing and Investment Pvt. Ltd., without the same having been processed into SSF. The complaint records the statement of the applicant that the coal so purchased from M/s Fertico Marketing and Investment Pvt. Ltd. was further sold to other purchasers. The entire amount towards purchase of coal was paid through cheques and bank transfers, except an amount of Rs.1,00,000/-, which was paid in cash. Jai Narayan Agarwal or his firms were not a party to the contract between the NCL and M/s Fertico Marketing and Investment Pvt. Ltd. No proceeds of crime have been recovered from the applicant Jai Narayan Agarwal and none of his properties has been attached.
69. Subhash Chandra Tulsian, the applicant in Anticipatory Bail Application Nos. 1636 of 2023 and 1638 of 2023, is the owner of M/s

Tulsian Coal Syndicate and M/s Purnagiri Holding Pvt. Ltd. The allegation against him is that M/s Swastik Cement Product and M/s Fertico Marketing and Investments Pvt. Ltd. had sold coal to M/s Tulsian Coal Syndicate and M/s Purnagiri Holding Pvt. Ltd. during year 2010-11, and some sale transactions appeared to be fake. He has been charged as being involved in criminal conspiracy of illegal diversion of coal by showing fake purchase of SSF. M/s Swastik Cement Products and M/s Fertico Marketing and Investments Pvt. Ltd. had purchased the coal under FSA from NCL for processing and converting it into special smokeless fuel (SSF) but they wrongfully sold the coal in open market without processing the same. The coal so purchased was further sold to other purchasers. The entire consideration for the coal was paid through cheques only. Neither any proceeds of crime have been recovered from the applicant Subhash Chandra Tulsian nor any of his properties has been attached.

70. All the applicants have cooperated with the investigation and they have got their statements recorded. Investigations stand complete and the E.D. has filed complaints after completion of investigation.
71. If the Statute provides for stringent provisions for prosecution and punishment and restrictions on grant of bail, it is the bounden duty of the State to ensure that such trials get precedence and are concluded within a reasonable time, but in the present case even the complaints have been lodged after an inordinate delay of 7 to 12 years.
72. All the applicants have already submitted bail bonds in furtherance of the interim orders passed by this Court granting interim anticipatory bail to them. No violation of any of the conditions of interim anticipatory bail granted to any of the applicants has been pointed out in any of the counter affidavits filed by the E.D.
73. In view of the aforesaid discussion, I am of the view that all the orders granted interim anticipatory bail to the applicants deserve to be confirmed and the applications deserve to be allowed.
74. Accordingly, the Civil Miscellaneous Anticipatory Bail Application Numbers 1518 of 2023, 1523 of 2023, 1602 of 2023, 1611 of 2023,

1617 of 2023, 1636 of 2023, 1638 of 2023 and 1639 of 2023 are *allowed*. As the applicants have already furnished bail bonds in furtherance of the interim orders passed in their favour, they need not furnish any fresh bail bonds. The conditions of bail imposed in the interim orders shall continue to bind the applicants.

(Subhash Vidyarthi J)

Order Date – 12.09.2023
Pradeep/-