

**IN THE COURT OF MS. KAVERI BAWEJA,  
SPECIAL JUDGE (PC ACT), CBI-09 (MPs/MLAs CASES),  
ROUSE AVENUE DISTRICT COURT, NEW DELHI.**

**ECIR/HIU-II/14/2022**

**U/S 3 & 4 of the PMLA**

**Directorate of Enforcement/Enforcement Directorate  
(DoE/ED) Vs. Arvind Kejriwal**

**22.03.2024**

Present: Sh. S. V. Raju, Ld. ASG, Sh. Zoheb Hossain, Ld Special Counsel, Sh. N. K. Matta & Sh. Simon Benjamin, Ld. SPPs for ED with Sh. Anam Venkatsh, Sh. Vivek Gurnani, Sh. Kartik Sabharwal, Ms. Abhipriya Rai, Sh. Hitarath Raja, Sh. Kanishk Maurya, Sh. Sidharth Kaushik, Mohd. Faizan, Sh. Arkaj Kumar and Ms. Agrimaa, Ms. Shweta Desai, Ms. Nidhi Saini, Sh. Chandveer Shyoran and Sh. Anand Kirti, Advocates.

Ms. Bhanupriya Meena, DD and Sh. Sandeep Kumar Sharma, IO/AD of ED.

Accused Arvind Kejriwal in ED custody.

Sh. Abhishek Manu Singhvi, Sh. Vikram Chaudhri and Sh. Ramesh Gupta, Ld. Senior Advocates, assisted by Sh. Vivek Jain, Mohd. Irshad, Sh. Rajat Bhardwaj, Sh. Karan Sharma, Sh. Amit Bhandari, Sh. Mohit Siwach, Sh. Shadan Farasat, Sh. Kaustubh Khanna, Sh. Rajat Jain, Sh. Rishikesh Kumar, Sh. Arveen Sekhon, Ms. Nikita Gill, and Sh. Rishi Sehgal, Advocates representing the accused.

1. Accused Arvind Kejriwal has been produced in ED custody today by the IO, after having been arrested in this case

yesterday i.e. on 21.03.2024 at 09.05 pm.

2. Some Vakalatnamas have been got signed by the accused by the Ld. Counsels representing him and one Vakalatnama is filed on record.

3. An application U/S 167(2) Cr.P.C. r/w Section 65 of the Prevention of Money Laundering Act, 2002 (hereinafter PMLA/the Act) has been moved by IO seeking ED custody of the accused for a period of ten days. Copy of the application is stated to have been supplied to Ld. Senior Advocate representing the accused.

4. An application has also been filed on behalf of accused praying for rejection of prayer of the ED to remand the accused to any custody either judicial or to their custody of the ED. Copy supplied.

5. Arguments have been addressed at length on the above applications from both sides. The ED file produced by IO has also been perused.

6. The present case was registered by ED vide No. ECIR/HIU-II/14/2022 dated 22.08.2022 for commission of offences U/S 3/4 of the PMLA, 2002 and it was registered in relation to scheduled offences case of CBI registered vide FIR

No. RC0032022A0053 dated 17.08.2022 of PS CBI, ACB, New Delhi. The scheduled offences case of CBI was registered for commission of the offence of criminal conspiracy punishable U/S 120B r/w 477A IPC and Section 7 of the PC Act, 1988 as well as the substantive offences thereof and in respect to irregularities committed in framing and implementation of excise policy of the Government of NCT of Delhi (GNCTD) for the year 2021-22 and payment of some bribe or advance kickbacks in relation thereto.

7. Till date, total six prosecution complaints, i.e. one main prosecution complaint (MPC) and five supplementary prosecution complaints (SPCs), against 31 accused persons have already been filed before this court by ED on different dates and cognizance of the alleged offence of money laundering has also been vide order dated 20.12.2022 passed in the MPC. Three chargesheets, i.e. one main chargesheet and two supplementary chargesheets, have also been filed in above scheduled offences case of CBI against 16 accused persons and cognizance of offences alleged in the said case was also taken by this court vide order dated 15.12.2022. All the accused prosecuted or chargesheeted in both these cases were summoned by this court to face trial for the alleged offences of these cases, though some further investigation in both the cases is still going on.

8. In both these cases, arguments on the point of charge are

yet to commence and the process of scrutiny of chargesheets/ prosecution complaints and documents filed in support thereof as per provisions of Sections 207/208 Cr.P.C. has just been completed in the CBI case, but in the ED case it is still in process owing to voluminous records.

9. At the outset, before considering the arguments advanced on behalf of parties, it would be necessary to note that the accused is stated to have been duly medically examined as per directions of the Hon'ble Supreme Court in case of **D. K. Basu Vs. State of West Bengal, AIR 1997 SC 610**. The medical reports of the accused have been produced before the court and the same have been perused.

10. Ld. Senior Advocates representing the accused submitted that the applicant, who is a sitting Chief Minister (CM) of National Capital Territory of Delhi (NCTD) was illegally arrested by ED on 21.03.2024 without there being any grounds or necessity to arrest him U/S 19 of the PMLA, 2002. It is submitted that ED does not have '*material in his possession*' on the basis of which there is a '*reason to believe*' that the applicant Arvind Kejriwal is '*guilty*' of an offence as per requirement of the Section 19(1) of the Act. It is further submitted that there is gross violation of rules and legal norms and the ED is stated to have indulged in subterfuge and misrepresentations in as much as so far it has been the consistent stand of the ED before the Hon'ble High Court and its

correspondences that Arvind Kejriwal was being summoned for ascertaining certain facts. In this regard, my attention was drawn to the summons issued to the accused by the investigating agency, copies of which were placed on record during the course of arguments.

11. It is further submitted that there is no criminal conspiracy of any nature which can be attributed to accused in any manner and further since the predicate offence itself does not have any allegations against the accused, the prayer seeking custody of the arrestee must be rejected.

12. The next contention of Ld. Senior Counsels representing the accused are that arbitrary procedure under PMLA has been employed to create a non-level playing field for the impending General Elections scheduled to be held from 19.04.2024. Ld. Senior Counsels for the accused also argued that the investigation in the matter has been going on since August, 2022 and during this period the ED did not find any necessity to arrest the accused and his arrest is now been effected on the basis of baseless and frivolous allegations only when the schedule of elections has been announced.

13. It is further submitted that the arrest is in violation of the mandate of Section 19 of the PMLA and is affront to the principles laid down in a plethora of judgments including (i) **Vijay**

**Madanlal Choudhary & Ors. Vs. Union of India & Ors, 2022 SCC OnLine SC 929; (ii) V. Senthil Balaji Vs. The State represented by Deputy Director & Ors, Criminal Appeals No. 2284-2285 of 2023 and (iii) Pankaj Bansal Vs. Union of India, Criminal Appeal 3051 of 2023.**

14. It is further submitted by the Ld. Senior Counsels for the accused that the proceeds of crime is a sine qua non for the offence of money laundering. However, Enforcement Officer failed to produce any incriminating material to show involvement of accused in any activity of placement, layering and/or integration of any proceeds of crime and thus, there is no violation of provisions of PMLA. It is further submitted that there is no basis to the allegations that the accused has used any proceeds of crime in Goa Elections and ED is levelling false allegations in this regard. Ld. Senior Counsels representing the accused also further submitted that the accused has not been named in any supplementary complaint filed till 02.12.2023.

15. The Ld. Counsel representing the accused have further laid challenge to the very arrest of the accused by arguing that in view of the case as laid down in **Pankaj Bansal (Supra)** and since the very arrest of the accused was effected against the settled legal propositions, the application filed on behalf of the accused be allowed and the prayer for ED remand of the accused be rejected.

16. It is further argued that during investigation, the statements have been obtained by ED in lieu of being lenient and by not opposing the grounds of bail to private person and the ED traded in 'personal liberty' and bartered personal liberty with the statements of co-accused against the arrestee and other persons. The alleged use of extortion and coercion by the ED is, thus stated to be writ large on the face of the record. In this regard, Ld. Senior Counsels for accused referred to the initial statements of co-accused P. Sarath Chandra Reddy and Raghav Magunta and submitted that subsequently their bail applications were not opposed by the ED and they were granted pardon.

17. Dr. Abhishek Manu Singhvi, Ld. Senior Counsel for the accused, while submitting his arguments on the aspect of non compliance of provisions of Section 19 of the PMLA contended that the grounds mentioned in the application under consideration filed by the ED are a mechanical reproduction of grounds of arrest and that the safeguards inbuilt in Section 19 of the Act have been flouted by the investigating agency. Judgments in cases titled as **Vijay Madanlal Choudhary (Supra); Pankaj Bansal (Supra); V. Senthil Balaji (Supra)** and **Arnesh Kumar Vs. State of Bihar, (2014) 8 SCC 273** were referred and relied upon by Ld. Senior Counsels for the accused.

18. *Per contra*, learned ASG appearing for the Investigating Agency relied upon the case of **Pavana Dibbur vs.**

*The Directorate of Enforcement in Crl. Appeal No.2779 of 2023*, 2023 INSC 1029 in support of his submissions that it is not necessary that a person by whom the offence under PMLA is alleged to have been committed, must have been arrayed as an accused in the predicate offence. In the case of **Pavana (supra)**, it has been observed by the Hon'ble Supreme Court as follows:-

*“.... a person unconnected with the offence of extortion may assist the said accused in the concealment of the proceeds of extortion. In such a case, the person who assists the accused in the scheduled offence for concealing the proceeds of the crime of extortion can be guilty of the offence of money laundering. Therefore, it is not necessary that a person against whom the offence under Section 3 of the PMLA is alleged must have been shown as the accused in the scheduled offence.”*

19. Next, while countering the arguments of learned counsel for the Accused regarding the alleged inducement given to the co-accused to turn approvers, learned ASG relied on a judgment of Hon'ble Supreme Court titled as **Suresh Chandra Bahri vs. State of Bihar, 1995 Supp (1) SCC 80**, relevant extract of which is reproduced as under:-

*“Section 306 of the Code lays down a clear exception to the principal that no inducement shall be offered to a person to disclose what he knows about the procedure. Since many a times the crime is committed in a manner for which no clue or any trace is available for its detection and, therefore, pardon is granted for apprehension of the other offenders for the recovery of the incriminating objects and the production of the evidence which otherwise is unobtainable. The dominant object is*



*that the offenders of the heinous and grave offences do not go unpunished, the Legislature in its wisdom considered it necessary to introduce this section and confine its operation to cases mentioned in Section 306 of the Code.”*

20. It is further submitted that under Section 167 Cr.PC, the Magistrate authorizing remand can only examine the record to see whether there exists some material to justify remand and the Magistrate cannot conduct a roving inquiry to test the sufficiency of material at this stage and this view has been taken by the Hon'ble Supreme Court in the case titled as *Directorate of Enforcement vs. Sunil Godhwani, 2019 SCC OnLine Del 11386*.

21. It was further argued that during the course of investigation, the ED has recorded statement of a witness in the month of March, 2024 under Section 50 of the PMLA. The copy of the said statement has been perused by the court from the file of the ED produced by the Investigation Officer during the course of arguments and hence the argument regarding timing of arrest of accused is baseless.

22. It is further submitted that the said statement has also been referred to in the grounds of arrest, copy of which was duly supplied to the accused against receipt.

23. While referring to Section 50 of the Act, learned ASG

contended that as held by the Hon'ble Supreme Court in the case of *Tarun Kumar vs. Assistant Director Directorate of Enforcement in SLP (Crl.) No.9431 of 2023*, 2023 INSC1006, while relying on an earlier ruling in the case of *Rohit Tandon vs. Directorate of Enforcement, (2018) 11 SCC 46*, the statements of witnesses/accused are admissible in evidence in view of Section 50 of the said Act.

24. It is further submitted in the case of co-accused Sh.Manish Sisodia who is alleged to have committed the same offence, the bail application has been rejected on all the grounds which have been agitated on behalf of Accused today.

25. Learned ASG thus submitted that there is concrete evidence of scam/fraud and the accused has been intrinsically involved in the entire conspiracy of 'Delhi Liquor Scam' in the act of policy formulation obtaining kick backs from businessmen in exchange of favours in the said policy and also had a role in utilization of proceeds of crime thus generated and in the criminal conspiracy thereof.

26. It was further submitted that although summons were issued to the Accused in his individual capacity, there is no legal bar in view of material collected during investigation in causing arrest of the Accused in the dual capacity i.e. in his individual capacity and also as National Convenor of the Political party i.e.

Aam Aadmi Party (AAP) which is comprising of Association of Individuals, registered under Section 29-A of the Representation of People Act, 1951 and which would also fall within the definition of 'Company', as contemplated under Section 70 of PMLA.

27. With respect to the arguments advanced on behalf of Accused regarding 'necessity of arrest', it was submitted that the investigation is in the exclusive domain of Investigating Officer of case as has been laid down by the Hon'ble Supreme Court in the case of *State of Bihar & Anr. vs. J.A.C. Saldanha & Ors., (1980) 1 SCC 554* and there has been due compliance of the relevant statutory requirements relating thereto.

28. While concluding his arguments, it was submitted on behalf of ED by learned ASG that since the Accused is required to be interrogated with respect to his role and the statements recorded by ED to unearth the remaining proceeds of crime and for this purpose it is imperative to have the custodial interrogation as the arrestee was non-cooperative in investigation. It is further submitted that data from digital devices seized during the search of the arrestee has been extracted and the arrestee is required to be confronted with the data. Further, since the arrestee is also required to be confronted with voluminous material/records seized during investigation the custody of 10 days of the arrestee may be granted to the ED.

29. I have considered the submissions made and also perused the material placed before me in the course of extensive arguments advanced by both sides.

30. As aforesaid, it is admitted that the copy of grounds of arrest was supplied to the accused against receipt. The case file produced by the IO has also been perused by the court to ensure that the reasons of belief leading to arrest of the accused have also been recorded by IO based on the material in his possession and as collected during investigation, to justify the arrest of accused and as showing his guilt in this case in relation to the alleged offence of money laundering of this case, as per provisions contained U/S 19(1) of the PMLA and as per the spirit of directions contained in the case of **Pankaj Bansal (Supra)**. It is also found that the above reasons were even communicated by the IO to his senior officer for approval, prior to effecting the said arrest. Hence, in view of the facts stated and material placed before the court, this court is of the opinion that provisions of Section 19 of PMLA have been substantially complied with.

31. Further, as stated above, the investigation conducted so far revealed the involvement of accused Arvind Kejriwal in the conspiracy of in formulation and implementation of the Excise Policy 2021-22 with a view to favour certain persons as also his involvement in seeking kickbacks from businessmen in exchange

of favour to be granted to what is being referred to as the 'South group' and in collusion with co-accused Vijay Nair, Manish Sisodia and other members/representatives of the 'South group'. In this regard, material by way of statements of C. Arvind, the then Secretary of co-accused Manish Sisodia, Butchibabu and Magunta Srinivas Reddy, Raghav Magunta and P. Sarath Chandra Reddy recorded U/S 164 Cr.P.C. are also on record. Further, as revealed by co-accused Vijay Nair during investigation, he lived in a government bungalow, officially allotted to a Cabinet Minister close to the bungalow of the accused and is alleged to have received kickbacks to the tune of Rs. 100 crores from the 'South group' on behalf of the accused, in exchange for grant of favours in group of M/s. Indo Spirits, even retail zones and L-1 licences.

32. Further, there are allegations of proceeds of crime of approximately Rs. 45 crores having been allegedly received as part of the bribe from the South group and used in the election campaign of AAP in Goa assembly elections 2021-22. The examination of vendors engaged for out door campaign revealed that they were made payment partly in cash as revealed through various chats between the vendors.

33. ED has further claimed that the examination of money trail reveals that the money which was transferred to Goa came from four routes through different 'Angadiyas' and the statements of various persons engaged in the elections campaign activities by

AAP in Goa are stated to have also revealed that cash payment were made to them for work done as survey workers or managers etc.

34. It is contended that this shows the utilization of the proceeds of crime by the representatives of co-accused Manish Sisodia in Goa Assembly election, which is also corroborated by one of the candidates of AAP as already mentioned above.

35. On the basis of the material placed before the court, it has been sought to be submitted that AAP is the major beneficiary of the proceeds of crime generated in the above manner in Delhi liquor scam and part of proceeds of crime to the tune of Rs. 45 crores was raised in the election campaign in Goa Assembly election in 2021-22 and accordingly in this manner, AAP has committed offence of money laundering through accused Arvind Kejriwal, which is a offence thus covered under Section 70 of the PMLA.

36. It is submitted that totality of facts and circumstances pointed towards the involvement of accused Arvind Kejriwal in the entire conspiracy of Delhi liquor scam in drafting and implementation of the policy for favouring and benefiting the quid pro receiving kickbacks and eventually using part of the proceeds of crime generated out of the scheduled offence in the election campaign for Goa Assembly election.

37. At this juncture, reference may also be made to the observations of the Hon'ble High Court of Delhi in order dated 06.04.2023 passed while disposing of bail application **No.3590/2022 in CrI. MA 25088/2022** titled as **Satyendar Kumar Jain vs. Directorate of Enforcement**. In the said order, the Hon'ble High Court has observed as under:-

*“... Generally in cases of criminal conspiracy, which are hatched in secrecy and executed in dark, it is herculean task to find the direct evidence of such offence. In particular, where there is transaction of cash, I consider that it is a near impossible to get the direct evidence. In such cases, the court has to resort back to see the past trend and attendant circumstances of the case.”*

38. Therefore, in view of the above facts and circumstances, the above named accused is hereby remanded to the custody of ED till **28.03.2024** for the purposes of his detailed and sustained interrogation with respect to his role and to unearth the remaining proceeds of crime and for confronting him with data retrieved from digital devices and material seized during investigation. It is directed that the accused be produced before this court on **28.03.2024** at **2pm**. It is further directed that the interrogation be conducted at some place having CCTV coverage in accordance with the guidelines laid down by the Hon'ble Supreme Court in case of **Paramvir Singh Saini Vs. Baljeet Singh & Ors., (2021) 1 SCC 184** and the said CCTV footage be preserved.

39. Further, in terms of provisions contained in Section 41D Cr.P.C., accused shall also be permitted to meet his Advocates namely Mohd. Irshad and Sh. Vivek Jain, as requested for half an hour daily between 6pm to 7pm during the above period of his ED custody. Besides this, the accused shall also be permitted to meet family members namely Mrs. Sunita Kejriwal and Sh. Bibhav Kumar every day for half an hour during the above said hour.

40. A separate application has also been filed on behalf of accused for providing requisite medicines and special diet (home food) as prescribed by his doctor. It is submitted that the accused is suffering from Hyperglycemia diseases and various other medical conditions that require treatment and medication. The copy of the medical and food prescription is annexed with the application. In view thereof, the application is allowed and it is directed that he be given medication/treatment as per his medical prescription. He is also permitted to have medically recommended diet. It is further directed that in case ED is not able to provide the special diet as per prescription, then the applicant is allowed to be provided home food.

41. Another application has been filed on behalf of the accused stating that the security staff/Incharge responsible for bringing him for production before the court, namely ACP Sh. A.



K. Singh is unnecessarily harsh and mishandled the people around the court room. It is submitted that while producing co-accused Manish Sisodia, a written complaint was filed against him and accordingly it is prayed that necessary directions be issued for his removal/replacement.

42. Having considering the submissions made, I deem it appropriate to direct that firstly a request letter be sent to the Ld. Principal District & Sessions Judge-cum-Special Judge (CBI), RADC, New Delhi to get preserved the above CCTV footage and to get produced a copy thereof before this court on next date for the purpose of disposal of the above application.

43. Thus, the application moved by IO seeking ED custody of accused as well as the application filed by the above named accused praying for rejection of the application filed by ED stand disposed of in the aforesaid terms. Copy of this order be given dasti to Ld. SPP/IO and to Ld. Counsel for the accused through Whatsapp/e-mail.

**Kaveri Baweja**  
**Special Judge (PC Act),**  
**CBI-09 (MPs/MLAs Cases),**  
**RADC, New Delhi : 22.03.2024**