

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

213

CWP-26089-2023 (O&M)

DATE OF DECISION: 24.05.2024

JASWANT SINGH

... Petitioner (s)

Versus

UNION OF INDIA AND ANOTHER

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Randeep S. Rai, Senior Advocate (through VC) and
Mr. Anand Chhibber, Senior Advocate
Mr. Vikram Chaudhari, Senior Advocate with
Mr. Shikhar Sarin, Advocate
Ms. Rubina Virmani, Advocate
Ms. Shreya B. Sarin, Advocate
Ms. Hargun Sandhu, Advocate for the petitioner(s).

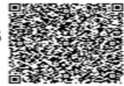
Mr. Satyapal Jain, Addl. Solicitor General of India (through VC)
with Mr. Lokesh Narang, Senior Panel counsel for UOI.

ANUPINDER SINGH GREWAL, J. (ORAL)

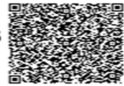
Petitioner has challenged the arrest order dated 06.11.2023 (Annexure P-19), the grounds of arrest dated 06.11.2023 (Annexure P-20) and all subsequent proceedings including the remand order dated 07.11.2023 (Annexure P-24).

SUBMISSIONS BY THE PETITIONER

2. Learned senior counsel appearing for the petitioner, who is an elected member of Punjab Legislative Assembly from Amargarh Constituency, Malerkotla submit that the petitioner had been arrested in contravention of the provisions of Section 19 (1) of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as 'the PMLA'), insofar as there is non-compliance on the part of the Investigating Officer with regard to the provisions of Section 19(1) of the PMLA. The first remand order dated 07.11.2023 and the subsequent remand orders are also vitiated as the

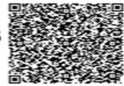


Special Court had not taken into account the provisions of Section 19(1) of the PMLA. Counsels further submit that the petitioner was in fact picked up and arrested from his Party office situated at Tara Colony, Village Gounspura, Ludhiana Road, Malerkotla at 12:00 p.m. without any written orders and was forcibly taken to the office of the Directorate of Enforcement (E.D.) at Jalandhar where he was formally arrested at 04:25 p.m. on 06.11.2023. The petitioner was willing to cooperate with the investigating agency and had duly replied to the summons which were sent to him for joining investigation. The first summons was sent to him on 04.08.2023 requiring his presence on 08.08.2023, but as the petitioner had prior plan to travel to Canada, he communicated to Investigating Officer on 05.08.2023 stating that he would make himself available to the investigating agency after his return from Canada on 25.09.2023. He was issued 2nd summons on 10.08.2023 asking him to appear on 16.08.2023, to which he had replied on 11.08.2023 that he was still in Canada, and on his return on 25.09.2023 he will join investigation whenever required. The 3rd summons dated 30.08.2023, was issued directing his presence on 08.09.2023. However, the petitioner could not appear in response to the 2nd and 3rd summons issued by the E.D. due to his absence from the country. He was served 4th summons on 06.10.2023 directing him to appear personally on 09.10.2023. He could not comply with the same on account of his ill- health, as he was suffering from severe neck pain, vertigo and vomiting. The Investigating Officer was duly informed about his non-availability on 09.10.2023. He had sent a medical certificate issued by the Sohana Hospital, Sector 77, S.A.S. Nagar (Mohali), Punjab wherein he was advised rest for 15 days from 07.10.2023 to 21.10.2023. Counsels also submit that the summons dated 06.11.2023, which the respondents have placed on record, is an afterthought and was

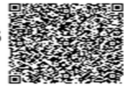


never served upon the petitioner at any point in time, as it does not carry the QR code which is unique and present on all the 4 previous summons. The summons dated 06.11.2023 do not find mention in the remand application as well as in the subsequent remand orders. The grounds of arrest do not indicate any reason holding him guilty of an offence under PMLA warranting his arrest, except that the petitioner did not comply with the summons and he was not cooperating. Counsels therefore submit, that the arrest of the petitioner is illegal and in violation of Section 19 (1) of PMLA and he is entitled to be released from custody forthwith. It is further submitted that the '*material in possession*' on the basis of which the Investigating officer had formed an opinion regarding his guilt should have immediately been sent to the Adjudicating Authority in light of Section 19(2) of the PMLA and the law laid down by the Supreme Court. However, the information was sent on 08/09.11.2023 and the arrest was shown to be made on 07.11.2023, although as per arrest memo he was arrested on 06.11.2023, which even finds mention in the grounds of arrest.

3. In support of their submissions, counsels have relied upon the judgments of the Supreme Court in the cases of Pankaj Bansal Vs. Union of India and others, 2023 SCC OnLine SC 1244, Ram Kishor Arora Vs. Directorate of Enforcement, 2023 SCC OnLine SC 1682, Vijay Madanlal Choudhary Vs. Union of India, 2022 SCC OnLine SC 929, V. Senthil Balaji Vs. State and others, 2023 SCC OnLine SC 934, Prabir Purkayastha Vs. State (NCT of Delhi), 2024 SCC OnLine SC 934 and of this Court in the cases of Pranav Gupta Vs. Union of India, 2023 SCC OnLine P&H 3598 & Roop Bansal Vs. Union of India and another, 2023, SCC OnLine P&H 3597.

**SUBMISSIONS BY THE RESPONDENTS**

4. Learned counsels for the respondents, however, submit that the mandatory provision of Section 19 (1) of the PMLA was complied with while effecting the arrest of the petitioner, inasmuch as the written grounds of arrest were duly furnished to him in the presence of one advocate Sh.Nakul Kapoor and the petitioner had acknowledged receipt by signing the same. The petitioner had been repeatedly asked to join the investigation but he refused to do so. The FIR and ECIR (Enforcement Case Information Report) had been registered against the petitioner alleging the diversion of loans obtained from Banks by M/s TCL (Tara Corporation Limited) to other companies, as well as to the personal account of the petitioner. It is stated that substantial amount of money was involved and the petitioner who was repeatedly asked to join investigation went abroad instead of joining investigation. He did not inform the investigating agency about his arrival but was found to be addressing public meetings. Furthermore, he had come back from Canada *via* Nepal, which indicates that his intentions were *mala fide* and he was not making himself available for investigation. The arrest of the petitioner had been carried out while complying with Section 19(1) of the PMLA and was not solely based on the premise that he had been evading summons. Counsel submits that the petitioner had also been summoned on 06.11.2023 and when the E.D. officials had gone to question him on 06.11.2023 at 12:00 p.m. he had willingly accompanied them to their Zonal Office at Jalandhar where he refused to tender his statement. Keeping in view the totality of the circumstances including his non-cooperation and hiding despite his return from Canada, the arrest of the petitioner was effected. It is argued that due service of summons on 06.11.2023 was mentioned in reply which was filed on 01.12.2023 but it was controverted in

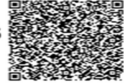


replication which was filed on 30.04.2024. The summons dated 06.11.2023 did not require a QR code as it was served by hand. In compliance to Section 19(3) of the PMLA, the petitioner was produced before the Special Judge, PMLA, at Mohali within 24 hours of his arrest through VC, as the petitioner had claimed to be unwell. He was admitted in the PGIMER, Chandigarh for his proper treatment and his remand order was duly obtained. The record was presented before the Special Court which had expressed its satisfaction with regard to the necessity of granting custody of the petitioner and after due application of judicious mind had passed the remand order dated 07.11.2023. On 08/09.11.2023, the entire material was sent to the Adjudicating Authority but the date of arrest was inadvertently shown as 07.11.2023 instead of 06.11.2023 which was a typographical error. It is submitted that the petitioner has challenged the arrest and the remand order in the present writ petition although, in the meantime, cognizance of offence has been taken by the Special Court by its order dated 18.03.2024 (Annexure A-1) which has not been challenged and the question as to whether the arrest of the petitioner is illegal, will not arise for adjudication at this stage. Counsel further submits that the Special Court had taken cognizance of the offence after duly taking into account all the relevant factors stated above.

5. In support of their submissions, reliance is placed upon the judgment of the Supreme Court in the cases of Pankaj Bansal Vs. Union of India and others (supra) and Ram Kishor Arora Vs. Directorate of Enforcement (supra).

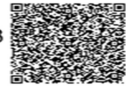
FACTUAL MATRIX

6. FIR No.RCCHG2022A0012 dated 28.03.2022 was registered under Sections 420, 421, 406, 409 read with Section 120-B IPC and Section 13 (2) read with Section 13 (1) (d) of the Prevention of Corruption Act, 1988



on the written complaint made by the Deputy Zonal Manager (Recovery) Bank of India on 01.12.2020 to Central Bureau of Investigation, Anti-Corruption Branch located in Chandigarh wherein it was alleged that the petitioner, who was the Director and Guarantor of M/s Tara Corporation Limited (renamed as Malaudh Agro Limited w.e.f. 24.09.2018) along with his other family members (who were also Directors and Guarantors in the company) had availed cash credit facility amounting to Rs.46 crores for M/s Tara Corporation Limited (M/s TCL- for short) but the funds had rather been diverted to other companies and even a sum of Rs.3.12 crores was deposited in petitioner's personal account.

7. The accounts of M/s TCL were declared NPA (Non-Performing Asset) on 31.03.2014. M/s TCL through its Directors had diverted book debts which was not made available to the creditor Bank for inspection and for effecting recovery, due to which, the Bank had been put to a wrongful loss of Rs.40.92 crores. The forensic audit was conducted and a report dated 05.09.2016 had indicated serious fraud and irregularities in the accounts of M/s TCL on account of diversion of funds for the purposes other than that for which the credit facilities were availed. The account of the M/s TCL was declared as fraud on 09.02.2018 and the matter was reported to RBI (RBI FMR No.BOI1801-0039-20.03.18, Fraud Regn. No.FR42/2018). On the basis of this complaint, FIR No. RCCHG2022A0012 dated 28.03.2022 was registered by CBI and ECIR/JLZO/10/2022 dated 23.05.2022 was recorded by the E.D. The petitioner was issued as many as 05 summons from 04.08.2023 upto 6.11.2023 to appear before the E.D officials but the petitioner had replied thereto expressing his inability to come and join the investigation because he was in Canada till 25.09.2023 and later, due to his medical condition. The E.D. officials are stated to have gone to his office



premises in Malerkotla on 06.11.2023 at 12:00 p.m. for effecting the service of summons and he was officially arrested at 04:25 p.m. on 06.11.2023 at Jalandhar. After his arrest, application for judicial custody was submitted before the Special Court and the petitioner had been presented through video conferencing as he was hospitalised.

8. The Arrest Order (Annexure P-19) and the Grounds of Arrest (Annexure P-20) dated 06.11.2023 are reproduced hereunder for ready reference:

“ARREST ORDER

Whereas, I, Jagwinder Pal Singh, Assistant Director, authorised in this behalf by the Central Government, have reason to believe that “Sh. Jaswant Singh S/o Gurmukh Singh R/o Village Gajjan Majra, Distt. Malerkotla, Punjab, has been guilty of an offence punishable under the provisions of the Prevention of Money Laundering Act, 2002 (15 of 2003).

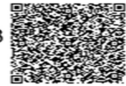
Now, therefore, in exercise of the powers conferred on me under Sub-section (1) of Section 19 of the Prevention of Money Laundering Act, 2002 (15 of 2003), I hereby arrest the said Sh. Jaswant Singh s/o Gurmukh Singh at 04:25 p.m. hours on 06.11.2023 and he has been informed of the grounds for such arrest.”

GROUND OF ARREST

“Sh. Jaswant Singh S/o Gurmukh Singh R/o Village Gajjan Majra, Distt. Malerkotla, Punjab, is being arrested u/s 19(1) of the Prevention of Money Laundering Act, 2002 for commission of an offence u/s 3 of the Prevention of Money Laundering Act, 2002 and chargeable u/s 4 of the Prevention of Money Laundering Act, 2002.

Sh. Jaswant Singh S/o Gurmukh Singh R/o Village Gajjan Majra, Tehsil Malerkotla, Punjab, had been issued with multiple summonses u/s 50(2) of the Prevention of Money Laundering Act, 2002 which were duly served to him, however, despite availing reasonable opportunity he has not joined the investigation and failed to comply the summons.

The evidence gathered by this Directorate indicates that Sh. Jaswant Singh is actually involved in one or more of processes or activities related to the proceeds of crime being concealment, possession, acquisition, use and projecting it as untainted property, thereby



committed offence of money laundering, and is not forthcoming with the information which is in his exclusive knowledge.

Since Sh. Jaswant Singh S/o Gurmukh Singh has not made himself available and there is a reasonable apprehension that he may not make himself available on further issue of summons; and further that he may tamper with the evidence and witnesses in the said matter relating to ECIR number ECIR/JLZO/10/2022, Sh. Jagwinder Pal Singh, Assistant Director, Directorate of Enforcement, Jalandhar Zonal Office, Jalandhar who is generally authorised by the Director to perform the arrest u/s 19(1) of the Prevention of Money Laundering Act, 2002, arrests the said Sh. Jaswant Singh S/o Gurmukh Singh R/o Village Gajjan Majra, Tehsil Malerkotla, Punjab u/s 19(1) of the Prevention of Money Laundering Act, 2002 for further action under the Prevention of Money Laundering Act, 2002.”

INTERPRETATION OF SECTION 19 OF THE PMLA

9. Section 19 (1) lays down conditions for arresting an accused under PMLA, which is reproduced hereunder:

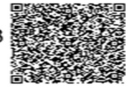
“ Section 19- Power to arrest

(1) If the Director, Deputy Director, Assistant Director or any other officer authorised in this behalf by the Central Government by general or special order, has on the basis of material in his possession, reason to believe (the reason for such belief to be recorded in writing) that any person has been guilty of an offence punishable under this Act, he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest.

(2) The Director, Deputy Director, Assistant Director or any other officer shall, immediately after arrest of such person under sub-section (1), forward a copy of the order along with the material in his possession, referred to in that sub-section, to the Adjudicating Authority in a sealed envelope, in the manner, as may be prescribed and such Adjudicating Authority shall keep such order and material for such period, as may be prescribed.

(3) Every person arrested under sub-section (1) shall, within twenty-four hours, be taken to a Special Court or Judicial Magistrate or a Metropolitan Magistrate, as the case may be, having jurisdiction:

Provided that the period of twenty-four hours shall exclude the time necessary for the journey from the place of arrest to the Special Court or Magistrate's Court.”

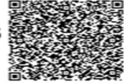


It is manifest from reading of Section 19(1) of the PMLA that before effecting arrest the following conditions must be fulfilled:-

- (i) that the officer has to be authorized by the Central Government,
- (ii) he must have material in his possession,
- (iii) on the basis of such material he must have reason to believe that the accused has been guilty of an offence punishable under PMLA,
- (iv) and the reasons should be recorded in writing by him and
- (v) the person who is arrested should be informed about the grounds of arrest.

10. The Constitutional validity of Section 19(1) of the PMLA was challenged and the Supreme Court in the case of **Vijay Madanlal Choudhary Vs. Union of India (supra)** while upholding the validity of Section 19(1) had observed as under:

88. Section 19 of the 2002 Act postulates the manner in which arrest of person involved in money-laundering can be effected. Sub-section (1) of section 19 envisages that the Director, Deputy Director, Assistant Director, or any other officer authorised in this behalf by the Central Government, if has material in his possession giving rise to reason to believe that any person has been guilty of an offence punishable under the 2002 Act, he may arrest such person. Besides the power being invested in high-ranking officials, section 19 provides for in-built safeguards to be adhered to by the authorised officers, such as of recording reasons for the belief regarding the involvement of person in the offence of money-laundering. That has to be recorded in writing and while effecting arrest of the person, the grounds for such arrest are informed to that person. Further, the authorised officer has to forward a copy of the order, along with the material in his possession, in a sealed cover to the Adjudicating Authority, who in turn is obliged to preserve the same for the prescribed period as per the Rules. This safeguard is to ensure fairness, objectivity and accountability of the authorised officer in forming opinion as recorded in writing regarding the necessity to arrest the person being involved in offence of money-laundering. Not only that, it is also the obligation of the authorised officer to produce the person so arrested



before the Special Court or Judicial Magistrate or a Metropolitan Magistrate, as the case may be, within twenty-four hours. This production is also to comply with the requirement of section 167 of the 1973 Code. There is nothing in section 19, which is contrary to the requirement of production under section 167 of the 1973 Code, but being an express statutory requirement under the 2002 Act in terms of section 19(3), it has to be complied by the authorised officer. Section 19, as amended from time to time, reads thus :

"19. Power to arrest.—(1) If the Director, Deputy Director, Assistant Director or any other officer authorised in this behalf by the Central Government by general or special order, has on the basis of material in his possession, reason to believe (the reason for such belief to be recorded in writing) that any person has been guilty of an offence punishable under this Act, he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest.

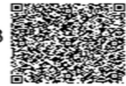
(2) The Director, Deputy Director, Assistant Director or any other officer shall, immediately after arrest of such person under sub-section (1), forward a copy of the order along with the material in his possession, referred to in that sub-section, to the Adjudicating

Authority in a sealed envelope, in the manner, as may be prescribed and such Adjudicating Authority shall keep such order and material for such period, as may be prescribed.

(3) Every person arrested under sub-section (1) shall, within twenty-four hours, be taken to a Special Court or Judicial Magistrate or a Metropolitan Magistrate, as the case may be, having jurisdiction:

Provided that the period of twenty-four hours shall exclude the time necessary for the journey from the place of arrest to the Special Court or Magistrate's Court."

In the context of this provision, the challenge is that in absence of any formal complaint being filed, arrest under section 19 is being made by the authorised officers. Whereas, the purport of section 167 of the 1973 Code would suggest that the person can be arrested by the jurisdictional police without warrant under section 41 of the 1973 Code only upon registration of a complaint under section 154 of the 1973 Code in connection with cognizable offence or pursuant to the order of the court. Even, in case of arrest pursuant to the order of the court, a



formal complaint against such person accusing him of being involved in commission of an offence is essential. Moreover, the person produced before the court would be at a loss to know the grounds for arrest unless a formal FIR or complaint is filed accusing him about his involvement in the commission of an offence. The provision if interpreted to permit the authorised officer to arrest someone being involved in the commission of offence of money-laundering without a formal complaint against him, would be ex facie manifestly arbitrary and unconstitutional.

89. XXXXXXXX

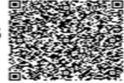
90. Considering the above, we have no hesitation in upholding the validity of section 19 of the 2002 Act. We reject the grounds pressed into service to declare section 19 of the 2002 Act as unconstitutional. On the other hand, we hold that such a provision has reasonable nexus with the purposes and objects sought to be achieved by the 2002 Act of prevention of money- laundering and confiscation of proceeds of crime involved in money-laundering, including to prosecute persons involved in the process or activity connected with the proceeds of crime so as to ensure that the proceeds of crime are not dealt with in any manner which may result in frustrating any proceedings relating to confiscation thereof.”

11. It is, therefore, not in dispute that the provisions of Section 19(1) of the PMLA have to be mandatorily complied with before arresting the accused.

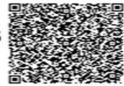
ANALYSIS & FINDINGS

12. The question, which has arisen for consideration in the instant case is whether the provisions of Section 19 (1) of the PMLA were complied with before effecting the arrest of the petitioner.

13. The FIR had been registered against the petitioner and subsequently, ECIR had also been recorded. The allegations against the petitioner are that he was a Director and guarantor of M/s TCL which also comprised of his other family members as Directors and guarantors. The company had obtained loans and credit facilities for a sum of over Rs.46 crores and this amount is alleged to have been diverted to other

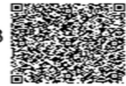


companies contrary to the terms and conditions of extending the credit facilities. A sum of Rs.3.12 crores is also stated to have been diverted into the personal account of the petitioner as well. He is stated to be the single largest shareholder in M/s TCL holding 29.72% as on 31.03.2021, however he is stated to have resigned from the company on 11.08.2016. The account of M/s TCL was declared as fraud on 09.02.2018 on the basis of forensic audit report, and the matter was reported to RBI. The petitioner had been issued summons to join investigation on several occasions but he did not appear before the investigating agency. The 1st summons was issued on 04.08.2023 and he had left on 05.08.2023 for Canada. He is stated to have returned from Canada on 25.09.2023. The respondents have stated that the petitioner has returned to India via Nepal which has not been controverted. The E.D. officials are stated to have gone to his premises on 06.11.2023 at 12:00 noon for service of summons and he is stated to have accompanied them to their zonal office for recording his statement. The summons has been duly signed by him. His arrest was effected at 04:30 p.m. at Jalandhar as it is stated in the reply that after reaching the office of ED, he refused to tender his statement and keeping in view entire circumstances i.e. non-appearance on summons, reasons to believe on basis of material in possession, hiding his arrival from Canada from respondents, wilful non-appearance in response to 4 summons and refusal to tender his statement after appearing in the office in consequence of the summons dated 06.11.2023 the respondent herein, having no other option, arrested the accused by exercising powers u/s 19 of the PMLA. There was a categorical averment in the reply filed on 01.12.2023 with regard to the service of summons dated 06.11.2023 and the replication denying the issuance of summons was filed on 30.04.2024 after the learned Additional Solicitor



General had addressed arguments on the issue and had pointed out lacuna in the case of the petitioner. Even otherwise, the summons had been duly signed by the petitioner on 06.11.2023 and therefore, the Court cannot accept the contention of the petitioner about the non-issuance of this summons. The written grounds of arrest were served to him as is borne out by his signatures appended thereupon and available on the record. We are therefore satisfied that there is substantive compliance of Section 19(1) of the PMLA. The judgments as relied upon by the counsel for the petitioner are distinguishable on facts.

14. The judgment in the case of **Pankaj Bansal Vs. Union of India and others (supra)** is distinguishable on facts from the instant case. In that case, the first ECIR had been registered and one of the accused therein had secured interim protection by way of anticipatory bail in relation thereof. The petitioner therein had presented himself before the E.D officials in compliance to the summons received with regard to the first ECIR on 14.06.2023, however the petitioner therein was arrested in the second ECIR which was registered on 13.06.2023, which was just a day prior to his joining investigation. The written grounds of arrest were not communicated to the petitioner therein and the Supreme Court in those circumstances had observed that the authorized officer would not have had enough time to formulate his opinion about the need to arrest the petitioner therein. It was also held that the written grounds of arrest were necessarily required to be communicated, as the contention of counsel for E.D that the accused had been orally informed about the grounds of arrest did not find favour with the Supreme Court. It had also been opined therein that the oral communication of the grounds of arrest would amount to word of the authorized officer against the arrested person and therefore, the written grounds of arrest ought



to be communicated which would enable the accused to know as to why he has been arrested and he can seek recourse to the legal remedies available under the law. It has been further held in the case of **Pankaj Bansal Vs. Union of India and others (supra)** that the sensitive material need not be divulged by relying upon **Vijay Madanlal Choudhary Vs. Union of India (supra)** and even in the grounds of arrest which are required to be furnished to the arrested person, such material can be redacted. In the instant case, there is no dispute that the written grounds of arrest were duly communicated to the petitioner which bears his signature. His counsel was also informed about the grounds of arrest.

15. In the case of **Roop Bansal Vs. Union of India (supra)**, the written grounds of arrest had not been furnished to the petitioner therein and his case was found to be similar to the case of Pankaj Bansal in whose case the judgment titled as **Pankaj Bansal Vs. Union of India (supra)** had been delivered by the Supreme Court and both were arraigned as an accused in the same ECIR, and in such circumstances this Court had termed the arrest to be illegal.

16. In the case of **Pranav Gupta Vs. Union of India (supra)**, the accused had been taken to the E.D Headquarters in Delhi on 27.10.2023 while the arrest memo and grounds of arrest were served on 28.10.2023 and it was in such circumstances that this Court had opined the arrest was in violation of Section 19(1) of the PMLA. However, in the instant case, the petitioner had been arrested on 06.11.2023 and the written grounds of arrest were supplied to him the same day.

17. We do not accept the contention that Special Court did not express satisfaction with regard to the compliance of Section 19(1) of the PMLA. It is trite that it is the duty of the Special Court that when the



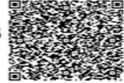
accused is produced before it in compliance of Section 19 (3) of the PMLA, the Special Court shall satisfy itself regarding the compliance of Section 19 (1) of the PMLA and whether the arrest has been made after following the procedure laid therein. In the present case, the Special Court had taken into account the nature of the case against the petitioner and the factum of his non-cooperation and other relevant factors while remanding the petitioner into police custody by its order dated 07.11.2023. The relevant extract of the remand order of the Special Court is reproduced hereunder:-

“Upon a careful perusal of the grounds of arrest, it clearly culls out that apart from referring to the fact that the accused did not turn up before the Investigating Officer, pursuant to the summons having been served upon him, it does very well in para No.3 thereof speak with regard to the involvement of the accused in the criminal activities, as alleged by the Investigating Officer by way of the present application. In the said circumstances, the objections so raised by the learned defence counsels with regard to the grounds of arrest do stand met with and are thus not sustainable.”

In view of the foregoing and the fact that the Enforcement Directorate has established a prima-facie case against the accused for the offences under section 3 and 4 of the PMLA, accused Jaswant Singh is remanded to judicial custody till 20.11.2023. Since, accused Jaswant Singh is currently admitted in PGI, Chandigarh and cannot be physically taken to the jail for the purposes of his judicial custody, it would be the sole responsibility of the Investigating Officer of this case to ensure that the accused stays put in PGI, Chandigarh, till the time of his discharge and during this period, he be kept under fully adequate/sufficient security.”

18. It is, thus, manifest that the order of remand which runs into six pages has been passed with application of mind and not mechanically or in a routine manner.

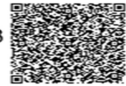
19. At this juncture, reference may be made to the judgment of the Supreme Court in the case of **Ram Kishor Arora Vs. Directorate of Enforcement (supra)**. In that case, the question which had arisen whether the document containing the grounds of arrest which was taken back from



the accused after obtaining his signatures was sufficient compliance of Section 19(1) of the PMLA. The relevant extract of the judgment is reproduced hereunder:

“24. In so far as the facts of the present case are concerned, it is not disputed that the appellant was handed over the document containing grounds of arrest when he was arrested, and he also put his signature below the said grounds of arrest, after making an endorsement that “I have been informed and have also read the above-mentioned grounds of arrest.” The appellant in the rejoinder filed by him has neither disputed the said endorsement nor his signature below the said endorsement. The only contention raised by the learned Senior Counsel, Mr. Singhvi is that he was not furnished a copy of the document containing the grounds of arrest at the time of arrest. Since the appellant was indisputably informed about the grounds of arrest and he having also put his signature and the endorsement on the said document of having been informed, we hold that there was due compliance of the provisions contained in Section 19 of PMLA and his arrest could neither be said to be violative of the said provision nor of Article 22(1) of the Constitution of India.”

20. The Supreme Court in **Ram Kishor Arora Vs. Directorate of Enforcement (supra)**, while considering the judgments in the cases of **Pankaj Bansal Vs. Union of India and others (supra)** and **V. Senthil Balaji Vs. State and others (supra)** had opined that if the written grounds of arrest have been communicated to the accused and signed by him, it would be sufficient compliance of Section 19(1) of the PMLA and Article 22(1) of the Constitution of India. It had also held that the judgment in the case of **Pankaj Bansal Vs. Union of India and others (supra)** would be operative prospectively and the term ‘as soon as may be’ was interpreted, for the purpose of serving the grounds of arrest to the arrestee, as within 24 hours of his arrest. It, therefore, had held that the written grounds of arrest can be communicated to the accused within 24 hours from his arrest and that would be sufficient compliance of Section 19(1) of the PMLA. Admittedly,

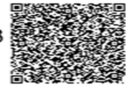


in the case at hand, the written grounds of arrest were communicated to the petitioner that very day i.e. on 06.11.2023 when he had been arrested.

21. In the case of **Prabir Purkayastha Vs. State (NCT of Delhi)** (**supra**), it was held that the grounds of arrest have to be communicated in writing even in the case of Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as “the UAPA”). This case pertains to the arrest of the petitioner therein under the provisions of the UAPA and the Supreme Court, while holding that the provisions of Section 19(1) of the PMLA are *para materia* with the provisions of Sections 43A & 43B of the UAPA, had held that the written grounds of arrest should be communicated to the arrestee. In the instant case, there is no dispute that the written grounds of arrest were communicated to the petitioner on the day of his arrest.

22. Insofar as the submission of the counsel for the petitioner that the grounds of arrest do not contain the material which had formed the basis of his arrest, it is noticed only to be rejected for the reason that it is nowhere provided that the sufficiency of grounds of arrest is to be examined.

23. Furthermore, the counsel for the petitioner has also contended that the entire ‘*material in possession*’ against the arrested petitioner, including the memo of arrest and the grounds of arrest had been sent to the Adjudicating Authority on 08/09.11.2023 whereas it should have been sent immediately hence there is violation of Section 19(2) of PMLA. The argument is liable to be rejected because it is not specified that information has to be sent on the day the arrest is effected. Therefore, we do not find any illegality in the same being sent to the Adjudicating Authority a day after. Even if it has been sent after 02 days, it could not be said that the provisions of Section 19(2) of the PMLA have not been complied with. The expression ‘as soon as possible’ in relation to the communication of the grounds of arrest



have been interpreted by the Supreme Court in the case of **Ram Kishor Arora Vs. Directorate of Enforcement (supra)** to be within 24 hours of the arrest but there is no such mandate for sending the material to the Adjudicating Authority the same day or within 24 hours. Therefore, it is difficult for this court to arrive at the conclusion that sending material in possession to the Adjudicating Authority after a day or two would not be a sufficient compliance of Section 19(2) of the PMLA.

24. It is noteworthy that cognizance has been taken by the Special Court on 18.03.2024 which has not been challenged by the petitioner in any proceedings. He has also not filed petition for regular bail till date.

CONCLUSION

25. In view of the aforementioned facts and circumstances, we are of the considered opinion that the arrest of the petitioner is in consonance with Section 19 (1) of the PMLA and we do not find any manifest illegality in the orders of remand and subsequent proceedings.

26. Resultantly, we do not find any merit in this writ petition which stands dismissed.

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27. This application is for grant of interim bail during the pendency of the writ petition. The application had been preferred on the ground that the final adjudication of the main case would take some time. However, since the main case has been decided, therefore, this application stands disposed of as well.

(ANUPINDER SINGH GREWAL)
JUDGE

(KIRTI SINGH)
JUDGE

24.05.2024

SwarnjitS

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No