IN THE SPECIAL COURT UNDER P.M.L. ACT, GR. BOMBAY

ORDER BELOW EXH.145
IN
PMLA SPL. CASE NO.377 OF 2021

Babulal Mulchand Varma **… Applicant(A3)**

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ORDER BELOW EXH.146
IN
PMLA SPL. CASE NO.377 OF 2021

Kamalkishor Gokalchand Gupta **… Applicant(A4)**

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ORDER BELOW EXH.149
IN
PMLA SPL. CASE NO.377 OF 2021

Babulal Mulchand Varma **… Applicant(A3)**

@

ORDER BELOW EXH.150
IN
PMLA SPL. CASE NO.377 OF 2021

Kamalkishor Gokalchand Gupta **… Applicant(A4)**

Vs.

Directorate of Enforcement, Mumbai **… Respondent**

Appearance:
Ld. Sr. Counsel Mr. Aabad Ponda @ Mr. Manohar Ramsinghani and Mr. Aftab Diamondwala, Mr. Pradeep Jain and Mr. Vinay Dali, Ld. Advocates for accused No.4.
Ld. Counsel Mr. Vijay Aggarwal @ Mr. Rahul Agarwal, Mr. Yash Agarwal, Mr. Aftab Diamondwala, Ld. Advocates for accused No.3.
Ld. S.P.Ps Mr. Hiten Venegaonkar @ Mrs. Kavita Patil.

CORAM : M. G. DESHPANDE,
SPECIAL JUDGE UNDER THE PML ACT,
(C.R.No.16)
DATE : August 24, 2022.

COMMON ORDER

1. Since 08.06.2022 this case has been pending at the stage of discharge. One of the accused persons, Sachin Joshi(A5) availed this stage and filed discharge application (Exh.139). Even the prosecution (ED) responding the said discharge application (Exh.139), filed their detailed say (Exh.139A) and opposed the said application. Therefore, it has to be noted that, there is absolutely no confusion with ED regarding the exact stage of the matter. So, both i.e. ED and accused persons are quite aware that the case is at the stage of discharge and discharge application filed by Sachin Joshi (A5) would be heard after 08.08.2022.

2. On 08.08.2022 Babulal M. Varma (A3) and Kamalkishor Gupta (A4) filed two applications Exh.145 and 146 respectively claiming their immediate release in the background of the recent authority of the Hon'ble Supreme Court in **Vijay Madanlal Choudhary & Ors. Vs. Union of India & Ors. [SLP (Crl.) No.4634 of 2014, decided on 27.07.2022]** claiming that the present PMLA case cannot be tried against them and if the Court cannot try the case, cannot keep both accused in behind bars in judicial custody. Resort to Rule 4 of Chapter I of Criminal Manual is also taken. It is prayed not to continue judicial custody remand of both accused and release them immediately as the continuation of judicial custody would amount illegal detention.

3. Reasoned speaking interim common order was passed on the same day i.e 08.08.2022, on hearing prosecution, accused for

interim relief and main applications were kept pending for final decision. During pendency, on 10.08.2022 other two applications (Exh.149 and 150) were filed by these accused claiming discharge as per Sec.227 r.w. Sec.239 Cr.P.C. Say of ED to both applications was called and the matter was adjourned to 12.08.2022 for hearing on day to day basis. On 12.08.2022, ld. SPP Mr. Venegaonkar submitted that, ED will not file say to any of the applications and would rely on oral arguments. In this background, this matter has been heard on day to day basis, as interim release of both accused was made.

4. Ld. Adv. Mr. Vijay Aggarwal filed purshish (Exh.151) in respect of Discharge Applications (Exh.149 and 150) stating that, both accused are not pressing any other ground other than the judgment of the Hon'ble Supreme Court in **Vijay Madanlal Choudhary & Ors. Vs. Union of India & Ors. [SLP (Crl.) No.4634 of 2014, decided on 27.07.2022]** and restricted the claim of both accused for discharge to that extent only. Basic issue involved in both applications is based on the recent law of the land in the case of Vijay Madanlal Choudhary & Ors. Vs. Union of India & Ors. [SLP (Crl.) No.4634 of 2014, decided on 27.07.2022]. Hence, all applications are heard simultaneously. The discussion required for deciding all applications relates to the law laid down by the Hon'ble Supreme Court in Vijay Madanlal Choudhary & Ors. Vs. Union of India & Ors. [SLP (Crl.) No.4634 of 2014, decided on 27.07.2022], hence in order to avoid multiplicity and repetition of reasoning all applications are being decided by this common order.

5. In this background everyday heard Ld. Counsel Mr. Vijay Aggarwal, Ld. Sr. Counsel Mr. Aabad Ponda and Ld. SPP Mr. Hiten

Venegaonkar at length. Ld. SPP Mr. Venegaonkar after his thorough oral argument, filed his written notes of argument (Exh.153) for applications (Exh.145 and 146). Though the written submissions (Exh.153) indicate Exh.145 and 146, yet submissions at issue No.9 therein are in respect of discharge applications (Exh.149 and 150) also. I carefully read the same. Ld. Counsel Mr. Vijay Aggarwal has also submitted his written submissions (Exh.154) to rebut the argument and written submissions of Ld. SPP Mr. Hiten Venegaonkar.

6. I carefully read both i.e. Exh.153 and Exh.154. It is necessary to note that, ED has not filed their reply to any of the applications i.e. Exh.145, 146, 149 and 150 and technically did not challenge contention raised in those applications. Therefore, technically each and every contentions made in all these four applications remained unchallenged. It is also necessary to note that, Ld. Counsel Mr. Vijay Aggarwal submitted across the Bar to record his statement that the matters pending before the Hon'ble Supreme Court and the Hon'ble High Court are being withdrawn. Subsequently, Purshish (Exh.155) was filed alongwith copies of order dt.18.08.2022 passed by the Hon'ble High Court allowing withdrawal of Bail Application No.4178/2021 and 4179/2021 by reserving liberty to file fresh bail applications. Another copy is the screenshot of the website of the Hon'ble Supreme Court indicating that SLP (Crl.) No.5720 of 2022 has been dismissed as withdrawn and disposed of on 23.08.2022. On this Ld. SPP Mrs. Kavita Patil submitted that, whatever contented by the ED in respect of Criminal Application No.201 of 2021 with Criminal Bail Application No.974 of 2021 remains confirmed.

7. Following points arise for my determination. I am recording following findings thereon for the reasons discussed below :-

	POINTS	FINDINGS
1.	Whether Applications Exh.145 and Exh.146 are maintainable?	Yes
2.	Whether there is not sufficient ground for proceedings against both accused in the instant PMLA case relating to ECIR/MBZO-II/20/2020 based on the FIR No.109/2020 for Predicate Offence?	Yes
3.	What Order ?	As per final order

REASONS

BOTH POINTS.

8. Main issue involved in all applications is one and the same as to whether trial of PMLA case can proceed in the absence of Scheduled Offence. Therefore, all the points are being discussed commonly.

9. **CONTENTION IN APPLICATIONS EXH.145 AND 146.**

a. The ED vide prosecution complaint on 25.03.2021, which is based on the Scheduled Offence being FIR No.109/2020 dt.07.03.2020, registered at City Chowk Police Station, Aurangabad, prosecuting both accused vide ECIR/MBZO-II/20/2020.

b. Closure report was filed in the Court of Ld. 3rd J.M.F.C., Aurangabad. The complainant filed affidavit therein and submitted his no objection to the acceptance of the said closure report.

c. On 12.02.2021 the Ld. 3rd J.M.F.C., Aurangabad vide his detailed order accepted the said closure report being 'C' final report. Hence, at present there is no Scheduled Offence in existence.

d. On 15.02.2021 applicants filed application (Exh.8) before this Court for their release on bond in view of the closure report, which was rejected by the then Court vide order dt.15.02.2021.

The said order was challenged before the Hon'ble High Court vide APL (Crl.) No.201/2021 on 20.02.2021, which was dismissed vide order dt.16.03.2021.

e. Applicants preferred SLP (Crl.) No.5720/2022 before the Hon'ble Supreme Court against the said order dt.16.03.2021, which is pending before the Hon'ble Supreme Court (now submitted that in the process of withdrawal).

f. As per Rule 4 sub-rule 1 of Criminal Manual r.w. Sec.309 Cr.P.C. judicial custody remand of both accused cannot be extended as the Scheduled Offence upon which the PMLA offence is based, is not in existence anymore.

g. Reliance is placed on Vijay Madanlal Choudhary & Ors. Vs. Union of India & Ors. [SLP (Crl.) No.4634 of 2014, decided on 27.07.2022] [paragraphs 33, 52 and 187(v) and (d)].

h. It is alleged that, once Scheduled Offence is not in existence, the PMLA case cannot be tried and the Court has no jurisdiction to extend further judicial custody of both accused.

i. On the basis of these grounds three prayers are made for release of both accused.

These are the grounds further extension of judicial custody of both applicants is resisted by insisting initial interim release of both applicants. Upon hearing Ld. Counsel Mr. Vijay Aggarwal, Ld SPP Mrs. Kavita Patil and Ld. SPP Mr. Hiten Venegaonkar, the Court passed reasoned speaking common order on 08.08.2022 and granted interim release of both accused (A3 and A4). The same is continued till date. The interim release was granted with direction to both applicants to execute PR bonds of Rs.5 Lakh and surety bond of like amount as a caution to secure their presence if the applications (Exhl.145 and 146) are rejected finally. The reasons for the said order were discussed in detail therein.

10. Next date i.e. 10.08.2022 both applicants filed applications for discharge (Exh.149 and 150) restricting their claim of discharge

(vide Purshish Exh.151) to the guidelines and law laid down by the Hon'ble Supreme Court in the case of **Vijay Madanlal Choudhary & Ors. Vs. Union of India & Ors. [SLP (Crl.) No.4634 of 2014, decided on 27.07.2022]**. It is further contended that, both applicants are entitled to get discharge. Both applications were heard without say of ED, as noted above.

ARGUMENT OF LD. COUNSEL MR. VIJAY AGGARWAL (FOR A3)

11. Ld. Counsel Mr. Vijay Aggarwal specifically argued that, on 12.02.2021 'C' Summary Report was accepted by Ld. 3rd JMFC, Aurangabad by applying mind and with reasoned speaking order noting compromise and compounding made between the informant and accused persons, and the affidavit of the informant in that regard. Ld. Counsel Mr. Aggarwal further submitted that, either ED or the said prosecution relating to FIR No.109/2020 or even informant therein, had not initiated any proceedings for revival of the order accepting 'C' Summary. Even none of them had challenged the same before the Hon'ble High Court or Sessions Court. In this way, the said order became absolute and final. Both applicants who were named in the criminal activity relating to a Scheduled Offence, are finally absolved by the Ld. 3rd JMFC, Aurangabad, hence there can be no action for money laundering against such a person or persons claiming through them. For that, Ld. Counsel Mr. Aggarwal heavily placed reliance on paragraphs 33 and 187(v)(d) of **Vijay Madanlal Choudhary & Ors. Vs. Union of India & Ors. [SLP (Crl.) No.4634 of 2014, decided on 27.07.2022]** . It is his next argument that, when the case against both applicants relating to Scheduled Offence is no more, the present PMLA Special Case cannot continue. When the present PMLA case cannot continue, certainly the judicial custody of the applicants-accused, who are under

trial prisoners, cannot be continued and if continued will amount an illegal detention.

12. He further submitted that, once it is brought to the notice of the Court regarding the future judicial custody of the accused turning into illegal detention, and such objection is raised under Sec.309(2) Cr.P.C., Court has to hear it pre-emptory without continuing the judicial custody. According to him, there was no criminal activity relating to Scheduled Offence, hence PMLA case cannot stand or continue against these applicants. This is in short the core of the argument of Ld. Counsel Mr. Aggarwal.

ARGUMENT OF LD. SR. COUNSEL MR. AABAD PONDA (FOR A4)

13. Ld. Sr. Counsel Mr. Ponda referred paragraph 11 of the judgment dt.16.03.2021 of the Hon'ble High Court in Criminal Application (APL) No.201 of 2021 with Criminal Bail Application No.974 of 2021 and further placed reliance on paragraphs 33, 52, 187(v)(d) in the case of **Vijay Madanlal Choudhary & Ors. Vs. Union of India & Ors. [SLP (Crl.) No.4634 of 2014, decided on 27.07.2022]** and submitted that exactly contrary view has been taken by the Hon'ble Supreme Court and true spirit thereof has to be followed by this Court. With this, he submitted that there is no Scheduled Offence in existence. Both accused were absolved from the Scheduled Offence by the Ld. 3rd JMFC, Aurangabad having competent jurisdiction to do so. In the absence of Scheduled Offence PMLA case cannot continue. Even if the argument of Ld. SPP Mr. Venegaonkar that it is 'C' Summary as an outcome of compounding Scheduled Offence, is considered, yet the legal effect of Sec.320(8) Cr.P.C. demonstrates acquittal of both accused qualifying the categorized laid down by the

Hon'ble Supreme Court in the case of **Vijay Madanlal Choudhary & Ors. Vs. Union of India & Ors. [SLP (Crl.) No.4634 of 2014, decided on 27.07.2022].**

14. **ARGUMENT OF LD. S.P.P. MR. HITEN VENEGAONKAR**.

Ld. SPP Mr. Venegaonkar argued as follows,

a. This is the first application in the entire Country. Hence, if this Court passes any order in favour of the applicants, it will be the first order in the Country, which is likely to be followed and used by other Courts in the Country, which will have great impact.

b. Ld. SPP Mr. Venegaonkar further referred paragraphs 7 and 11 of the interim release order dt.08.08.2022 and argued that these observations were made at interim stage by making firm mind set.

c. Recent judgment of the Hon'ble Supreme Court in the case of **Vijay Madanlal Choudhary & Ors. Vs. Union of India & Ors. [SLP (Crl.) No.4634 of 2014, decided on 27.07.2022]** has arguable and debatable points.

d. Rule 4 of Chapter-I of Criminal Manual does not permit accused persons to file any such application at the stage of remand or extension. Hence, neither both applications (Exh.145 and 146) nor other two applications Exh.149 and 150 for discharge are maintainable.

e. Sub Rules (1) and (2) of Rule 4 Criminal Manual have word "Investigation". So there are directives given by the Hon'ble Bombay High Court to its Judges how to entertain Remand Application at the stage of investigation and this Rule is only for police and invokable only at their instance.

f. Rule 4 (1) and (2) of Criminal Manual is neither applicable nor the applications under the same are maintainable. In order to entertain such contention the Court must have inherent jurisdiction or power, which this Court does not have. Hence, this Court cannot release both accused as such. (For that reliance is placed on Hari Sankaran Vs. Serious Fraud Investigation Office (Criminal Application No.507 of 2021, decided on 19.04.2022).

g. Previously similar application was filed (Exh.7 and 8, dt.15.02.2021) with same contentions and same reliefs were sought. The Hon'ble High Court confirmed the rejection thereof made by the then Ld. Court of First Instance. The said

application was filed at the stage of extension of judicial custody. Therefore, this issue was finally decided on 16.03.2021 by the Hon'ble High Court in Criminal Application (APL) No.201 of 2021 with Criminal Bail Application No.974 of 2021. Now this issue is pending before the Hon'ble Supreme Court, hence the Court is debarred to hear such application nor the Court can review its own order.

h. Sec.309(2) Cr.P.C. is discussed under Chapter XXV Cr.P.C. which relates to General Procedure For Inquiry and Trial. On 08.08.2022 and even today stage of this case is 'inquiry'. For that reliance is placed on Hari Sankaran (supra)

i. Accused were arrested on 27.01.2021 and ED custody under Sec.167(2) Cr.P.C. was granted. On 26.03.2021 complaint was filed and on 30.03.2021 cognizance was taken. Thereafter, about one and half years till 08.08.2022 both accused were in judicial custody as per order of this Court. Hence, it cannot be termed as illegal detention. For that reliance is placed on **Ankit Ghanshyam Mutha Vs. Union of India (2020 SCC OnLine Bom 121).**

j. Reliance is also placed on **(i) Saurabh Kumar Through His Father Vs. Jailor, Koneila Jail and another, (2014 SCC OnLine SC 574), (ii) Maj.Genl. A.S. Gauraya and another Vs. S.N. Thakur and another [(1986)2 SCC 709] and (iii) Ramesh Kumar Ravi alias Ram Prasad and etc. Vs. State of Bihar and others etc. [(AIR 1988 Pat 199) : 1987 SCC OnLine Pat 83].**

k. All previous remands were without any application and the Court followed this practice, therefore application is not necessary, as observed in the interim order.

l. Ld. SPP Mr. Venegaonkar read 'C' Summary Report and observations of the Investigating Officer and further argued that, the 'C' Summary acceptance will not affect ECIR. Secondly, the Hon'ble Supreme Court nowhere says that, settled or compromised Scheduled Offence will lead to non-survival of proceedings and thirdly, this being an offence under the PML Act, the present case will continue even after 'C' Summary, as held by the Hon'ble High Court in Criminal Application (APL) No.201 of 2021 with Criminal Bail Application No.974 of 2021 decided on 16.03.2022

m. Ld. SPP Mr. Venegaonkar further argued that, the contingency regarding 'C' Summary is not considered by the Hon'ble Supreme Court in the case of **Vijay Madanlal Choudhary & Ors. Vs. Union of India & Ors. [SLP (Crl.) No.4634 of 2014, decided on 27.07.2022]**, the said authority is not applicable to this eventuality, but the law laid down by the Hon'ble High Court in

Criminal Application (APL) No.201 of 2021 with Criminal Bail Application No.974 of 2021 will have binding effect.

n. Ld. SPP Mr. Venegaonkar further argued that, the Hon'ble Supreme Court nowhere held that, the PMLA offence is not standalone offence and only included the grounds wherein the accused is finally discharged/acquitted of the Scheduled Offence or the criminal case against him is quashed by the Court of Competent Jurisdiction, when there can be no offence of money laundering.

o. The Court has taken cognizance of the offence because there were reasons to believe involvement of accused persons in an offence under PMLA, on the basis of available material. The same material is available now then how it can be said that the accused are entitled to discharge or release?

p. Regular bail applications of both accused were already rejected, provisional attachments had been made by adopting procedure and there is tangible as well as credible evidence against both accused. Therefore, even after 'C' Summary acceptance, the PMLA case continues.

These are the arguments advanced by the Ld. SPP Mr. Hiten Venegaonkar as well as submitted in his written argument (Exh.153). Ld. Counsel Mr. Aggarwal rebutted the same vide his written submissions (Exh.154). I carefully studied the written submissions made from both sides, oral arguments and law laid down by the Hon'ble Supreme Court as well as the Hon'ble High Courts in various authorities relied on by both parties.

15. At the cost of repetition following peculiar facts involved in this case are necessary to be considered,

(i) On 12.02.2021 the Ld. 3rd JMFC, Aurangabad accepted closure report rather 'C' Summary filed by City Chowk Police Officer in respect of FIR No.109/2020, for the Scheduled Offence, by its detailed speaking order, noting the background and facts as well as affidavit filed by the first informant therein and further by applying his mind.

(ii) On 07.09.2021 the Sr. Inspector, EOW, Mumbai informed in writing to Yes Bank about the closure of Preliminary Inquiry in regards to the complaint made by the Yes Bank alleging diversion of Rs.410 Crore from the loan sanctioned and disbursed by Yes Bank and which complaint cannot be investigated by Directorate of Enforcement.

(iii) On 19.04.2022 Yes Bank communicated the accused company through E-mail that, the acceptance of Preliminary Inquiry Report filed by EOW, Mumbai.

(iv) There is no FIR with the jurisdictional police about generation of Proceeds of Crime by way of Yes Bank Loan.

These are the basic peculiar material facts involved in this case relating to closure report in respect of Scheduled Offence. Case of prosecution relates to alleged involvement of both accused in the process or activity connected with proceeds of crime as a result of criminal activity relating to Scheduled Offence. It is also contention of prosecution that, therefore Scheduled Offence vide FIR No.109/2020 was registered on 07.03.2020. Another allegation made by the prosecution is that, another set of proceeds of crime was generated through the loan sanctioned by Yes Bank to the companies of accused/first informant in the FIR No.109/2020. **It is pertinent to note that, in respect of alleged another set of proceeds of crime relating by way of loan sanctioned by Yes Bank, there is no contemporaneously registered FIR or any Scheduled Offence by the jurisdictional police under Sec.66(2) of the PML Act.** Regarding the Scheduled Offence under Ss. 420, 406 r.w. 34 IPC, FIR No.109/2020 was registered and further proceedings for sending the same for trial, were permanently dropped by way of 'C' Summary Report.

'C' SUMMARY REPORT AND ITS ACCEPTANCE.

16. It is necessary to refer 'C' Summary Report filed by the Investigating/Police Officer, City Chowk Police Station, Aurangabad in respect of FIR No.109/2020. It is necessary to reproduce some of the facts noted by the Police Officer concerned, his observations and conclusions while submitting report under 'C' Summary. The relevant part thereof is reproduced as follows,

> "**एकंदरीत प्रस्तुत गुन्हयाचे आतापर्यंत झालेल्या तपासामध्ये आरोपी विरुध्द मा.न्यायालयात दोषसिध्दी होईल इतपत पुरावे उपलब्ध झालेले नाहीत**. गुन्हयातील फिर्यादी श्री. महेंद्र संपतराज सुराणा यांनी दिनांक ०६/०२/२०२१ रोजी नोटरी केलेले पत्राचे अवलोकन करता, **फिर्यादी यांनी गुन्हयातील आरोपी विरुध्द गैरसमजुतीने फिर्याद दिल्याचे तपासात निषन्न झाले आहे**. तसेच दिनांक ०९/०२/२०२१ रोजी फिर्यादी यांनी प्रत्यक्ष कार्यालयात हजर येवुन त्यांची थकीत असलेल्या १२,१७,८४,४५१/— रुपये रक्कमेच्या मोबदल्यात एकुण १४,८८,९५,३३२,/— रुपये येणे असलेल्या रक्कमेचे १५,१०,९९१/— रुपये TDS कपाती वजा जाता १४,७३,८४,३६१/. रुपये फिर्यादी यांना त्यांचे फर्मचे ॲक्सीस बॅक शाखा अदालत रोड औरंगाबाद येथील चालु बॅक खात्यावर प्राप्त झाले असल्याचे सांगीतले आहे.
>
> **गुन्हयाचे तपासामध्ये फिर्यादी यांनी गैरसमजुतीने आरोपी यांचे विरुध्द तक्रार दिल्याचे तपासात निष्पन्न झाले आहे**. त्यामुळे नमुद गुन्हयात "क" वर्गात अखेर अहवाल मंजुर होणेस विनंती आहे."

17. On the basis of such Closure Report, the Ld. 3rd JMFC, Aurangabad having jurisdiction to deal with the said 'C' Summary, passed detailed reasoned order prima-facie indicating application of mind that too by giving opportunity to the informant (victim) before accepting the same and noted as follows,

> "01. Perused the C-Final Report it appears that, the investigation officer has filed the C-Final Report against the accused persons and prayed to accept the said C-Final Report. **I have called the say of informant. Accordingly, the informant filed his say in the form of affidavit contending**

that, all the accused persons have clear all the dues and paid all the disputed cheque amounts in his account. He has compounded these offenecs with all the accused persons. Therefore, he has no any grievance against the accused persons and prayed to accept the C-Final Report **and compound the offences punishable under Section 406, 420 read with 34 of I.P.C.**

02. The alleged offence punishable under **Section 406 and 420 read with 34 of I.P.C. are compoundable offences under Section 320 of Cr.P.C. and the informant against whom it is alleged the criminal breach of trust and cheating by filing his say in the form of affidavit contended that, he has compounded the present matter of an alleged offences punishable under Sections 406, 420 read with 34 of I.P.C.** the present matter with all the accused persons and he has **no objection to accept the C-Final Report**.

03. Considering all above aspects and **considering the report of I.O. and say in the form of affidavit filed by informant and the alleged offences punishable under Sections 406, 420 read with 34 of I.P.C. are compoundable offences** and as it is compounded between the informant and all the accused persons no reason remains to keep this C-Final Report pending further. Hence, I pass the following order :-

ORDER

1. C-Final Report stands accepted.

2. This Criminal Miscellaneous Application No.434/2021 be rounded up accordingly."

18. In this way, the above order passed by the Ld. 3rd JMFC, Aurangabad, having competent jurisdiction clearly indicates that not only the police authority concerned but also the Court having

competent jurisdiction finally closed further proceedings in respect of FIR No.109/2020 regarding Scheduled Offence and corresponding Miscellaneous Application No.434/2021 was finally disposed of. It is necessary to note that, ED was quite aware of this fact since it was brought on record by the accused, yet, did not challenge the 'C' Summary acceptance to the Competent Court having jurisdiction to deal with the same. Nor ED had initiated any proceedings independently or through Yes Bank, Mumbai whose money allegedly was relating to the transaction in question under the FIR No.109/2020, for revival of 'C' Final Report ('C' Summary) accepted by the Ld. 3rd JMFC, Aurangabad, having competent jurisdiction. In this background as on today there is no Scheduled Offence in existence nor any criminal activity relating to Scheduled Offence. Admittedly, there is no contemporaneous FIR in respect of money of Yes Bank as required under Sec.66(2) of the PML Act, but E.O.W., Mumbai dropped the said proceedings. Therefore, the 'C' Summary Report and acceptance order thereof passed by the Ld. 3rd JMFC, Aurangabad, having competent jurisdiction for the same has attained finality and became absolute.

WHAT IS 'C' SUMMARY REPORT?

19. There are three types of Summary Reports in a criminal case which are 'A', 'B' and 'C'. 'A' Summary is filed when, “Allegations are true but undetected (where there is no clue whatsoever about the culprits or where the accused is known but there is no evidence to justify his being sent up to the Magistrate (for trial).” 'B' Summary is filed when, “The alleged facts are maliciously false.” 'C' Summary is filed when, “Neither true nor false, e.g. **due to mistake of fact or being of a civil nature**.” 'A SUMMARY' means that the investigation is yet to reach completion due to lack of evidence. On the other hand 'B

SUMMARY' and 'C SUMMARY' Reports mean that investigation is complete and that no offence is made out against the accused. When Magistrate accepts 'A SUMMARY' it means that there is an offence. It is not a case of discharge or closure. It means it was a genuine case of offence but the investigation could not collect evidence. 'A SUMMARY' reflects incomplete investigation. In “B” and “C” SUMMARY, the investigation is complete and either there is no offence or wrong accused. Whereas 'C' Summary case indicates as, (i) When the case is neither true nor false, (ii) When the criminal case was filed due to mistake of facts or the offence complained about is of a civil nature, (iii) Before accepting 'C' summary report the Magistrate is bound to hear the first informant.

20. In the aforesaid background the order passed by the Ld. 3rd JMFC, Aurangabad accepting 'C' summary report clearly indicates that not only the Police Officer but also the said Ld. JMFC were satisfied and by applying mind the Ld. 3rd JMFC passed above speaking order finally accepted the 'C' summary report **absolving** accused persons mentioned in the FIR No.109/2020 **finally**. The said order has attained finality, hence became absolute as none including the ED challenged it before the Competent Court. Therefore, as on today there is absolutely no crime or any case relating to the Scheduled Offence. This 'C' Summary Report and acceptance thereof have put final end to the proceedings related to the alleged offence against both accused pertaining to FIR No.109/2020. Not only this but even Yes Bank whose money was allegedly laundered, had also communicated Nil Report to EOW, Mumbai and EOW, Mumbai declined to take cognizance by registering any FIR in respect of Yes Bank money. Therefore, even for alleged money laundering of Yes Bank money, there is no FIR in respect of

Scheduled Offence. ED, who is now, taking vehement objection regarding 'C' Summary, opted to maintain silence and gave their mute consent for its acceptance by the Competent Court having jurisdiction. Therefore, 'C' summary acceptance is nothing but a complete shut down of the case **absolving** both accused persons from future prosecution in respect of FIR No.109/2020.

21. According to the Ld. SPP Mr. Venegaonkar such category is not considered by the Hon'ble Supreme Court. It is not an honourary acquittal, therefore 'C' Summary acceptance will have no bearing on the fate of PMLA case. I carefully examined this argument. I have already noted that even there was absolutely no evidence with the Investigating Officer to forward a chargesheet and prosecute the accused persons. He has clearly mentioned how the informant therein lodged the FIR out of misunderstanding and dispute between the informant and accused was purely of civil nature. **It has to be noted that a dispute of civil nature is not covered under Scheduled Offences under the provisions of PML Act**. In case of discharge, police in its Report under Sec.173(2)(i) Cr.P.C. contends that there is sufficient evidence, but the Court under Sec.227/239 Cr.P.C. holds that there is insufficient evidence. In case of acquittal police in its Report under Sec.173(2)(i) Cr.P.C. contends that, there is sufficient evidence. The Court while framing charge also holds sufficient evidence against the accused. However, the Court in its judgment of acquittal of a person holds that there is insufficient evidence. In Closure Report, particularly 'C' Summary, police in its report under Sec.173(2)(i) Cr.P.C. specifically contends that, there is insufficient evidence and submit the report to the Court of Competent jurisdiction for judicial consideration thereof. The Court on receipt of such report, invites the informant-victim, hears his objection if any and

thereafter passes order by applying mind. If the Court accepts such Report and none including prosecution, accused as well as informant/victim challenges the said acceptance and allows it to attain finality, there is complete shut down of the case **absolving accused** from future prosecution in respect of offence alleged against him in the FIR.

22. When the order dt.12.02.2021 is carefully examined, the same glaringly indicates that there was absolutely no evidence with the Investigating Officer against the present accused, even the informant and accused persons compromised and compounded their dispute and noting the same Ld. 3rd JMFC accepted the same which now has attained finality and became absolute. Therefore, the said speaking order dt.12.02.2021 is qualified in all respect **to hold that both the accused were already absolved by the Ld. Court having competent jurisdiction to do so**. Therefore, all this clearly falls in the ambit of "In the event the person named in the criminal activity relating to a scheduled offence is finally absolved by a Court of competent jurisdiction" as held in paragraph 33 r.w. 52 and 187(v)(d) of Vijay Madanlal Choudhary (supra).

23. Another vehement argument of Ld. SPP Mr. Venegaonkar is that, what has been accepted by the Ld. 3rd JMFC, Aurangabad under 'C' Summary is a compromise-compounding under Sec.320 Cr.P.C. and compounding-compromising category is not considered by the Hon'ble Supreme Court in Vijay Madanlal Choudhary (supra). I carefully examined this aspect. Even if this argument is accepted as it is, what is its legal effect? Is also an important aspect. The Ld. 3rd JMFC,

Aurangabad has clearly observed in the said order as,

> "02. The alleged offence punishable under Section 406 and 420 read with 34 of I.P.C. are compoundable offences under Section 320 of Cr.P.C. and the informant against whom it is alleged the criminal breach of trust and cheating by filing his say in the form of affidavit contended that, he has compounded the present matter of an alleged offences punishable under Sections 406, 420 read with 34 of I.P.C. the present matter with all the accused persons and he has no objection to accept the C-Final Report."

His observations as such are based on the affidavit filed by the informant in the said 'C' Summary proceedings which is as follows,

> "3) I say that, police has filed C summary report today before this Hon'ble Court and I have no objection for accepting the same, **as the said FIR 109/2020 came to be lodged due to misunderstanding**, **and the commercial transaction dues cleared by the accused**. Hence, there is no claim of any amount remains against the accused. Hence, there is no grievance against all accused u.sec.420,406, & 34 IPC again Hon'ble **Court be compound all grievances with accused.**
>
> Hence, this affidavit."

Sec.320 Cr.P.C. deals with various modes of compounding of offences and permissibility thereof. Sec.320(8) Cr.P.C. clearly specifies as follows,

> Sec.320(8) Cr.P.C. :-
>
> The composition of an offence under this section shall have the effect of an acquittal of the accused with whom the offence has been compounded.

It is, therefore, clear that even if the vehement argument of Ld. SPP Mr. Venegaonkar is accepted as it is, the same in fact supports

the case of both accused. There are so many types of acquittals provided under Cr.P.C. If acquittal is Genus, Ss.232, 248(1) 255(1), 256(1), 257 and 320(8) Cr.P.C. are species. Therefore, Code of Criminal Procedure has prescribed all the above modes of acquittals one of them is Sec.320(8) as argued by the Ld. SPP Mr. Venegaonkar. Even if his argument is accepted as it is, the effect of observations and order accepting 'C' summary by the Ld. 3rd JMFC, Aurangabad, in legal parlance is nothing but **an acquittal**. At the cost of repetition it has to be noted that, the said order dt.12.02.2021 has remained unchallenged and attained finality, hence became absolute amounting to an acquittal of both accused. It is necessary to note that ED has not filed their say to any of applications and challenged contentions therein. This aspect cannot be overlooked.

24. In the case of **State of Maharashtra Vs. Bhimrao Vitthal Jadhav, (1974 SCC OnLine Bom 10)**, reference of 'C' summary and exact meaning thereof is stated in paragraph (8) as follows,

> "It is not being doubted before us that the granting "C" summary was a judicial order and **that the granting of that summary amounts to an acquittal** of plaintiff-respondent in the present case."

It is further held in paragraph (15) as,

> "The plaintiff-respondent was initially tried before the trial Court in the sense "C" summary was obtained in his behalf form a Judicial Magistrate, First Class. As we have already pointed out, **it is not being doubted that this amounts to an acquittal of the plaintiff-respondent by a criminal Court.**"

Therefore, the case of the present accused persons squarely falls within the ambit of one of three categories prescribed by the Hon'ble Supreme Court in paragraphs 33, 52 and 187(v) and (d), in

order to hold effect of 'C' Summary acceptance is an acquittal as per Sec.320(8) Cr.P.C. Such argument of Ld. SPP Mr. Venegaonkar alone entitles both accused to claim the liberty given by the Hon'ble Supreme Court.

25. It is necessary to reproduce paragraphs 33, 52 and 187(v) and (d) in the case of **Vijay Madanlal Choudhary & Ors. Vs. Union of India & Ors. [SLP (Crl.) No.4634 of 2014, decided on 27.07.2022]**

> "**33.** Tersely put, it is only such property which is derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence can be regarded as proceeds of crime. The authorities under the 2002 Act cannot resort to action against any person for money-laundering on an assumption that the property recovered by them must be proceeds of crime and that a scheduled offence has been committed, unless the same is registered with the jurisdictional police or pending inquiry by way of complaint before the competent forum. For, the expression "derived or obtained" is indicative of criminal activity relating to a scheduled offence already accomplished. Similarly, **in the event the person named in the criminal activity relating to a scheduled offence <u>is finally absolved by a Court of competent jurisdiction</u> owing to an order of discharge, acquittal or because of quashing of the criminal case (scheduled offence) against him/her, <u>there can be no action for money-laundering against such a person or person claiming through him in relation to the property linked to the stated scheduled offence.</u>** This interpretation alone can be countenanced on the basis of the provisions of the 2002 Act, **in particular Section 2(1)(u) read with Section 3. Taking any other view would be rewriting of these provisions and disregarding the express language of definition clause "proceeds of crime", as it obtains as of now.**
>
> **52.** The next question is: whether the offence under Section 3 is a standalone offence? **Indeed, it is dependent on the wrongful and illegal gain of**

property as a result of criminal activity relating to a scheduled offence. Nevertheless, it is concerning the process or activity connected with such property, which constitutes offence of money-laundering. **The property must qualify the definition of "proceeds of crime" under Section 2(1)(u) of the 2002 Act.** As observed earlier, all or whole of the crime property linked to scheduled offence need not be regarded as proceeds of crime, but all properties qualifying the definition of "proceeds of crime" under Section 2(1)(u) will necessarily be crime properties. Indeed, in the event of acquittal of the person concerned **or being absolved from allegation of criminal activity relating to scheduled offence**, and if it is established in the court of law that the crime property in the concerned case has been rightfully owned and possessed by him, **such a property by no stretch of imagination can be termed as crime property and ex-consequenti proceeds of crime within the meaning of Section 2(1)(u) as it stands today**. On the other hand, in the trial in connection with the scheduled offence, the Court would be obliged to direct return of such property as belonging to him. **It would be then paradoxical to still regard such property as proceeds of crime despite such adjudication by a Court of competent jurisdiction**. It is well within the jurisdiction of the concerned Court trying the scheduled offence to pronounce on that matter.

187(v)(d) The offence under Section 3 of the 2002 Act is dependent on illegal gain of property as a result of criminal activity relating to a scheduled offence. It is concerning the process or activity connected with such property, which constitutes the offence of money-laundering. The Authorities under the 2002 Act cannot prosecute any person on notional basis or on the assumption that a scheduled offence has been committed, unless it is so registered with the jurisdictional police and/or pending enquiry/trial including by way of criminal complaint before the competent forum. **If the person is finally discharged/acquitted of the scheduled offence or the criminal case against him is quashed by the Court of competent jurisdiction, there can be no offence of money-laundering against him or any**

one claiming such property being the property linked to stated scheduled offence through him."

'C' Summary herein which has become absolute and attained finality, is complete shut down of proceedings prior to filing of chargesheet. It is complete and final absolvement of both accused by a Court of Competent Jurisdiction i.e. Ld. 3rd JMFC, Aurangabad. Hence, in my opinion case of both accused is qualified as per the guidelines and law laid down by the Hon'ble Supreme Court, as above.

26. According to the accused Rule 4(1) and (2) of the Criminal Manual entitles any accused to point out the Court if his further extension of judicial custody is likely to turn illegal and he can point out the same at any time during the course of investigation as well as trial. On the other hand it is argument of Ld. SPP Mr. Venegaonkar that, Rule 4 (1) and (2) of Criminal Manual has no application nor accused can be released immediately as per Sec.309 Cr.P.C. even if their judicial custody is likely to turn illegal. I carefully examined this argument. Thorough reading of Rule 4(1) and (2) of Criminal Manual clearly indicates that, it is not only for Sec.167(1) Cr.P.C. but also for Sec.309 Cr.P.C. Rule 4 (1) and (2) of Criminal Manual. It is a caution to the Judges dealing Remands under Sec.167 or Sec.309 Cr.P.C. pointing out that without satisfying themselves that there are reasonable grounds which are really good for such remand or extension, the Judges should not proceed to grant or extend the same. This subjective satisfaction requires qualification of really good grounds. Sec.309(2) Cr.P.C. casts obligation on the Court dealing Remand that if the Court, after taking cognizance of an offence, or commencement of trial, finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, **for reasons to be recorded**,

postpone or adjourn the same on such terms as it thinks fit, **for such time as it considers reasonable**, and may by a warrant remand the accused if in custody.

27. The language of Sec.309(2) Cr.P.C. r.w. Rule 4(1)and (2) of Criminal Manual clearly indicates as follows,

a. Extension of remand in the instant case is at the post-cognizance stage, hence only Sec.309(2) Cr.P.C. will apply.

b. In every remand or extension thereof there should be reasonable, really good grounds for extension of the remand.

c. Remands cannot be extended mechanically without application of mind and without really good reasons.

d. Even if the remand was extended previously, once the fact is brought by the under trial prisoners to the notice of the Court that, further extension is not warranted, the Court should consider this aspect and decide the same forthwith without further extending the remand.

e. It is also clear that, the Court cannot postpone the hearing of such issue to the next date by extending remand and under the said guise cannot say that, extension is justified.

f. Even any application from accused is not necessary to agitate such right, but only a fact has to be brought to the notice of the Court questioning the further extension of remand, which is sufficient.

In this background I hold that Rule 4 (1) and (2) of Criminal Manual r.w Sec.309(2) Cr.P.C. are clearly applicable and the application on this count moved by both accused is well qualified. Hence, argument of Ld. SPP Mr. Venegaonkar that the accused has no right to file any application as such under Rule 4 (1) and (2) Criminal Manual r.w Sec.309(2) Cr.P.C., has no justification. In such situation the accused whose remand is being extended mechanically has every right of audience even if he raises a finger of objection. This is the spirit of '*Audi Alteram Partem*'. Both accused did the same and nothing else

which is legally justified. Hence, their applications (Exh.145 and 146) are qualified as well as maintainable.

28. In view of the recent law of the land in Vijay Madanlal Choudhary (supra) it was glaring that the PMLA case cannot continue in the background of final acceptance of 'C' Summary by the Ld. 3rd JMFC, Aurangabad and attainment of the said order to finality. So keeping both accused in detention by way of further judicial custody was not warranted. At that moment when such serious question is raised, there should have been really good grounds for the satisfaction of the Court for further extension. In the absence thereof, the extension of judicial custody remand mechanically following the previous practice of the Court is completely illegal. On 08.08.2016 the accused who are under trial prisoners since more than one and half years, pointed out this illegality likely to be committed by the Court. Hence, it was obligatory on the part of the Court to consider the same pre-emptory and decide it then and there itself. Therefore, forthwith release of the accused directed by way of interim relief is justified and the same needs to be made absolute to stop multiplication of illegalities.

29. It is necessary to add something more on this aspect. Sec.309 Cr.P.C. is repository of powers of the Court to remand the accused in custody during pendency of trial. It is consistent with the concept of Fundamental Right to life and liberty under Art.21 of the Constitution of India. Interim order of release of the accused may be granted when the Court is satisfied that no offence survives against the accused as in the present case in view of the verdict, law of the land laid down by the Hon'ble Supreme Court in the case of Vijay Madanlal Choudhary (supra). There has to be an effective check against

unscrupulous exercise of power by the ED in seeking casual extensions of judicial custody. An important situation lies post-arrest. Usually the trial Court remands the accused to judicial custody. But where it is brought to the notice of the Court about illegal detention of the accused persons, posting his application for release from custody for consideration to a later date to hear the prosecution (ED) would be no more than becoming party to the illegalities of investigating agency amounting to illegal detention of both accused. In that situation accused would be forced to remain in detention/judicial custody. It is a grey area in the sense that, generally Courts keep their hands off, when there is evidence against the accused to substantiate the offence. Exactly taking advantage of this, the ED eccentrically and whimsically cannot say that their has to be an automatic extension of judicial custody, as per practice and procedure of this Court, particularly in the teeth of the recent decision and guidelines of the Hon'ble Apex Court in the case of Vijay Choudhary (supra).

30. In the aforesaid premises, this Court strongly feels that it cannot join hands with vengeful complainant like ED to humiliate accused persons by continuing their judicial custody that too, in utter disregard to the recent law of the land. This was the background for granting interim relief, which requires to be made absolute. In such eventuality no express provision for granting interim release is required. Thus, the interim release becomes relevant, inevitable and of utmost necessity, even in post-arrest matters, while following the true spirit of the recent guidelines of the Hon'ble Supreme Court. The Hon'ble Apex Court time and again laid down that, life bereft of liberty is without honour and dignity. It loses all significance and the life itself will not be worth living. Thats the reason why liberty is held the very quintessence

of a civilized existence. Without the right to life with liberty, no other right can be enjoyed. Even if the law laid down by the Hon'ble Supreme Court in **Sukhwant Singh and others Vs. State of Punjab [(2009)7 SCC 559]**, **Kamendra Pratap Singh Vs. State of U.P. [(2009)4 SCC 437]** and **Deepak Bajaj Vs. State of Maharashtra [(2008) 16 SCC 14]**, relates to bail, yet the principle laid down therein is squarely applicable to the instant case that, the Court has inherent power to grant interim relief pending final disposal of the application. This Court has power and authority to extend the remand and also to take the cognizance of the complain that such extension leads to an illegality. Certainly, the Court has power and authority to release the accused forthwith in order to protect his right of liberty without extending judicial custody mechanically. Hence, there is no substance in the argument of Ld. SPP Mr. Venegaonkar that this Court has no jurisdiction, authority or power to grant interim or final release of accused without extending remand under Sec.309(2) Cr.P.C.

WHETHER THESE APPLICATIONS ARE MAINTAINABLE?

31. It is repeated vehement argument of Ld. SPP Mr. Hiten Venegaonkar that, previously similar application (Exh.8) was filed by the same accused during their remand. My Ld. Predecessor rejected the same vide order dt. 15.02.2021 and the Hon'ble High Court vide order dt.16.03.2021 in Criminal Application (APL) No.201 of 2021 with Criminal Bail Application No.974 of 2021 confirmed the same. Appeal against it is pending before the Hon'ble Supreme Court. Ld. SPP Mr. Venegaonkar further placed his reliance on paragraph 11 in the judgment dt.16.03.2021 (in Criminal Application (APL) No.201 of 2021

with Criminal Bail Application No.974 of 2021) which is as follows,

> "11. It is thus absolutely clear that, for initiation/registration of a crime under the PMLA, the only necessity is registration of a Predicate/Scheduled Offence as prescribed in various Paragraphs of the Schedule appended to the Act and nothing more than it. In other words, for initiating or setting the criminal law in motion under the PMLA, it is only that requirement of having a predicate/Scheduled crime registered prior to it. Once an offence under the PMLA is registered on the basis of a Scheduled Offence, then it stands on its own and it thereafter does not require support of Predicate/Scheduled Offence. It further does not depend upon the ultimate result of the Predicate/Scheduled Offence. **Even if the Predicate/Scheduled Offence is compromised, compounded, <u>quashed or the accused therein is/are acquitted</u>, the investigation of ED under PMLA does not get affected, wiped away or ceased to continue. It may continue till the ED concludes investigation and either files complaint or closure report before the Court of competent jurisdiction.**"

I carefully studied the guidelines of the Hon'ble High Court and arguments of both sides. Since **08.06.2022** stage of this case is for discharge under Sec.227 Cr.P.C. This fact is evident from the previous Rojnamas. Admittedly, when previous similar application (Exh.8) was moved, it was the stage of investigation. Now, the complaint was already filed on **26.03.2022** and the then Ld. Court has taken cognizance thereof on **30.03.2022**. There can't be any dispute that when the said previous application (Exh.8) was rejected there was no verdict of the Hon'ble Supreme Court in Vijay Madanlal Choudhary (supra), wherein the Hon'ble Supreme Court clearly held that PMLA offence/case cannot continue if the accused is discharged, acquitted or criminal prosecution is quashed by the Court of Competent Jurisdiction. Hence, in the background of law laid down by the Hon'ble High Court in the above paragraph, now what the Hon'ble Supreme Court in Vijay

Madanlal Choudhary (supra) has laid down is necessary to be reproduced as follows,

> "**33.** Tersely put, it is only such property which is derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence can be regarded as proceeds of crime. The authorities under the 2002 Act cannot resort to action against any person for money-laundering on an assumption that the property recovered by them must be proceeds of crime and that a scheduled offence has been committed, unless the same is registered with the jurisdictional police or pending inquiry by way of complaint before the competent forum. For, the expression "derived or obtained" is indicative of criminal activity relating to a scheduled offence already accomplished. Similarly, **in the event the person named in the criminal activity relating to a scheduled offence is finally absolved by a Court of competent jurisdiction owing to an order of discharge, acquittal or because of quashing of the criminal case (scheduled offence) against him/her, there can be no action for money-laundering against such a person or person claiming through him in relation to the property linked to the stated scheduled offence.** This interpretation alone can be countenanced on the basis of the provisions of the 2002 Act, **in particular Section 2(1)(u) read with Section 3. Taking any other view would be rewriting of these provisions and disregarding the express language of definition clause "proceeds of crime", as it obtains as of now.**
>
> **52.** The next question is: whether the offence under Section 3 is a standalone offence? **Indeed, it is dependent on the wrongful and illegal gain of property as a result of criminal activity relating to a scheduled offence.** Nevertheless, it is concerning the process or activity connected with such property, which constitutes offence of money-laundering. **The property must qualify the definition of "proceeds of crime" under Section 2(1)(u) of the 2002 Act.** As observed earlier, all or whole of the crime property linked to scheduled offence need not be regarded as proceeds of crime, but all properties qualifying the definition of "proceeds of crime" under Section 2(1)

(u) will necessarily be crime properties. Indeed, in the event of acquittal of the person concerned **or being absolved from allegation of criminal activity relating to scheduled offence**, and if it is established in the court of law that the crime property in the concerned case has been rightfully owned and possessed by him, **such a property by no stretch of imagination can be termed as crime property and ex-consequenti proceeds of crime within the meaning of Section 2(1)(u) as it stands today**. On the other hand, in the trial in connection with the scheduled offence, the Court would be obliged to direct return of such property as belonging to him. **It would be then paradoxical to still regard such property as proceeds of crime despite such adjudication by a Court of competent jurisdiction**. It is well within the jurisdiction of the concerned Court trying the scheduled offence to pronounce on that matter.

187(v)(d) The offence under Section 3 of the 2002 Act is dependent on illegal gain of property as a result of criminal activity relating to a scheduled offence. It is concerning the process or activity connected with such property, which constitutes the offence of money-laundering. The Authorities under the 2002 Act cannot prosecute any person on notional basis or on the assumption that a scheduled offence has been committed, unless it is so registered with the jurisdictional police and/or pending enquiry/trial including by way of criminal complaint before the competent forum. **If the person is finally discharged/acquitted of the scheduled offence or the criminal case against him is quashed by the Court of competent jurisdiction, there can be no offence of money-laundering against him or any one claiming such property being the property linked to stated scheduled offence through him.**"

32. So, it is clear that now the Hon'ble Supreme Court has held contrary opposite to what had been laid down by the Hon'ble High Court in Criminal Application (APL) No.201 of 2021 with Criminal Bail Application No.974 of 2021 in paragraph 11 (cited supra). Therefore,

what has been laid down by the Hon'ble High Court in Criminal Application (APL) No.201 of 2021 with Criminal Bail Application No.974 of 2021, has to be read in accordance and in the background of this recent Landmark Authority of the Hon'ble Supreme Court in Vijay Madanlal Choudhary (supra). So these applications at the subsequent stage questioning triability of the PMLA case based on the recent Law of the Land are certainly maintainable.

33. The Hon'ble Supreme Court in this recent Landmark Authority everywhere referred Legislative Intent, Object of the PML Act referring to the speech of the then Finance Minister and considering all this, laid down the guidelines in paragraphs 33, 52, 187(v)(d) in Vijay Madanlal Choudhary (supra). Even laudable object of the PML Act discussed by the Hon'ble High Court in Criminal Application (APL) No.201 of 2021 with Criminal Bail Application No.974 of 2021 is also discussed by the Hon'ble Supreme Court in the whole authority and in paragraphs 52, 53, 54, 55 of Vijay Madanlal Choudhary (supra). Even after taking into consideration the same, the Hon'ble Supreme Court laid down guidelines in paragraphs 33, 52 and conclusion 187(v)(d) in Vijay Choudhary (supra). Therefore, with great respect law laid down by the Hon'ble High Court in Criminal Application (APL) No.201 of 2021 with Criminal Bail Application No.974 of 2021, has to be read in accordance with the recent guidelines and law laid down by the Hon'ble Supreme Court in Vijay Choudhary (supra).

34. The Hon'ble Supreme Court in this recent Landmark Authority succinctly and in concise manner held as referred in paragraphs 33, 52, 187(v)(d). On this issue these guidelines and conclusions drawn by the Hon'ble Apex Court are 'Precedent'. The

Precedents established by the Hon'ble Supreme Court are the leading sources of declared law. 'Precedent' is an earlier event or action that is regarded as an example or guide to be considered in subsequent similar circumstances. **Article 141** of the Constitution of India stipulates that, the law declared by the Hon'ble Supreme Court shall be binding on all Courts within territory of India. Thus, the general principles laid down by the Hon'ble Supreme Court are binding on each individual including those who are not party to an order. The decision in a judgment of the Hon'ble Supreme Court cannot be assailed on the ground that, certain aspects (eventualities) were not considered or the relevant provisions were not brought to the notice of the Hon'ble Supreme Court, as argued by the ED. When the Hon'ble Supreme Court decides a Principle, it would be the duty of this Court as well as Prosecution to follow it. "The law declared by the Hon'ble Supreme Court is the law of the land; it is Precedent for itself and for all the Courts, Tribunals and Authorities in India".

35. Article 141 of the Constitution of India imposes a binding authority upon all subordinate Courts within India to consider the Judgment of the Hon'ble Supreme Court as Declared Law. Hence, all Authorities relied upon by the Ld. SPP Mr. Hiten Venegaonkar including the judgment dt.16.03.2021 in Criminal Application (APL) No.201 of 2021 with Criminal Bail Application No.974 of 2021 of the Hon'ble High Court, will have to be read in the background of recent Law of the Land in Vijay Choudhary (supra). If arguments of Ld. SPP Mr. Hiten Venegaonkar are considered that, "C" Summary is an outcome of compounding-compromising Scheduled Offence and such eventuality has not been considered by the Hon'ble Supreme Court in any of the categories mentioned in paragraphs 33, 52 and 187(v)(d) r.w.

Sec.320(8) Cr.P.C., horrific consequences thereof are nothing but keeping both accused languishing in jail for uncertain period by denying their legitimate right under Art.141 of the Constitution of India r.w. 'C' Summary and Sec.320(8) Cr.P.C., that too, for a trial of PMLA offence which is basically not maintainable even under Sec.44(1)(a)(c) of the PML Act read with the guidelines laid down by the Hon'ble Supreme Court in Vijay Choudhary (supra). Duty is cast on the Court to identify this situation and apply principles-guidelines laid down by the Hon'ble Supreme Court in this recent Authority, Vijay Choudhary (supra). If this Court fails to do so, certainly it will lead to a situation “Sun is there but light has gone”.

36. Considering the peculiar facts as now and henceforth, the PMLA case against both accused cannot proceed. That being so, detention of both accused becomes illegal. The Court – Judge is not only 'repository' but also a '*Custodia legis*' of rights of the citizen particularly that of under trial prisoners. The vital power to continue the judicial custody is entrusted in him (it). If this power is exercised in utter disregard to the mandate of law, the right of life and liberty enshrined under Art.21 of the Constitution of India will be in danger of extinction, And, in this process, the Court who is the protector of the rights of citizens (under trial prisoners) will become 'predator' of the rights. Over all, where it is expedient the Court should not hesitate to exercise the power to issue interim release of the accused, as done in this case. Such exercise of the power will effectively deter abuse of the process of Criminal Law for objects extraneous to its cause. So, interim release of both accused deserves to be made absolute by allowing both applications (Exh.145 and 146) finally by holding them maintainable.

37. Ld. SPP Mr. Hiten Venegaonkar placed his reliance on following authorities,

i. Hari Sankaran Vs. Serious Fraud Investigation Office, (Criminal Application No.507 of 2021, decided on 19.04.2022)

ii. Natabar Parida Bisnu Charan Parida Batakrushna Parida Babaji Parida Vs. State of Orissa [(1975)2 SCC 220]

iii. Ankit Ghanshyam Mutha Vs. Union of India Through Directorate of Revenue and others, (2020 SCC OnLine Bom 121)

iv. Saurabh Kumar Through His Father Vs. Jailor, Koneila Jail And Another, {(2014)13 SCC 436.

v. Maj. Genl. A.S. Gauraya And Another Vs. S.N. Thakur And Another, [(1986)2 SCC 709]

vi. Ramesh Kumar Ravi alias Ram Prasad and etc. Vs. State of Bihar and others etc., (1987 SCC OnLine Pat 83).

vii. Kanti Bhadra Shah And Anr., Vs. State of West Bengal [Appeal (Crl.)5 of 2000, decided on 05.01.2000]

I carefully studied the ratio and parameters laid down in these authorities. These authorities have to be read with the recent law laid down by the Hon'ble Supreme Court in Vijay Choudhary (supra) particularly paragraphs 33, 52, 187(v)(d). Apart from this, it has to be noted that in none of these authorities there was any issue as to whether PMLA case continues even after acceptance of 'C' Summary, which has become absolute and final. Also in none of the above authorities even remotely there is any discussion on the issue regarding the legality of the judicial custody-detention of the under trial prisoner in the absence of Scheduled Offence and non-maintainability of PMLA case. Here in the present case set of facts is peculiar wherein the Ld. 3rd JMFC, Aurangabad while accepting 'C' Summary Report noted the sworn statements of the informant that the dispute between them was civil commercial transaction and the FIR lodged by him was out of misunderstanding. Even Investigating Officer therein had clearly stated

that there is absolutely no evidence to file chargesheet. These are the peculiar facts on the basis thereof the Ld. 3rd JMFC, Aurangabad accepted 'C' Summary Report by applying his mind and noting the background of compounding of offences under Ss.406, 420, 34 IPC. I have already arrived at conclusion that such 'C' Summary based on compounding amounts complete closure and shut down of the case relating to the Predicate Offence absolving both accused. Even if eventuality canvassed by Ld. SPP Mr. Venegaonkar is considered, technically ultimate outcome thereof is as per Sec.320(8) Cr.P.C. and the same squarely falls in the categories prescribed by the Hon'ble Supreme Court in Vijay Choudhary (supra).

38. I wish to add that, the introduction of logical deduction from the reasoning in the context of one case cannot be reasonably be adopted in the peculiar facts and circumstances of another case, as it would lead to absurd result. The most important question herein is as to whether prosecution of the instant PMLA case continues even in the absence of the Scheduled Offence? That too, when there is complete shut down of the case relating to Scheduled Offence. In none of the above authorities there is any issue as such as to whether the PMLA case continues even after non-existence of Scheduled Offence. These ratios and parameters laid down in all above authorities will have to be read with the recent Landmark Authority of the Hon'ble Supreme Court in Vijay Choudhary (supra). It would not be out of place to mention that, slight differences in the facts of the case and particularly in criminal matters, the ratio becomes inapplicable.

39. The Hon'ble Supreme Court in the case of **Assistant Collector of Central Excise, Chandan Nagar, West Bengal Vs.**

Dunlop India Ltd. And Others, [(1985)1 SCC 260] at page 268 held as follows,

> "We desire to add and as was said in Cassel and Co. Ltd. v. Broome(l) we hope it will never be necessary for us to say so again that 'in the hierarchical system of Courts' which exists in our country, 'it is necessary for each lower tier', including the High Court, 'to accept loyally the decisions of the higher tiers'. "It is inevitable in a hierarchical system of Courts that there are decisions 11 of the Supreme appellate tribunal which do not attract the unanimous approval of all members of the judiciary... But the judicial system only works if someone is allowed to have the last word and that last word, once spoken, is loyally accepted". The better wisdom of the Court below must yield to the higher wisdom of the Court above. That is the strength of the hierarchical judicial system. In Cassel v. Broome (1972 AC 1027), commenting on the Court of Appeal's comment that Rookes v. Barnard (1964 AC 1129)."

40. I have already noted above, how the Hon'ble High Court in Criminal Application (APL) No.201 of 2021 with Criminal Bail Application No.974 of 2021 held that, even if the Predicate/Scheduled Offence is compromised, compounded, quashed or the accused therein is/are acquitted, the investigation of ED under PMLA does not get affected, wiped out or ceased to continue. It may continue till the ED concludes investigation and either files complaint or closure report before the Court of the competent jurisdiction. Here the stage of the matter is of discharge under Sec.227 Cr.P.C. and not that of investigation. The law laid down by the Hon'ble Supreme Court in Vijay Choudhary (supra) paragraphs 33, 52, 187(v)(d) regarding triability of the PMLA case is contrary to the observations made by the Hon'ble High Court. Therefore law laid down by the Hon'ble High Court in Criminal Application (APL) No.201 of 2021 with Criminal Bail Application No.974 of 2021 has to be read with and in the background of the true

spirit of the ratio in the Authority of the Hon'ble Supreme Court in Vijay Choudhary (supra).

41. It is evident from the Purshish (Exh.155) alongwith copies of order dt.18.08.2022 passed by the Hon'ble High Court allowing withdrawal of Bail Application No.4178/2021 and 4179/2021 by reserving liberty to file fresh bail applications and screenshot of the website of the Hon'ble Supreme Court indicating SLP (Crl.) No.5720 of 2022 has been dismissed as withdrawn and disposed of on 23.08.2022. It is therefore clear that there is no matter pending before the Hon'ble Supreme Court as well as the Hon'ble High Court. Ld. SPP Mrs. Kavita Patil submitted that, in view of the withdrawal of SLP (Crl.) No.5720 of 2022, the contention of the ED based on Criminal Application No.201 of 2021 with Criminal Bail Application No.974 of 2021 remains confirmed. I have already discussed this aspect in detailed. I have also noted that, the judgment dt.16.03.2021 in Criminal Application No.201 of 2021 with Criminal Bail Application No.974 of 2021 will have to be read with the law laid down by the Hon'ble Supreme Court in Vijay Madanlal Choudhary (supra). Now no matter is pending before the Hon'ble Supreme Court and the Hon'ble High Court. Therefore, contention of ED that matter being subjudice before the Hon'ble Supreme Court – Hon'ble High Court, has no legal basis. Hence, the contention of ED that, this Court is debarred to entertain these applications, is not legally justified.

42. I have already noted that when the order dt.16.03.2021 in Criminal Application No.201 of 2021 with Criminal Bail Application No.974 of 2021 was passed, the stage of matter was investigation. Whereas present stage is of discharge. Similarly at that time there was

no authority of the Hon'ble Supreme Court in the case of Vijay Madanlal Choudhary (supra). Therefore, the ratio and parameters laid down in Union of India And Another Vs. Major Bahadur Singh [(2006)1 SCC 368], Hari Singh Mann Vs. Harbhajan Singh Bajwa And Others [(2001)1 SCC 169] and Vishwanath P Mahadeshwar Vs. Suryawanshi Balrup Thakur and Others, (2011 SCC OnLine Bom 174), will not apply to the instant case.

43. It is argument of Ld. SPP that, acceptance of 'C' summary and acquittal under Sec.320(8) Cr.P.C. cannot be treated as honourable acquittal. For that he placed reliance on Union of India And Others Vs. Methu Meda (Civil Appeal No.6238 of 2021, decided on 06.10.2021). I have already noted above that, if Acquittal is Genus, Ss.232, 248(1) 255(1), 256(1), 257 and 320(8) Cr.P.C. are species. It is a fact that none of the parties including ED, had ever challenged the said acceptance of 'C' Summary by the Ld. 3rd JMFC, Aurangabad. On the contrary ED allowed the said order dt.12.02.2021 to become absolute and final. Therefore, true spirit of 'C' Summary r.w. Sec. 320(8) Cr.P.C. read with law laid down by the Hon'ble Supreme Court in Vijay Choudhary (supra) has to be followed. Apart from this, the question involved in this authority is the power of Authority to reinstate the employee in the service after his acquittal of the criminal case. These are not the facts involved in the present case for exercise of right of employer in reinstatement. On the contrary, the question herein is as to whether trial of PMLA case continues or not in the absence of the Scheduled Offence.

44. At the cost of repetition it has to be noted that, set of peculiar facts involved in this case and the background of compounding

under Sec.320 Cr.P.C., acceptance of 'C' Summary Report by the Ld. 3rd JMFC, Aurangabad and attaining the same to finality in the instant case amount to an acquittal as per Sec.320(8) Cr.P.C. The said order has not been challenged before the Competent Court at Aurangabad having jurisdiction by ED, informant or anyone else, hence the same attained finality. Making comments in this Court against the said 'C' Summary acceptance would amount nothing but sitting in appeal against the order of acceptance dt.12.02.2021, that too, when none of parties has challenged the same but allowed it to attain finality. Such implied challenge in the wrong forum is neither permissible nor within the power, authority, competence and jurisdiction of this Court. Such implied challenge to the acceptance of 'C' Summary Report based on compounding, made by the ED is not permissible in view of the observations made by the Hon'ble High Court in **Directorate of Enforcement Vs. State of Maharashtra and Ors. (Criminal Writ Petition (Stamp) No.3122 of 2020)**. Hence, I hold that both applications (Exh.145 and 146) are maintainable and both accused are entitled to their final release by making interim release order dt.08.08.2022, absolute.

45. Another vehement argument of Ld. SPP Mr. Hiten Venegaonkar requires consideration. He argued that, this is the first application in the entire country. Hence, if this Court passes any order in favour of the applicants (A3,A4), it will be the first order in the Country, which is likely to be followed and used by other Courts in the Country. I carefully examined this argument. It is necessary to note that recently the Hon'ble Supreme Court after the verdict in Vijay Madanlal Choudhary (supra) delivered another order in **Parvathi Kollur And Anr. Vs. State By Directorate of Enforcement (Criminal**

Appeal No.154 if 2022, decided on 16.08.2022), and dealt with such issue. Therefore, this is not going to be the first order in the Country, as argued by the Ld. SPP Mr. Venegaonkar. I have repeatedly noted how facts involved in this case are peculiar. Every case depends on its own facts. It cannot be anticipated that, each and every summary in the Country will have to be dealt with similar manner. Apart from this, Law of Precedent nowhere recognizes such order passed by this Court of First Instance. Even the whole judiciary in the Country subordinate to all the Hon'ble High Courts also knows well that such order passed by this Court cannot be used or has any binding effect. Therefore, apprehension expressed by the Ld. SPP Mr. Venegaonkar has no basis nor any justification.

DISCHARGE

WHETHER THERE IS NOT SUFFICIENT GROUND FOR PROCEEDING AGAINST BOTH ACCUSED (A3,A4)?

46. Both accused filed applications (Exh.149 and 150) and claimed discharge. Peculiar facts and background noted while accepting 'C' summary by the Ld. 3rd JMFC, Aurangabad, amounts acquittal as per Sec.320(8) Cr.P.C. Legal effect of acceptance of 'C' Summary and attaining the same to its finality amount complete closure and permanent shut down of the case relating to the Scheduled Offence by absolving both accused (A3,A4). Considering the specific argument of Ld. SPP Mr. Hiten Venegaonkar that, 'C' Summary is an outcome of compounding – compromising under Sec.320(8) Cr.P.C. and this is a peculiar fact and background noted by Ld. 3rd JMFC, Aurangabad while accepting the 'C' Summary by him coupled with other reasons mentioned in the Summary Acceptance order dt. 12.02.2021, giving its

legal effect to an 'Acquittal'. Hence, it squarely falls within the categories prescribed by the Hon'ble Supreme Court in paragraphs 33, 52, 187(v)(d). When there is no Scheduled Offence, there is no Proceeds of Crime. When there is no Proceeds of Crime, there is no money laundering as per Sec.3 r.w. Sec.4 of the PML Act. When there is no money laundering and there is no Scheduled Offence, the PMLA case cannot be continued by detaining both accused behind bars as under trial prisoners, for uncertain period.

47. Similarly, it is necessary to note that Police Inspector, Aurangabad informed Sr.P.I, E.O.W., Mumbai, regarding closure report in respect of Scheduled Offence, who on the basis thereof informed Yes Bank, Mumbai about the closure of Preliminary Inquiry in regards to the complaint made by Yes Bank. He dropped the proceedings accordingly. Admittedly, neither Yes Bank nor ED nor even the informant had preferred any proceedings against the said action of Sr.P.I, E.O.W., Mumbai. In this way, it is crystal clear that there is no contemporaneous FIR registered by the Jurisdictional Police (EOW, Mumbai) in respect of criminal activity relating to generation of proceeds of crime through Yes Bank loan. For this reason also the present PMLA case cannot be continued for want of contemporaneous FIR by the jurisdictional police under Sec.66(C) of the PML Act, in respect of Mumbai Yes Bank money.

48. I have already noted above with detailed reasons how in the absence of Scheduled Offence, PMLA case cannot be continued as held by the Hon'ble Supreme Court in Vijay Choudhary (supra). Even recently the Hon'ble Supreme Court in the case of **Parvathi Kollur And Anr. Vs. State By Directorate of Enforcement (Criminal Appeal**

No.154 if 2022, decided on 16.08.2022), specifically referred paragraph 187(v)(d) of Vijay Madanlal Choudhary and Ors., Vs. Union of India and Ors., decided on 27.07.2022, noting the consequence of failure of prosecution for the Scheduled Offence and noted as follows,

> "**187(v)(d)** The offence under Section 3 of the 2002 Act is dependent on illegal gain of property as a result of criminal activity relating to a scheduled offence. It is concerning the process or activity connected with such property, which constitutes the offence of money-laundering. The Authorities under the 2002 Act cannot prosecute any person on notional basis or on the assumption that a scheduled offence has been committed, unless it is so registered with the jurisdictional police and/or pending enquiry/trial including by way of criminal complaint before the competent forum. If the person is finally discharged/acquitted of the scheduled offence or the criminal case against him is quashed by the Court of competent jurisdiction, there can be no offence of money-laundering against him or any one claiming such property being the property linked to stated scheduled offence through him.
>
> **Learned ASG appearing for the respondent, in all fairness, does not dispute the above position of law declared by this Court."**

When the prosecution in all fairness has not disputed this aspect before the Hon'ble Supreme Court, yet the prosecution herein is raising vehement dispute in this Court on the similar issue. Therefore, Ld. Counsel Mr. Vijay Aggarwal placed his reliance on the observations made by the Hon'ble Supreme Court in **Shiv Kumar Vs. Hukam Chand & Anr. [1999(2) JCC (SC) 466] : (1999)7 SCC 467** as follows,

> "A Public Prosecutor is not expected to show a thirst to reach the case in the conviction of the accused somehow or the other irrespective of the true facts involved in the case. The expected attitude of the Public Prosecutor while conducting prosecution must be couched in fairness not only to the court and to the investigating agencies but to the accused as well. If an accused is entitled to any legitimate benefit during trial the Public Prosecutor should not scuttle/conceal it. On the contrary, it is the duty of the Public Prosecutor to winch it to the fore and make it available to the accused. Even if the defence counsel

> overlooked it, Public Prosecutor has the added responsibility to bring it to the notice of the court if it comes to his knowledge."

49. Both accused (A3,A4) have filed applications (Exh.149 and 150) and claimed discharge under Ss.227/239 Cr.P.C, as per the stage of the case captioned in the Rojnama dt.08.06.2022. According to them the prosecution of PMLA case in the absence of Scheduled Offence is not maintainable. I have also noted that both accused were finally absolved by a Court of Competent Jurisdiction (Ld. 3rd JMFC, Aurangabad, owing to an order of 'C' Summary Report acceptance in the background of Sec.320(8) Cr.P.C. amounting to an acquittal). Hence there can be no action for money laundering against both accused in relation to the property linked to the Scheduled Offence. Even I have clearly noted how there is no contemporaneous FIR by the jurisdictional police i.e. E.O.W., Mumbai under Sec.66(C) PML Act. When there is no Scheduled Offence at all in existence, continuation of the PMLA case will be nothing but a futile work. Such futile work at the cost of detention of accused behind bars, is absolutely without any legal basis or justification.

50. Whether there is not sufficient ground for proceeding against accused? is one of the material ingredients of Sec.227 Cr.P.C. As held above in detail, the material in hand relating to Scheduled Offence is not sufficient to proceed against both accused for the trial of PMLA case as required under Sec.44(1)(a) and (c) of the PML Act. Basically in the absence of Scheduled Offence there cannot be any proceeds of crime. When there is no proceeds of crime, there cannot be money laundering and when there is no money laundering, prosecution for the same under the PML Act is not maintainable. In the absence of

Scheduled Offence there is no material to proceed against both the accused for prosecution of PMLA case. When this situation is glaring, Court cannot continue the trial of the present accused (A3,A4) as if the Court is Post Office to frame the charge at the behest of prosecution. The Hon'ble Supreme Court in the case of **P. Vijayan Vs. State of Kerala And Another, [(2010)2 SCC 398]** has observed as follows,

> "If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the Trial Judge will be empowered to discharge the accused and at this stage he is not to see whether the trial will end in conviction or acquittal. **Further, the words "not sufficient ground for proceeding against the accused" clearly show that the Judge is not a mere Post Office to frame the charge at the behest of the prosecution, but has to exercise his judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution.** In assessing this fact, it is not necessary for the Court to enter into the pros and cons of the matter or into a weighing and balancing of evidence and probabilities which is really the function of the Court, after the trial starts. At the stage of Section 227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. In other words, the sufficiency of ground would take within its fold the nature of the evidence recorded by the police or the documents produced before the Court which ex facie disclose that there are suspicious circumstances against the accused so as to frame a charge against him."

Here in the instant case 'C' Summary Report acceptance order dt.12.02.2021 by the Ld. 3rd JMFC, Aurangabad is the only record relating to the Predicate Offence. This is a part of record and has to be considered as per Sec.44(1)(a) and (c) of the PML Act. Hence, accused have not brought anything new which is not related to the case of the Scheduled Offence. Hence, both applications (Exh.149 and 150) are qualified under Sec.227 Cr.P.C.

51. As per Sec.44(1)(a)&(c) of PML Act the trials of Scheduled Offence and PMLA offence have to be conducted by the Special Judge after commitment of the case relating to the Scheduled Offence. In that event also the instant trial cannot proceed as the Scheduled Offence is not in existence. Hence, I am of the opinion that, the PMLA case relating to both accused in the background of peculiar facts referred above cannot continue to their extent. Therefore, both accused (A3,A4) made out strong prima-facie case that there is not sufficient ground for proceeding against them in respect of trial of the instant PMLA case. Hence, both of them shall have to be discharged. With this, Points No.1 and 2 are answered in the affirmative and following order is passed :-

ORDER

1. Applications (Exh.145 and 146) along with Discharge Applications (Exh.149 and 150) are allowed.

2. The initial common order dt.08.08.2022 below Exh.145 and 146 is hereby made absolute.

3. Babulal Mulchand Varma (A3) and Kamalkishor Gokalchand Gupta (A4) are hereby discharged as per Sec.227 Cr.P.C. from PMLA Special No.377 of 2021 (ECIR No: ECIR/MBZO-II/20/2020) from offences under Section 3 punishable under Section 4 of the PML Act.

4. PMLA Special Case No.377 of 2021 shall continue against the remaining accused.

5. Order dictated and delivered in an open Court.

MADHAV GOPAL DESHPANDE
Digitally signed by MADHAV GOPAL DESHPANDE
Date: 2022.08.24 12:51:00 -0400

Dt.: 24.08.2022

(M.G. Deshpande)
Spl. Judge under the PML Act,
City Sessions Court, Mumbai.

Typed, Declared and Signed on : 24.08.2022.

"CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER"	
24.08.2022 at hours UPLOAD DATE AND TIME	(KISHOR PRAKASH SHERWADE) NAME OF STENOGRAPHER

Name of the Judge	HHJ M. G. DESHPANDE (COURT ROOM NO.16)
Date of pronouncement of judgment/order	24.08.2022
Judgment/order signed by P.O. on	24.08.2022
Judgment/order uploaded on	24.08.2022