

**IN THE COURT OF VIKAS DHULL, SPECIAL  
JUDGE (PC ACT) (CBI)-23 (MPs/MLAs Cases)  
ROUSE AVENUE COURT COMPLEX, NEW DELHI**

**CC NO. 23/2022  
CNR No. DLCT11-000468-2022  
ECIR HQ/14/2017**

**Directorate of Enforcement Vs. Satyendar Kumar Jain and  
Ors. (Applicants Vaibhav Jain and Ankush Jain)**

Directorate of Enforcement, HQs  
represented by the Assistant Director, HIU-1(2)(2)  
Room No. 313, Pravartan Bhawan  
Dr.APJ Abdul Kalam Road  
New Delhi

... Complainant

**Versus**

1. Sh.Satyendar Kumar Jain  
S/o Sh.Ramsharan Jain
2. Ms.Poonam Jain  
W/o Sh.Satyendar Kumar Jain
3. Sh.Ajit Prasad Jain  
S/o Late Pola Ram Jain
4. Sh.Sunil Kumar Jain  
S/o Late S.S.Jain
5. Sh.Vaibhav Jain  
S/o Sh.Ajit Prasad Jain
6. Sh.Ankush Jain  
S/o Sh.Sunil Kumar Jain
7. M/s.Akinchan Developers Pvt.Ltd.  
A-2, Ground Floor, Shiv Mandir Marg  
Mandawali Fazalpur  
Delhi-110092
8. M/s.Paryas Infosolutions Pvt.Ltd.  
1037, Ist Floor, Room No.2

Tilak Bazaar Chowk  
New Delhi-110006

9. M/s.Manglayatan Developers Pvt.Ltd.  
(now known as Rekantaa Developers Private Limited)  
1037, Ist Floor, Room No.2  
Tilak Bazaar Chowk  
New Delhi-110006
10. M/s.J.J.Ideal Estate Pvt.Ltd.  
AD-95A, Power Apartments  
Pitampura  
Delhi-110088

... Accused(s)

**Date of filing the second bail application : 17.08.2022**  
**Date on which file received by transfer : 23.09.2022**  
**Date on which order reserved : 11.11.2022**  
**Date on which order pronounced : 17.11.2022**

### **BAIL ORDER**

1. Vide this common order, I shall dispose of the bail applications of applicants/accused Vaibhav Jain and Ankush Jain filed under Section 439 Cr.P.C. read with Section 45 of the Prevention of Money Laundering Act, 2002 (**hereinafter referred to as the PMLA**).
2. The brief facts which are relevant for deciding the present bail applications are that CBI had registered a case under Section 13(1)(e) r/w 13(2) of the Prevention of Corruption Act, 1988 (**hereinafter referred to as “the PC Act”**) and under Section 109 of the Indian Penal Code (**hereinafter referred to as “the IPC”**) against co-accused Satyendar Kumar Jain and his associates vide FIR No. RC-AC-1-2017-A-0005 dated

24.08.2017. It was alleged in the FIR that co-accused Satyendar Kumar Jain while posted and functioning as a Minister in the Government of National Capital Territory of Delhi (**hereinafter referred to as the “NCT of Delhi”**), during the check period i.e. from 14.02.2015 till 31.05.2017, had acquired assets, which were disproportionate to his known sources of income and other accused persons, had abetted the commission of offence under Section 13(1)(e) read with 13(2) of the PC Act.

3. The investigation of the CBI had culminated in filing of charge sheet against co-accused Satyendar Kumar Jain for the offence under Section 13(1)(e) read with 13(2) of the PC Act and against other accused persons, namely, Poonam Jain, Ajit Prasad Jain, Sunil Kumar Jain and applicants/accused Vaibhav Jain and Ankush Jain, for the offence under Section 109 IPC, for abetting co-accused Satyendar Kumar Jain in acquisition of disproportionate assets.
4. In the CBI charge sheet, it was alleged that three companies namely, M/s Paryas Infosolutions Pvt. Ltd., M/s Akinchan Developers Pvt. Ltd. and M/s Mangalayatan Projects Pvt. Ltd. wherein family of co-accused Satyendar Kumar Jain, Ajit Prasad Jain and Sunil Kumar Jain had shareholding of 1/3rd each, were not into any real business and were incorporated with the intention of purchasing land in Delhi through the amount received in these companies, by way of accommodation entries, received from Kolkata based shell companies. It was alleged that during the check period i.e. from 14.02.2015 till 31.05.2017, an amount of Rs.4.61 Crores was received in the aforementioned three companies against the sale of equity shares of these companies, which were purchased by shell companies of

Kolkata, from the cash transferred by accused and his associates through Hawala transactions. The CBI had calculated the disproportionate assets on the basis of Rs.4.61 Crores received as accommodation entries in the aforementioned three companies by dividing the same with the 1/3rd shareholding of co-accused Satyendar Kumar Jain and accordingly, computed Rs.1,47,60,497.67/- as the amount which was disproportionate to the known sources of income of co-accused Satyendar Kumar Jain.

5. Since the offence under Section 13(1)(e) read with 13(2) of PC Act was a scheduled offence, therefore, investigation under the PMLA was initiated by registering ECIR/HQ/14/2017 dated 30.08.2017.

#### **Brief Facts of the Enforcement Directorate's case**

6. During the course of investigation under the PMLA, it came on record that co-accused Satyendar Kumar Jain was an architect by profession and he joined public life for the first time when he was elected as MLA from Shakur Basti constituency of State of NCT of Delhi in 2013.
7. Prior to his joining public life in 2013, co-accused Satyendar Kumar Jain was having a family owned company by the name of M/s J.J.Ideal Estate Pvt. Ltd. and was a Director in three companies by the name of M/s.Akinchan Developers Pvt. Ltd. since 07.03.2008, in M/s.Paryas Infosolutions Pvt.Ltd. since 01.08.2007 and in M/s.Indo Metalimpex Pvt. Ltd. since 16.03.2011 and he resigned from the Directorship of the said three companies on 31.07.2013, when he joined public life to

contest for the post of MLA from Shakur Basti constituency in the State of NCT of Delhi.

8. The shareholding of co-accused Satyendar Kumar Jain during the Financial Year 2011-2012 in M/s. Akinchan Developers Pvt.Ltd. was to the tune of 23.02%, was 0.42% in M/s.Paryas Infosolutions Pvt.Ltd. and was 4.96% in M/s.Indo Metalimpex Pvt.Ltd. At the time of resigning from the Directorship of these three companies, co-accused Satyendar Kumar Jain had transferred his shareholding to his wife/accused Poonam Jain with the result that from the Financial Year 2015-2016, accused Poonam Jain was having shareholding to the extent of 19.06% in M/s. Akinchan Developers Pvt.Ltd., 0.99% in M/s.Paryas Infosolutions Pvt.Ltd. and 22.78% in M/s.Indo Metalimpex Pvt.Ltd. In M/s.Manglayatan Developers/Projects Pvt.Ltd., the family owned company of co-accused Satyendar Kumar Jain i.e. M/s J.J.Ideal Estate Pvt. Ltd. was having shareholding to the tune of 22.18% in the year 2015-2016.
9. Co-accused Satyendar Kumar Jain had also signed the balance sheets and audit reports of M/s. Akinchan Developers Pvt.Ltd., M/s.Paryas Infosolutions Pvt.Ltd. and M/s.Indo Metalimpex Pvt.Ltd. till such time he remained the Director in these companies. In the aforementioned 04 companies referred to in para 8, apart from co-accused Satyendar Kumar Jain and Poonam Jain, family of accused Ajit Prasad Jain and Sunil Kumar Jain, were also the shareholders.
10. It also came on record during the course of investigation that co-accused Satyendar Kumar Jain knew a Chartered Accountant by the name of Sh.Jagdish Prasad Mohta since 2002-2003 and with the help of said Sh.Jagdish Prasad Mohta, co-accused

Satyendar Kumar Jain had incorporated M/s. Akinchan Developers Pvt.Ltd. and M/s.Manglayatan Developers/Projects Pvt.Ltd. and at the instance of co-accused Satyendar Kumar Jain, Sh.Jagdish Prasad Mohta was appointed as an auditor of all the above 04 companies i.e. M/s.Manglayatan Developers/Projects Pvt.Ltd., M/s. Akinchan Developers Pvt.Ltd., M/s.Paryas Infosolutions Pvt.Ltd. and M/s.Indo Metalimpex Pvt.Ltd.

11. It also came in the investigation by the Enforcement Directorate (**hereinafter referred to as “the ED”**) that at the instance of co-accused Satyendar Kumar Jain, Sh.Jagdish Prasad Mohta had arranged accommodation entries in lieu of cash in the aforementioned 04 companies by taking the help of Kolkata based entry operators i.e. Sh.Rajender Bansal and Sh.Jivendra Mishra. It was further revealed in investigation that no business activities, as per the Memorandum of Association (**hereinafter referred to as the “MOA”**) of aforementioned 04 companies was carried out by any of the aforementioned 04 companies and their only business was purchase of agricultural land in and around Delhi by using accommodation entries. It was alleged that between the period from 2010 to 2016, accommodation entries to the tune of Rs.16,38,83,500/- were arranged by Sh.Jagdish Prasad Mohta through the Kolkata based entry operators by sending the cash from Delhi to Kolkata through Hawala channels. Against the money received by Kolkata based entry operators through Hawala, cheques used to be obtained by the entry operators of Kolkata and after obtaining cheques, they used to be deposited in their respective shell companies being operated by the entry operators and thereafter, the fund was used in purchasing of shares of aforementioned 04 companies at a

very high premium to facilitate the return of money paid through cash through Hawala channel. The money so received in the aforementioned 04 companies against the sale of shares was then used for purchase of agricultural land in and around Delhi and for repayment of loan taken by the aforementioned companies for purchase of land.

12. During the check period, when co-accused Satyendar Kumar Jain was the MLA/Minister in the Government of Delhi i.e. from 14.02.2015 till 31.05.2017, it is alleged that an amount of Rs.4,60,83,500/- was received as accommodation entries in three companies namely, M/s. Akinchan Developers Pvt.Ltd., M/s.Paryas Infosolutions Pvt.Ltd. and M/s.Manglayatan Developers/Projects Pvt.Ltd. and an accommodation entry of Rs.15,00,000/- was received in M/s.J.J.Ideal Estate Pvt.Ltd. and a commission of Rs.5,32,935/- was also paid to the entry operators namely, Rajender Bansal, Jivendra Mishra, Abhishek Chokhani and Manish Sureka. Thus, total amount of Rs.4,81,16,435/- was calculated as proceeds of crime, which were utilized in the purchase of land, for the payment of loans and for the payment of commission to Kolkata based entry providers.

13. During the course of further investigation under the PMLA, it came on record that on 27.09.2016, applicants/accused Vaibhav Jain and Ankush Jain had taken the benefit of Income Disclosure Scheme, 2016 (**hereinafter referred to as “IDS 2016”**) by declaring the entire accommodation entries received in the aforementioned 04 companies to the tune of Rs.16,38,83,500/- for the period from 2010-11 till 2015-16, as their unaccounted income. Income tax @ 45% i.e. Rs.3,71,25,000/- was also deposited separately by applicants/accused Vaibhav Jain and

Ankush Jain under the IDS, 2016. However, it came on record that the un-disclosed income of Rs.16,38,83,500/- declared by applicants/accused Vaibhav Jain and Ankush Jain was made by them by mis-representing and suppressing the true facts and accordingly, declaration made by applicants/accused Vaibhav Jain and Ankush Jain was not accepted by the income tax authorities. Both applicants/accused Vaibhav Jain and Ankush Jain had challenged the cancellation of their declaration by the income tax authorities before the Hon'ble High Court of Delhi but their petition was dismissed and even the SLP filed was dismissed by the Hon'ble Supreme Court of India vide order dated 29.11.2019.

**14.**It was alleged by the ED that applicant/accused Vaibhav Jain was neither a Director nor a shareholder in M/s.Manglayatan Developers/Projects Pvt.Ltd., M/s. Akinchan Developers Pvt.Ltd. and M/s.Indo Metalimpex Pvt.Ltd. during the period from 2010-2016 and applicant/accused Ankush Jain was neither the Director nor the shareholder in M/s. Akinchan Developers Pvt.Ltd., M/s.Paryas Infosolutions Pvt.Ltd. and M/s.Indo Metalimpex Pvt.Ltd. during the period from 2010-2016 and both applicants/accused claimed the accommodation entries to the tune of Rs.16,38,83,500/- to be their un-disclosed income just to safeguard co-accused Satyendar Kumar Jain. In support of its allegations, ED had examined Sh.Jagdish Prasad Mohta, Chartered Accountant of these companies, who has stated in his statement under Section 50 of PMLA that applicants/accused Vaibhav Jain and Ankush Jain were appointed Directors of these companies by backdating the documents to support their declaration made on 27.09.2016 under the IDS, 2016. It was



further alleged that even applicants/accused Vaibhav Jain and Ankush Jain could not produce any evidence with regard to source of funds from which they had generated un-disclosed income to the tune of Rs.16,38,83,500/-, which shows that false declaration under IDS, 2016 was made by these two applicants/accused just to protect co-accused Satyendar Kumar Jain. It had also come during the course of investigation under the PMLA that when co-accused Satyendar Kumar Jain had received a demand notice from the income tax department, then he had written a letter dated 27.06.2018 asking the income tax department to adjust tax paid by applicants/accused Vaibhav Jain and Ankush Jain under the IDS, 2016 against his tax liability, which also shows that the entire process of accommodation entries was carried out at the behest of co-accused Satyendar Kumar Jain himself. In support of its allegations, ED had also recorded the statement of various persons under Section 50 of the PMLA i.e. of Sh.Jagdish Prasad Mohta, Chartered Accountant of all 04 companies, Rajender Bansal, Jivendra Mishra, Abhishek Chokhani and Manish Sureka, who were the Kolkata based entry operators and had provided accommodation entries to the aforementioned 04 companies, statement of Sanjay Aggarwal, Mohinder Pal Singh, Rashmi Jain, Satyavrat Agarwal and Nirmal Kumar Madhogaria, who all had made investment in the aforementioned 04 companies, at the instance of co-accused Satyendar Kumar Jain.

**15.** Apart from this, ED had also recorded the statement of co-accused Satyendar Kumar Jain, applicants/accused Vaibhav Jain and Ankush Jain, Poonam Jain, Swati Jain and others under Section 50 of the PMLA.

- 16.**The ED had also collected various documents in the form of bank statement, MoA of companies, Balance Sheets, Copies of Sale deeds, Auditors report, declaration under IDS, 2016 etc.
- 17.**Based upon the investigation, ED had concluded that all the aforementioned companies were beneficially owned and controlled by co-accused Satyendar Kumar Jain and the scheme of arranging accommodation entries against cash was also designed by co-accused Satyendar Kumar Jain and on his instructions, accommodation entries from Kolkata based shell companies were arranged, which amount was utilized in purchase of agricultural land in and around Delhi.
- 18.**It was further concluded that the source of purchase of lands and the shareholding pattern of different families in the aforementioned 04 companies was nothing but a camouflage before the authorities and the entire amount of Rs.4,81,16,435/- is the proceeds of crime in the hands of co-accused Satyendar Kumar Jain. Thus, co-accused Satyendar Kumar Jain had committed the offence under Section 3 of PMLA.
- 19.**The other accused persons i.e. Poonam Jain, wife of co-accused Satyendar Kumar Jain, Ajit Prasad Jain, Sunil Kumar Jain and applicants/accused Vaibhav Jain and Ankush Jain and the 04 companies namely, M/s. Akinchan Developers Pvt.Ltd., M/s.Paryas Infosolutions Pvt.Ltd. M/s.Manglayatan Developers/Projects Pvt.Ltd. and M/s.J.J.Ideal Estate Pvt.Ltd. were also chargesheeted under Section 3/4 of PMLA for having knowingly assisted co-accused Satyendar Kumar Jain in projecting the proceeds of crime to the tune of Rs.4,81,16,435/- as untainted. Accordingly, a chargesheet in the form of

complaint was filed before the Ld.Predecessor of this court on 27.07.2022.

20. In the present case, co-accused Satyendar Kumar Jain was arrested on 30.05.2022 and applicants/accused Vaibhav Jain and Ankush Jain on 30.06.2022 and since then, they are in custody. Applicants/accused Vaibhav Jain and Ankush Jain have filed their separate bail applications.
21. Notice of the said applications was issued to the respondent/ED, who had filed a detailed reply.
22. I have heard Dr.Sushil Kumar Gupta, Ld. Counsel for applicants/accused Vaibhav Jain and Ankush Jain and Sh.S.V.Raju, Ld.Addl.Solicitor General with Special counsel Sh.Zoheb Hossain and Sh.N.K.Matta, Ld.SPP for ED. I have also carefully perused the material on record.

**Arguments on behalf of Ld.Counsel for applicants/accused.**

23. It was submitted by Ld. Counsel for applicants/accused Vaibhav Jain and Ankush Jain. that in the present case, applicants/accused deserve to be released on bail as they are totally innocent and have been falsely implicated in the present case.
24. It was further submitted that in the predicate offence, CBI has charge sheeted the applicants/accused without arrest and in the present case also, investigation is complete and charge sheet in the form of complaint has been filed in the court on 27.07.2022.
25. It was further submitted that since the investigation of this case is complete, therefore, there is no apprehension of tampering of the evidence or with the witnesses and it is not justified to keep applicants/accused Vaibhav Jain and Ankush Jain incarcerated by way of pre-trial incarceration.

26. It was further submitted that offence of money laundering under the PMLA is not made out against applicants/accused Vaibhav Jain and Ankush Jain. It was submitted that the accommodation entries cannot be equated with the proceeds of crime as it is contrary to definition of “proceeds of crime” provided in Section 2(i)(u) of PMLA. It was further submitted that accommodation entries were obtained by applicants/accused Vaibhav Jain and Ankush Jain from their legal unaccounted business income, the source of which was duly provided by the applicants/accused Vaibhav Jain and Ankush Jain in their respective statements under Section 50 of PMLA and such accommodation entries only amounts to a tax violation. In support of his contention, Ld.counsel has referred to para 31 of the judgment of the Hon’ble Supreme Court of India delivered in **Vijay Madanlal Choudhary & Ors. Vs. Union of India & Ors., SLP. (Criminal) No. 4634 of 2014 decided on 27.07.2022.**

27. It was further submitted that entire charge sheet of the ED is based upon the assumption that effective control of the four companies was that of co-accused Satyendar Kumar Jain and he is the beneficial owner and, therefore, accommodation entries pertained to him and was a proceed of crime. However, the facts which have come on record show that co-accused Satyender Kumar Jain was neither a Director nor a shareholder in the three companies namely, M/s. Akinchan Developers Pvt.Ltd., M/s.Paryas Infosolutions Pvt.Ltd. and M/s.Manglayatan Developers/Projects Pvt.Ltd. wherein accommodation entries to the tune of Rs.4.61 Crores have been received during the check period.

- 28.**It was further submitted that ED has wrongly alleged that co-accused Satyendar Kumar Jain was the beneficial owner of the aforementioned 03 companies. It was submitted in this regard that the shareholding of co-accused Satyendar Kumar Jain and his family was only 19.06% in M/s Akinchan Developers Pvt. Ltd., 1.50% in M/s Paryas Infosolutions Pvt. Ltd. and 10.43% in M/s Manglayatan Developers/Projects Pvt. Ltd. during the check period. On the basis of afore-mentioned minuscule shareholding, family of co-accused Satyendar Kumar Jain had no control over the aforementioned companies and even his wife Poonam Jain was a minority shareholder.
- 29.**It was further submitted that even the shareholding of wife of co-accused Satyendar Kumar Jain did not change in numbers during the check period though her percentage of shareholding decreased. Furthermore, the wife of co-accused Satyendar Kumar Jain, being a minority shareholder, did not have the control in the aforementioned companies.
- 30.**It was further submitted that ED is trying to draw inference that co-accused Satyendar Kumar Jain was in the effective control of three companies based upon the fact that co-accused Satyendar Kumar Jain was a Director and a shareholder prior to 2013.
- 31.**It was further submitted that no balance sheet or audit report was ever signed by co-accused Satyendar Kumar Jain or his wife during the check period of any of the aforementioned companies which also shows that co-accused Satyendar Kumar Jain had no control or interference in the said companies. It was further submitted that co-accused Satyendar Kumar Jain and his wife received no perks from the said 03 companies unlike other majority stakeholders and also had no authority to sign

documents, which fact also demonstrates that they also had no control or say in the affairs and management of the aforementioned three companies. It was further submitted that shareholder is not owner of any property of the company and the liability of the shareholder is limited to the share capital invested by it and they are only entitled to dividends. Even the co-accused Satyendar Kumar Jain and his wife did not receive any dividend from the aforementioned 03 companies, at any point of time.

**32.**It was further submitted that whatever assets the abovementioned 03 companies have acquired were that of the aforementioned 03 companies and co-accused Satyendar Kumar Jain or his wife being the shareholders cannot be said to be the beneficial owner of the assets of the aforementioned 03 companies. In this regard, Ld.Defence Counsel has relied upon the judgment of the Hon'ble Supreme Court of India delivered in **Rustom Cavasjee Cooper (Banks Nationalisation) Vs. Union of India (1970) 1 SCC 248.**

**33.**It was further submitted that family of co-accused Sunil Jain and Ajit Prasad Jain were the major stakeholders in the aforementioned three companies and all the investment were also made by them as per the MOU dated 28.03.2010.

**34.**It was further submitted that entire accommodation entries were obtained by the applicants/accused Vaibhav Jain and Ankush Jain from their undisclosed business income and co-accused Satyendar Kumar Jain was not involved in any manner in the same. Further, applicants/accused Vaibhav Jain and Ankush Jain have also explained their source of income and there is nothing on record to show that said cash does not belong to the applicants/accused Vaibhav Jain and Ankush Jain. Even the

Kolkata based entry providers i.e. Jivendra Mishra, Ashish Chokhani and Manish Sureka in their respective statements under Section 50 of PMLA had stated that they do not know co-accused Satyendar Kumar Jain and had never met him.

**35.** Further, none of the witnesses examined by the ED during the course of investigation, has stated that during the check period, co-accused Satyendar Kumar Jain had provided the cash to the Kolkata based entry providers. On the contrary, the evidence collected by the ED during the course of investigation establishes on record that the cash of Rs.4.61 Crores given to Kolkata based entry operators through Hawala channel was provided exclusively by applicants/accused Vaibhav Jain and Ankush Jain, who in their respective statements recorded under Section 50 of PMLA, have admitted this fact.

**36.** Even applicants/accused Vaibhav Jain and Ankush Jain have admitted that this amount of Rs.4.61 Crores was part of their unexplained income of Rs.16.38 Crores earned during the period from 2010-2016 and accordingly, they had declared the same under IDS, 2016 and had paid the income tax, accordingly. This fact also establishes on record that the cash given to the Kolkata based entry operators during the check period belonged to them.

**37.** It was further submitted that ED has gravely misrepresented and mis-applied the provisions of PMLA in identifying the proceeds of crime. It was submitted in this regard that accommodation entries cannot by itself lead to an offence under the PMLA as proceeds of crime is generated by committing scheduled offence. However, in the present case, the alleged accommodation entries of Rs.4.61 Crores, cannot by any

stretch of imagination be termed as “proceeds of crime” as these entries are not in any way connected with any scheduled offence. It was further submitted that no proceeds of crime has been generated in the present case after the alleged commission of scheduled offence. It was submitted that scheduled offence under Section 13(1)(e) of the PC Act allegedly stood committed at the end of the check period i.e. on 31.05.2017 and thereafter, there is no material on record to show that any accommodation entries have been obtained. It was submitted that proceeds of crime cannot be notional and they are deemed to have been generated on the accomplishment of the scheduled offence. In this regard, Ld.Defence counsel has relied upon para 33 of the judgment of the Hon’ble Supreme Court of India delivered in **Vijay Madanlal Choudhary’s case (supra)**.

38. It was further submitted that against the sale of shares of M/s.Akinchan Developers Pvt.Ltd., M/s.Paryas Infosolutions Pvt.Ltd. and M/s.Manglayatan Developers/Projects Pvt.Ltd. to Kolkata based entry operators, consideration amount of Rs.4.61 Crores was received in the bank accounts of aforementioned three companies and no money was ever received by co-accused Satyendar Kumar Jain in his separate individual account.

39. Further, even the buy back of shares from Kolkata based entry operators was done in the name of applicants/accused Vaibhav Jain and Ankush Jain, which also establishes on record that amount of Rs.4.61 Crore belonged to them and co-accused Satyendar Kumar Jain was not the beneficiary in any manner.

40. It was further submitted that the amount of Rs.4.61 Crores received in the accounts of aforementioned 03 companies was utilized for the repayment of loan of applicants/accused Vaibhav



Jain and Ankush Jain and their family members and their companies and for purchase of property by M/s Akinchan Developers Pvt. Ltd. and this fact also establishes that no benefit had accrued to co-accused Satyendar Kumar Jain in any manner.

41. It was further submitted that no agricultural land was purchased in the name of co-accused Satyendar Kumar Jain or his family members from the consideration amount of Rs.4.61 Crores received in the account of aforementioned 03 companies.

42. It was further submitted that admittedly the documents pertaining to sale and purchase of shares and pertaining to the purchase of land by aforementioned companies were obtained from the locker of applicant/accused Vaibhav Jain, which also shows that all the benefits from the amount of Rs.4.61 Crores was received by applicant Vaibhav Jain.

43. It was further submitted that even the Memorandum of Understanding dated 28.03.2010 (**hereinafter referred to as "MOU"**) between co-accused Ajit Prasad Jain, Sunil Kumar Jain and Satyendar Kumar Jain was seized from the locker of applicant/ Vaibhav Jain and as per the terms of said MOU, co-accused Satyendar Kumar Jain was responsible for technical part of the project pertaining to the anticipated land-pooling policy whereas the investment was to be made by applicants/accused Vaibhav Jain and Ankush Jain. This MOU also demonstrates that the money in the form of accommodation entries of Rs.4.61 Crores was that of applicants/accused Vaibhav Jain and Ankush Jain.

44. It was further submitted that co-accused Satyendar Kumar Jain had been charge sheeted in the CBI case, on the basis of receipt of accommodation entries of Rs.4.61 Crores in the

aforementioned three companies. It was further submitted that since it has come in the investigation of the ED that no cash was provided by the co-accused Satyendar Kumar Jain with regard to accommodation entries of Rs.4.61 Crores, therefore, no case under the PC Act is made out as CBI conceded in the charge sheet that assets of co-accused Satyendar Kumar Jain and his wife in the form of shares, vehicles, jewellery and immovable properties remained the same at the end of check period as it was at the beginning of the check period.

45. It was further submitted that CBI in its charge sheet had arrived at the figure of Rs.1,47,60,497.67/- as the amount of disproportionate assets on the basis of co-accused Satyendar Kumar Jain having 1/3<sup>rd</sup> share capital in the aforementioned three companies. It was submitted that it was an erroneous assumption that co-accused Satyendar Kumar Jain had 1/3<sup>rd</sup> share capital in M/s Paryas Infosolutions Pvt. Ltd., M/s Akinchan Developers Pvt. Ltd. and M/s Manglayatan Developers/Projects Pvt. Ltd. It was submitted that as per the admitted documents filed on record by the ED showing the shareholding pattern in the aforementioned 03 companies, it is apparent that shareholding of co-accused Satyendar Kumar Jain through his wife Poonam Jain was 19.06% in M/s Akinchan Developers Pvt. Ltd., 1.50% in M/s Paryas Infosolutions Pvt. Ltd. and 10.43% in M/s Manglayatan Developers/Projects Pvt. Ltd. Therefore, even assuming that amount received in the aforementioned 03 companies was required to be notionally divided as per shareholding of each person, then the correct amount which could be attributed to co-accused Satyendar Kumar Jain was

Rs.59,32,122/- and not Rs.1,47,60,497.67/- as alleged by the CBI in its charge sheet.

46. It was further submitted that the alleged amount of Rs.15,00,000/- received in M/s.J.J.Ideal Estate Pvt.Ltd. could not have been taken into consideration as part of proceeds of crime as the said amount of Rs,15,00,000/- was not made part of the predicate offence.
47. Even assuming that the alleged amount of Rs.15,00,000/- received in M/s.J.J.Ideal Estate Pvt.Ltd. is part of the predicate offence, then also case alleged against co-accused Satyendar Kumar Jain is of an amount much less than Rs.1 Crore and as per proviso to Section 45 of the PMLA, bail can be granted if sum of less than Rs.1 Crore is involved in the offence of money laundering.
48. It was further submitted that even the ED was aware that the accommodation entries of Rs.4.61 Crores was neither the proceeds of crime nor it belonged to co-accused Satyendar Kumar Jain or his family members. It was further submitted that the very fact that Rajender Bansal, Jivendra Mishra, Abhishek Chokhani and Manish Sureka, who were Kolkata based entry operators and had provided accommodation entries, were not made accused in this case shows that providing of accommodation entries is not money laundering but a mere tax violation. In this regard, Ld. Defence Counsel has relied upon the observations of the Hon'ble Supreme Court of India made in para 31 of the judgment delivered in **Vijay Madanlal Choudhary's case (supra)**.
49. It was further submitted that allegations of the ED based upon the statement of Sh.Jagdish Prasad Mohta that it was the co-

accused Satyendar Kumar Jain, who had hatched a criminal conspiracy for the purpose of accommodation entries against cash in 2010 is far fetched and without merit as in 2010, no one could have imagined that co-accused Satyendar Kumar Jain would become a Minister in 2015 and acquire alleged proceeds of crime, which were to be laundered through accommodation entries in cash during the check period.

**50.**It was further submitted that ED had wrongly relied upon the statement of applicant/accused Vaibhav Jain dated 16.06.2022 to conclude that entire accommodation entries of Rs.4.61 Crores pertained to co-accused Satyendar Kumar Jain as he had provided the entire cash, as the said statement was retracted by applicant/accused Vaibhav Jain on 17.06.2022 by filing an application before the court and in the said application, applicant/accused Vaibhav Jain had narrated the circumstances in which he was threatened and forced by the ED to give the false statement dated 16.06.2022 against co-accused Satyendar Kumar Jain.

**51.**It was further submitted that even the ED had not video-graphed the recording of statement dated 16.06.2022 of applicant/accused Vaibhav Jain which also establishes on record that the statement was not voluntary. Further, in the other statements recorded of applicant/accused Vaibhav Jain, he had categorically stated that the cash of Rs.4.61 Crores was paid by him and co-accused Sunil Jain and not by co-accused Satyendar Kumar Jain. Therefore, there was no offence of money laundering committed by the applicants/accused Vaibhav Jain and Ankush Jain as mere obtaining of accommodation entries against payment of cash is a

mere tax violation as observed by the Hon'ble Supreme Court of India in para 31 of **Vijay Madanlal Choudhary's case (supra)**.

52. It was further submitted that co-accused Satyendar Kumar Jain is sought to be implicated on the basis of notional value of his shareholding in the aforementioned companies. It was submitted that it has been categorically held by the Hon'ble Supreme Court of India that on the basis of assumption / notional basis, there can be no offence of money laundering. In this regard, reference has been made to para 33 of **Vijay Madanlal Choudhary' case (supra)**.

53. It was further submitted that basis of cancellation of IDS, 2016 of applicants/accused Vaibhav Jain and Ankush Jain was the initiation of benami proceedings under the Benami Property Transactions Act, 1988 (amended in 2016). However, these proceedings have been quashed by the Hon'ble High Court of Delhi vide order dated 10.10.2022 delivered in W.P.(C) 5158/2017 titled as Satyendar K Jain Vs. The Union of India and Ors. Therefore, the basis of cancellation of IDS, 2016 needs to be ignored and income declared by applicants/accused Vaibhav Jain and Ankush Jain as their own unaccounted income needs to be considered and there is no basis to hold that entire accommodation entries to the tune of Rs.4.81 Crore belongs to co-accused Satyendar Kumar Jain.

54. Ld. Defence Counsel concluded his arguments by submitting that it is a fit case for grant of bail to applicants/accused were not arrested by the CBI in the predicate offence, as applicants/accused joined the investigation before the various investigating agencies as and when they were required to do so and there are no chance of their absconding, if released on bail,

as the statement of witnesses has already been recorded and there is no chance of influencing the witnesses, as evidence is documentary in nature and there is no chance of tampering the same and as the grant of bail is the norm and denial thereof is an exception. Accordingly, Ld.Defence counsel has made a prayer for grant of bail to applicants/accused Vaibhav Jain and Ankush Jain.

### **Arguments on behalf of Enforcement Directorate**

**55.** It was submitted by Ld.Additional Solicitor General for ED that the present bail applications filed by applicants/accused Vaibhav Jain and Ankush Jain deserve to be dismissed in the light of twin conditions provided in Section 45 of PMLA. It was submitted that bail can be granted to applicants/accused Vaibhav Jain and Ankush Jain only if the court believes that applicants/accused Vaibhav Jain and Ankush Jain are not guilty of the offence of money laundering and they are not likely to commit any offence while on bail. However, the material which has been collected by the ED in this case, prima facie shows the involvement of applicants/accused Vaibhav Jain and Ankush Jain in the offence of money laundering, which is a serious offence. Therefore, having regard to Section 45 of PMLA, bail deserves to be dismissed outrightly.

**56.**It was submitted that the CBI had charge sheeted the applicants/accused Vaibhav Jain and Ankush Jain for the offence under Section 109 IPC for having abetted co-accused Satyendar Kumar Jain in acquisition of disproportionate assets under Section 13(1)(e) read with 13(2) of PC Act and even the court

had taken the cognizance. Similarly, in the offence of money laundering, charge sheet in the form of complaint has been filed and cognizance stands taken on the complaint. It was further submitted by him that to his knowledge, the order of summoning has not been challenged in either of these two cases by applicants/accused Vaibhav Jain and Ankush Jain. Therefore, this fact demonstrates that prima facie court was satisfied that scheduled offence under the PC Act and money laundering offence under the PMLA was made out and that is why, applicants/accused Vaibhav Jain and Ankush Jain were summoned. It was further submitted that, therefore, it will not be proper for this court to state at the stage of bail that no offence either predicate or under the money laundering Act is made out.

**57.**It was further submitted that in the present case, between 2010-2016, five companies had received accommodation entries to the tune of Rs.16.50 Crores through the entry operators based in Kolkata against cash. However, during the check period i.e. from 14.02.2015 till 31.05.2017, accommodation entries were received to the tune of Rs.4.81 Crore in four companies namely, M/s. Akinchan Developers Pvt. Ltd., M/s.Paryas Infosolutions Pvt.Ltd., M/s.Manglayatan Developers/Projects Pvt.Ltd. and M/s.J.J.Ideal Estate Pvt.Ltd.

**58.**It was further submitted that in M/s. Akinchan Developers Pvt. Ltd. and M/s.Paryas Infosolutions Pvt.Ltd., co-accused Satyendar Kumar Jain was the Director till 2013 and thereafter, co-accused Satyendar Kumar Jain had resigned from the Directorship and had also transferred his shareholding in the name of his wife in all three companies. However, M/s.J.J.Ideal

Estate Pvt.Ltd. is the family owned company of co-accused Satyendar Kumar Jain.

**59.**It was further submitted that during the check period i.e. from 14.02.2015 till 31.05.2017, the aforementioned four companies had not done any business and these companies had purchased assets or had repaid the bank loan from the accommodation entries received in their respective bank accounts through Kolkata based entry operators. It was further submitted that Kolkata based entry operators after receiving cash from applicants/accused Vaibhav Jain and Ankush Jain and co-accused Satyendar Kumar Jain, had transferred the money into the account of these four companies against the sale of shares at a very high premium. It was submitted that shares of face value of Rs.10 was sold at a premium of Rs.250--Rs.400 just to adjust the cash transferred to the Kolkata based entry operators.

**60.**It was submitted that it is not believable that any person will purchase shares of the aforementioned four companies at a very high premium when it is shown that these companies were not doing any kind of real business and they had no book value to support such a higher premium for the shares.

**61.**It was further submitted that entry operators based in Kolkata had thereafter transferred the shares without any consideration back to the applicants/accused Vaibhav Jain and Ankush Jain, who were the associates of co-accused Satyendar Kumar Jain. It was further submitted that even though co-accused Satyendar Kumar Jain had resigned from the Directorship of these companies and had transferred the shareholding to his wife but then also, he had the control over these companies except M/s.J.J.Ideal Estate Pvt.Ltd., which was the family owned company of co-accused



Satyendar Kumar Jain. It was submitted in this regard that Sh.Jagdish Prasad Mohta, who was the Chartered Accountant and was known to co-accused Satyendar Kumar Jain since 2002-2003, had stated in his statement that it was co-accused Satyendar Kumar Jain, who had approached him in the year 2010 and he had helped co-accused Satyendar Kumar Jain in the incorporation of M/s. Akinchan Developers Pvt.Ltd. and M/s.Manglayatan Developers/Projects Pvt.Ltd. in 2008 and 2013 respectively and he was appointed auditor in all the companies except M/s.J.J.Ideal Estate Pvt.Ltd. on the recommendation of the co-accused Satyendar Kumar Jain. He had further deposed that in 2010, it was the co-accused Satyendar Kumar Jain, who had approached him with the request to arrange accommodation entries in lieu of cash for his companies. He had also admitted of having arranged a meeting between co-accused Satyendar Kumar Jain and Rajendar Bansal, who was the entry operator based in Kolkata to discuss the modalities for providing accommodation entries in cash.

**62.**It was further submitted that four investors, namely, Satyavrat Aggarwal, Nirmal Kumar Madhogaria, Mohinder Kumar Singh and Sanjay Aggarwal had invested in M/s.Manglayatan Developers/Projects Pvt.Ltd. and in M/s. Akinchan Developers Pvt.Ltd. respectively, on the assurance of co-accused Satyendar Kumar Jain and they had also sold their shares to Kolkata based companies on the instructions of co-accused Satyendar Kumar Jain. It was further submitted that ED had also recorded the statement of Rajender Bansal, who was the Kolkata based entry operator and in his statement, he had admitted of having met co-accused Satyendar Kumar Jain at the office of Sh.Jagdish Prasad

Mohta in 2010, wherein he was requested to provide accommodation entries against cash. He further deposed in his statement that cash was received from Sh.Jagdish Prasad Mohta and co-accused Satyendar Kumar Jain at Kolkata through Hawala route and thereafter, Rajender Bansal used to obtain cheques against cash and after depositing the said cheques in his companies, he used to buy shares of all aforementioned four companies which were later on brought back by these four companies without consideration or at a very nominal rate. It was further submitted that although co-accused Satyendar Kumar Jain had resigned from the Directorship of companies in 2013 but the manner in which accommodation entries were obtained, the person from whom the accommodation entries were obtained, remained the same despite exit of co-accused Satyendar Kumar Jain from the companies, which shows that co-accused Satyendar Kumar Jain still had the control over these companies and he was the beneficial owner of these companies. Therefore, exit of co-accused Satyendar Kumar Jain from all the companies except M/s.J.J.Ideal Estate Pvt.Ltd. was only on paper and in real, he exercised the control over these companies as auditor i.e. Sh.Jagdish Prasad Mohta in these three companies was his friend and investors entered and exited these companies at his recommendation and same entry operator i.e. Rajender Bansal continued to provide accommodation entries despite his exit.

**63.**It was further submitted that during the course of investigation, it came on record that Kolkata based entry operators had not received any physical share and the shares transferred were only on paper. It was further submitted that apart from Rs.4.60 Crores received as accommodation entries in the aforementioned three

companies, accommodation entry to the tune of Rs.15,00,000/- was also received in M/s.J.J.Ideal Estate Pvt.Ltd., which was the family owned company of co-accused Satyendar Kumar Jain. Therefore, in total, amount of Rs.4.81 Crores was received as accommodation entries in the aforementioned four companies during the check period which also includes the commission paid to entry providers.

**64.**It was further submitted that cash amount for obtaining accommodation entries was provided by the co-accused Satyendar Kumar Jain and applicants/accused Vaibhav Jain and Ankush Jain as per statement of Sh.Jagdish Prasad Mohta.

**65.**It was further submitted that although it has come in the statement of Sh.Jagdish Prasad Mohta, Chartered Accountant that cash was provided by co-accused Satyendar Kuma Jain and applicants/accused Vaibhav Jain and Ankush Jain but in fact the entire cash was that of co-accused Satyendar Kumar Jain. It was submitted in this regard that applicants/accused Vaibhav Jain and Ankush Jain could not provide the source of generating huge cash and no supporting documents were provided by applicants/accused Vaibhav Jain and Ankush Jain in support of their claim that the entire cash given to the Kolkata based entry operators belonged to them. It was further submitted that applicants/accused Vaibhav Jain and Ankush Jain had declared the entire accommodation entries of Rs.16.50 Crores received during the period from 2010 till 2016 as their own unaccounted income under the IDS, 2016 on 27.09.2016. It was further submitted that it has come in the statement of Sh.Jagdish Prasad Mohta that he had created back dated documents to show that applicants/accused Vaibhav Jain and Ankush Jain were Directors

in the four companies, namely M/s.Akinchan Developers Pvt. Ltd., M/s.Paryas Infosolutions Pvt.Ltd., M/s.Manglayatan Developers/Projects Pvt.Ltd. and M/s.Indo Metalimpex Pvt. Ltd. so that they could declare their unaccounted income under the IDS, 2016. It was further submitted that applicants/accused Vaibhav Jain and Ankush Jain falsely claimed under the IDS, 2016 the entire unaccounted income to be theirs' with a view to protect co-accused Satyendar Kumar Jain and knowingly assisted co-accused Satyendar Kumar Jain in projecting his proceeds of crime to be their unaccounted income.

**66.**It was further submitted in this regard that in his statement under Section 50 of PMLA, applicant/accused Vaibhav Jain was unable to explain that in case, income disclosed under the IDS, 2016 was his own income, then why he did not obtain the accommodation entries in his own company and took accommodation entries in the aforementioned four companies where apart from co-accused Satyendar Kumar Jain, there were other shareholders. It was further submitted that applicant/accused Vaibhav Jain also admitted that based upon the shareholding, other persons would have been entitled to the amount received in the account of aforementioned four companies. Therefore, this fact clearly demonstrates that applicants/accused Vaibhav Jain and Ankush Jain made false declaration under IDS, 2016 and the real income was that of co-accused Satyendar Kumar Jain.

**67.**It was further submitted that the income tax authorities had rejected the declaration made by applicants/accused Vaibhav Jain and Ankush Jain under the IDS, 2016 on the ground of suppressing material facts and the order of income tax officer

was challenged upto the Hon'ble Supreme Court of India but with no success.

**68.**It was submitted that the amount of Rs.4.81 Crore received as accommodation entries and commission paid to Kolkata based entry operators during the check period is the proceeds of crime which were generated by co-accused Satyendar Kumar Jain while working as a Minister of the Government of Delhi during the period w.e.f. 14.02.2015 till 31.05.2017.

**69.**It was further submitted that applicants/accused Vaibhav Jain and Ankush Jain could not provide their lawful source of income of acquiring such huge accommodation entries to the tune of Rs.4.61 Crore during the check period. Therefore, prima facie case under Section 3 of PMLA is made out against applicants/accused Vaibhav Jain and Ankush Jain for having knowingly assisted co-accused Satyendar Kumar Jain in the concealment of proceeds of crime and for projecting the proceeds of crime to be untainted by filing the false declaration under IDS, 2016 and by buying back the shares in their names and having regard to the twin conditions provided in Section 45 of PMLA, bail applications of applicants/accused Vaibhav Jain and Ankush Jain deserve to be dismissed.

### **Rebuttal Arguments of Ld.Defence Counsel**

**70.**In rebuttal, it was submitted by Ld.Counsel for applicants/accused Vaibhav Jain and Ankush Jain that the contention of Ld.Additional Solicitor General for ED that once cognizance is taken of the offence, then a prima facie offence of money laundering is made out, deserves to be rejected. It was submitted in this regard that if argument of the Ld. Additional

Solicitor General for ED is to be accepted, then in no case after taking cognizance, accused can be discharged. It was submitted that even after taking cognizance, summoning orders have been quashed and even accused have been discharged, which shows that accused can demonstrate that no offence is made out, despite taking of cognizance by the court.

71. It was again reiterated that in the judgment delivered in **Vijay Mandalal Choudhary's case (supra)**, the Hon'ble Supreme Court of India has held that dealing with legal unaccounted income is not money laundering. It was further submitted that in the present case, the accommodation entries do not amount to money laundering as it is a simple case of tax violation. Accordingly, it was reiterated that applicants/accused Vaibhav Jain and Ankush Jain be released on bail.

### **Reasoning**

72. I have considered the rival submissions, have carefully perused the judgments relied upon by respective counsels as well as the statements of various witnesses referred to in the arguments by respective counsels.

73. In order to be entitled for bail under the PMLA, applicants/accused Vaibhav Jain and Ankush Jain have to satisfy that twin conditions mentioned in Section 45 of the PMLA, which have been upheld to be constitutionally valid in the latest judgment of the Hon'ble Supreme Court of India delivered in **Vijay Madanlal Choudhary's case (supra)**, are not an impediment in grant of bail to applicants/accused Vaibhav Jain and Ankush Jain. The twin conditions, which are relevant for grant of bail under the PMLA are that the court has to be satisfied

that applicants/accused Vaibhav Jain and Ankush Jain are not guilty of the offence under the PMLA and they are not likely to commit any offence while on bail. Only when this court is satisfied that twin conditions are not applicable to the case of applicants/accused Vaibhav Jain and Ankush Jain, then a case for bail is made out. Therefore, the material collected by the ED in the present case is required to be evaluated to come to a prima facie finding as to whether applicants/accused Vaibhav Jain and Ankush Jain are guilty of the offence under the PMLA or not and whether they are likely to commit any such offence while on bail or not?

74. The first contention of the Ld. Counsel for applicants/accused Vaibhav Jain and Ankush Jain was that no scheduled offence under Section 13(1)(e) r/w 13(2) PC Act was committed by co-accused Satyendar Kumar Jain, therefore, the question of generation of proceeds of crime or of applicability of PMLA does not arise. It was submitted in this regard that CBI in its charge sheet in para 16.18 has submitted that the assets purchased before the check period were found to be same as at the end of the check period. It was submitted that when there was no change in the assets, no question of any offence is being made out under Section 13(1)(e) of the PC Act.

75. In the opinion of this court, this finding by the CBI in para 16.18 do not show that no assets were acquired during the check period. This finding only pertains to the assets which were purchased before the check period, which remained the same at the end of the check period meaning thereby that the assets which were purchased before the check period were not disposed

of in any manner and they were found to be the same at the end of the check period.

76. Secondly, it was contended that CBI had mis-calculated the disproportionate assets on the basis of 1/3<sup>rd</sup> shareholding of co-accused Satyendar Kumar Jain in three companies i.e. M/s Akinchan Developers Pvt. Ltd., M/s Paryas Infosolutions Pvt. Ltd. and M/s Manglayatan Developers/ Projects Pvt. Ltd., who received accommodation entries during the check period to the tune of Rs.4.61 Crore.

77. It is correct that co-accused Satyendar Kumar Jain never had 1/3<sup>rd</sup> shareholding in aforementioned three companies even as per the charge sheet filed by the ED in the form of complaint where the shareholding of co-accused Satyendar Kumar Jain through his wife has been shown to the tune of 19.06% in M/s. Akinchan Developers Pvt.Ltd., 0.99% in M/s.Paryas Infosolutions Pvt.Ltd. and 22.18% in M/s.Manglayatan Developers/Projects Pvt.Ltd.during 2015-2016. However, in the opinion of this court, shareholding of co-accused Satyendar Kumar Jain in the aforementioned three companies has got no nexus with regard to calculation of the disproportionate assets. The disproportionate assets have to be calculated on the basis of assets which were acquired during the check period beyond the known sources of income of co-accused Satyendar Kumar Jain. It had come in the charge sheet of the CBI that cash for arranging accommodation entries was provided by co-accused Satyendar Kumar Jain and family of co-accused Ajit Prasad Jain and Sunil Kumar Jain. Therefore, these were the three key persons, who had provided cash for obtaining accommodation entries from Kolkata based entry operators in the aforementioned three



companies. What was the exact amount of cash provided by each of these three accused persons, has not been detailed out in the charge sheet for the reason that this fact was in the exclusive knowledge of these three accused persons and they had not provided the details of cash provided by each one of them. Therefore, the calculation of disproportionate assets is required to be done on the basis of dividing the cash paid of Rs.4.61 Crore by three. The cash amount so arrived is the disproportionate assets as no explanation was provided by co-accused Satyendar Kumar Jain regarding the source of such cash and hence, the same was beyond his known source of income. Therefore, although the method of calculation arrived at by CBI by dividing the accommodation entries of Rs.4.61 Crore by three is correct but the reason for dividing the accommodation entry by three on the basis of the shareholding is not correct as co-accused Satyendar Kumar Jain never had any 1/3rd shareholding in aforementioned three companies. Further, co-accused Satyendar Kumar Jain had not explained as to what was his source of income for payment of cash to the Kolkata based entry operators to obtain accommodation entries of Rs.4.61 Crore during the check period. Further, during the check period, co-accused Satyendar Kumar Jain was working as a Government servant i.e. Minister in the Government of Delhi and, therefore, he was prima facie guilty of mis-conduct under Section 13(1)(e) of the PC Act as he had failed to disclose the source of income with regard to cash paid to Kolkata based entry operators to obtain accommodation entries of Rs.4.61 Crore in the aforementioned three companies.

- 78.**The next contention of Ld. Counsel for applicants/accused Vaibhav Jain and Ankush Jain that in the present case, there is no proceeds of crime as the scheduled offence if any, stood committed at the end of the check period i.e. on 31.05.2017 and thereafter, there is no allegation of any accommodation entries received in the aforementioned three companies, deserves to be rejected.
- 79.** The reason for the same is that the check period is taken by the investigating officer only for the purpose of calculation of disproportionate assets. The taking of check period by the investigating officer nowhere reflects that the offence of Section 13(1)(e) of the PC Act was committed, at the end of the check period. As and when during the check period, any asset is acquired by an accused, which is beyond his known source of income, the offence under Section 13(1)(e) of the PC Act is deemed to have been committed. Therefore, proceeds of crime are generated at that very moment when accused/public servant acquires some assets which are beyond his known source of income. In the present case, as and when during the check period, the cash was paid by co-accused Satyendar Kumar Jain to the Kolkata based entry operator, the proceeds of crime stood generated. Accordingly, this contention is rejected. Therefore, there is prima facie material on record to show that scheduled offence under Section 13(1)(e) read with 13(2) PC Act was committed by co-accused Satyendar Kumar Jain.
- 80.**Now, this court has to see as to whether any offence of alleged money laundering has been committed by applicants/accused Vaibhav Jain and Ankush Jain or not?

- 81.** It is not disputed by applicants/accused Vaibhav Jain and Ankush Jain that accommodation entry to the tune of Rs.4.61 Crore has been received during the check period in three companies namely, M/s.Manglayatan Developers/Projects Pvt.Ltd., M/s. Akinchan Developers Pvt.Ltd. and M/s.Paryas Infosolutions Pvt.Ltd. from Kolkata based entry operators against cash. Even otherwise, the said fact is prima facie established on record by the statement of Sh.Jagdish Prasad Mohta, who is the auditor of all the aforementioned three companies and had arranged accommodation entries against cash in the aforementioned three companies and also by statement of Rajender Bansal, who was the Kolkata based entry operator. It is also an admitted case of the ED that co-accused Satyendar Kumar Jain had resigned from the Directorship of aforementioned three companies in 2013 and had even transferred his shareholding in the name of his wife prior to the check period.
- 82.** The contention of the Ld.Counsel for applicants/accused Vaibhav Jain and Ankush Jain that there is no material on record to show that any cash was paid by co-accused Satyendar Kumar Jain to Kolkata based entry operators as entire cash was paid by applicants/accused Ankush Jain and Vaibhav Jain, deserves to be rejected.
- 83.** The reason for the same is that it has come in the statement of Sh.Jagdish Prasad Mohta dated 27.04.2018 at page no.2157 to 2159 (RUD-50), who was the auditor of the aforementioned three companies and known to co-accused Satyendar Kumar Jain since 2002-2003, that it was co-accused Satyendar Kumar Jain, who had approached him in 2010 for the purpose of arranging accommodation entries in cash and whenever accommodation

entries were required, he used to provide the token number to co-accused Satyendar Kumar Jain as given to him by Rajender Bansal, the Kolkata based entry operator and thereafter, the cash was paid directly to Hawala operators in Delhi for transfer to Kolkata. It has further come in his statement that on 2-3 occasions, he had provided token number to co-accused Satyendar Kumar Jain for transferring cash to the Hawala operators. This statement of Sh.Jagdish Prasad Mohta regarding providing of cash by co-accused Satyendar Kumar Jain is duly corroborated by statement of applicant/accused Vaibhav Jain recorded under Section 50 of PMLA on 27.02.2018 at page 2204 (RUD-53) wherein he had stated that cash totalling Rs.16.50 Crore was paid by him, co-accused Sunil Kumar Jain/Ankush Jain and co-accused Satyendar Kumar Jain to the Kolkata based entry operators through Sh.Jagdish Prasad Mohta.

**84.** Another witness whose statement is relevant regarding providing of cash for obtaining accommodation entries is Rajender Bansal. Rajender Bansal was the Kolkata based entry operator, who had provided accommodation entries and he in his statement recorded under Section 50 of PMLA on 04.12.2017 at pages 2435 to 2439 (RUD-55) had stated that on the instructions of Sh.Jagdish Prasad Mohta and co-accused Satyendar Kumar Jain, he had provided accommodation entries to the tune of Rs.17 Crore during the period from 2010-2016. He had further stated that although co-accused Satyendar Kumar Jain never contacted him directly for providing accommodation entries, but on his behalf, Sh.Jagdish Prasad Mohta used to contact and the cash was received through Hawala operators at Kolkata as per instructions of Sh.Jagdish Prasad Mohta and co-accused Satyendar Kumar

Jain. Therefore, the aforementioned statements prima facie establishes on record that cash for obtaining accommodation entries was paid by co-accused Satyendar Kumar Jain and applicants/accused Ankush Jain and Vaibhav Jain. The contention of Ld. Defence counsel for applicants/accused Vaibhav Jain and Ankush Jain that accommodation entries were not provided at the instance of co-accused Satyendar Kumar Jain as it has come in the statement of entry providers i.e. Abhishek Chokhani, Manish Sureka and Jivendra Mishra that they were not known to co-accused Satyendar Kumar Jain and never met him, deserves to be rejected. The reason for the same is that it was never the case of entry providers i.e. Abhishek Chokhani, Manish Sureka and Jivendra Mishra that they had provided accommodation entries at the request of co-accused Satyendar Kumar Jain or his CA Sh. Jagdish Prasad Mohta. Entry providers namely, Abhishek and Jivendra Mishra had stated in their statements under Section 50 of the PMLA that they had arranged for the accommodation entries at the request of Rajender Bansal and entry provider Manish Sureka had stated that he had provided accommodation entries at the request of Abhishek Chokhani. Therefore, these three entry providers had never dealt with co-accused Satyendar Kumar Jain directly and had provided accommodation entries after receiving the cash from Rajender Bansal.

**85.** The contention of Ld. Counsel for applicants/accused Vaibhav Jain and Ankush Jain that during the check period, only applicants/accused Vaibhav Jain and Ankush Jain had asked for the accommodation entries from Sh. Jagdish Prasad Mohta as per his statement dated 14.11.2019 (Question No.8) at page 2169 (RUD-50), therefore, accommodation entries during the check

period cannot be attributed to co-accused Satyendar Kumar Jain, deserves to be rejected.

**86.**The reason for the same is that Sh.Jagdish Prasad Mohta in answer to question no.8 of his statement recorded on 14.11.2019 had stated that on behalf of co-accused Satyendar Kumar Jain, co-accused Sunil Kumar Jain and Vaibhav Jain, any one of them used to have communication with him with regard to obtaining accommodation entries in M/s.Manglayatan Developers/Projects Pvt.Ltd., M/s. Akinchan Developers Pvt.Ltd., M/s.Paryas Infosolutions Pvt.Ltd. and M/s.Indo Metalimpex Pvt.Ltd. and that was final for all three of them and accommodation entries were never asked by any of them separately. Although in his further answer, he had stated that during 2015-2016 i.e. during the check period, only co-accused Sunil Kumar Jain and applicant/accused Vaibhav Jain had asked for arrangement of accommodation entries in the aforementioned companies except M/s.Indo Metalimpex Pvt.Ltd. but that part of the answer itself does not absolve the co-accused Satyendar Kumar Jain from the allegation of arranging accommodation entries against cash during the check period as Sh.Jagdish Prasad Mohta had clarified in his earlier part of the answer that on behalf of co-accused Satyendar Kumar Jain, co-accused Sunil Kumar Jain and applicant/accused Vaibhav Jain, any one of them used to communicate with him for the purpose of arranging accommodation entries and the same was binding on all three of them. Therefore, even if only co-accused Sunil Kumar Jain and applicant/accused Vaibhav Jain had communicated with Sh.Jagdish Prasad Mohta during the check period for arranging accommodation entries, it was done on behalf of co-accused

Satyendar Kumar Jain too. Therefore, this answer is of no help to the case of the applicants/accused that it was them, who had only asked for accommodation entry during the check period.

**87.**The next contention of the Ld Counsel for applicants/accused Vaibhav Jain and Ankush Jain for grant of bail was that even assuming that co-accused Satyendar Kumar Jain had arranged accommodation entries during the check period, then also as per his admitted shareholding of 19.06% in M/s. Akinchan Developers Pvt.Ltd., 1.50% in M/s.Paryas Infosolutions Pvt.Ltd. and 10.43% in M/s.Manglayatan Developers/Projects Pvt.Ltd., the share of accommodation entries comes to Rs.59,32,122/-. It was further submitted that taking into account the said figure, applicants/accused Vaibhav Jain and Ankush Jain deserve to be released on bail as per proviso to Section 45 of the PMLA as the allegation of money laundering is less than Rs.1 Crore.

**88.**The said contention of Ld.Defence Counsel also deserves to be rejected. The reason for the same is that shareholding in a company is relevant only for the purpose of calculating the dividend or the share of a particular shareholder in the profit/loss in the company.

**89.**In the present case, all the aforementioned three companies were not doing any business and was not having any income from any business. The amount which had come into the account of aforementioned three companies from the Kolkata based entry operators against the sale of shares was in fact the cash which was provided by the co-accused Satyendar Kumar jain and applicants/accused Ankush Jain and Vaibhav Jain. Therefore, the amount which had come into the account of aforementioned three companies was not the income of said companies, which



was required to be distributed as per shareholding of co-accused Satyendar Kumar Jain. The shareholding of co-accused Satyendar Kumar Jain in the companies would have been relevant if the companies had earned income through legitimate means. The accounts of these three companies was only used for parking of the personal funds of co-accused Satyendar Kumar Jain and applicants/accused Ankush Jain and Vaibhav Jain. Hence, shareholding is not the correct way to calculate proceeds of crime. In the opinion of this court, “proceeds of crime” was the amount which was generated by co-accused Satyendar Kumar Jain while working as a Minister in the Government of Delhi, for which he could not satisfactorily account for. Although there is no material on record to show as to how much cash was paid individually by co-accused Satyendar Kumar Jain and applicants/accused Vaibhav Jain and Ankush Jain to the Kolkata based entry operators but having regard to the fact that this fact was in the exclusive knowledge of co-accused Satyendar Kumar Jain and applicants/accused Vaibhav Jain and Ankush Jain and since they have not been forthcoming in their statements regarding the share of cash given by them, therefore, whatever amount of cash was given to the Kolkata based entry operators has to be divided equally between co-accused Satyendar Kumar Jain and applicants/accused Vaibhav Jain and Ankush Jain.

**90.** Since three persons had given the cash to the Kolkata based entry operators, therefore, accommodation entries to the tune of Rs.4.61 Crore has to be divided by three and the amount so arrived is Rs.1.54 Crore, which is beyond the threshold limit of Rs.1 Crore as provided in Section 45 of PMLA and hence,



applicants/accused Vaibhav Jain and Ankush Jain are not entitled for bail as per proviso to Section 45 of PMLA.

91. The other contention of Ld. Defence Counsel was that the entire cash amount paid by applicants/accused Vaibhav Jain and Ankush Jain was generated from their legal business and the process of obtaining accommodation entries against said cash does not fall within the purview of money laundering as it is a mere tax violation as held by the Hon'ble Supreme Court of India in para 31 of the judgment delivered in **Vijay Madanlal Choudhary's case (supra)**. Accordingly, he had made a prayer for grant of bail on this ground.
92. The said argument deserves to be rejected as in para nos. 83 and 84, I have already come to a prima facie finding that cash for obtaining accommodation entries was not only provided by applicants/accused Vaibhav Jain and Ankush Jain but also by co-accused Satyendar Kumar Jain as made out from the statements of Sh.Jagdish Prasad Mohta, Rajender Bansal and applicant/accused Vaibhav Jain.
93. The cash which was provided by co-accused Satyendar Kumar Jain was a proceed of crime as it was generated by committing a scheduled offence under Section 13(1)(e) of PC Act. Therefore, it cannot be said that cash provided by co-accused Satyendar Kumar Jain was generated by legal means and hence, obtaining accommodation entries with regard to same was a mere tax violation. The act of concealing the said proceeds of crime by co-accused Satyendar Kumar Jain and applicants/accused Vaibhav Jain and Ankush Jain by bringing the amount back into the aforementioned three companies through Kolkata based entry operators and thereafter, buying back the shares from Kolkata

based entry operators, in the name of applicants/accused Vaibhav Jain and Ankush Jain, is nothing but money laundering as per Section 3 of the PMLA.

**94.** Money laundering is an illegal process by which proceeds of crime generated by committing criminal offence are layered in such a way by a complex web of transactions that it is difficult to find out the source of ill-gotten money and the proceeds of crime are integrated into the economy in such a manner to show that the money has come from a legitimate source. Co-accused Satyendar Kumar Jain and applicants/accused Vaibhav Jain and Ankush Jain have used the process of sending the proceeds of crime in the form of cash to Kolkata based entry operators and thereafter, had obtained accommodation entries in the aforementioned companies against the sale of shares and thereafter, bought the shares back without any consideration, shows that the said process was adopted to conceal the source of cash generated by co-accused Satyendar Kumar Jain by committing the offence under Section 13(1)(e) of the PC Act. Therefore, prima facie offence of money laundering is made out.

**95.** The very fact that applicants/accused Vaibhav Jain and Ankush Jain had declared entire accommodation entries of Rs.16.50 Crore including Rs.4.61 Crore received during the check period as their own unaccounted income was also done with a view to show that the entire unaccounted income is untainted and belongs to them. However, the material which has come on record shows that the declaration made by applicants/accused Vaibhav Jain and Ankush Jain under the IDS, 2016 on 27.09.2016 was not a true disclosure as co-accused Satyendar Kumar Jain had also provided cash during the check period,

which is prima facie established from the statement of Sh.Jagdish Prasad Mohta, Rajender Bansal and applicant/accused Vaibhav Jain.

**96.** Even the said declaration was not accepted by the income tax authorities as it was based upon suppression of information and mis-representation of facts and accordingly, vide order dated 09.06.2017, the Chief Commissioner of Income Tax, New Delhi rejected the declaration of both applicants/accused Vaibhav Jain and Ankush Jain made under the IDS, 2016. The said order was challenged by applicants/accused Ankush Jain and Vaibhav Jain by filing W.P. (C) 6541/2017 and W.P.(C) 6543/2017 before the Hon'ble High Court of Delhi. However, both the aforementioned writ petitions were dismissed vide order dated 21.08.2019 by the Hon'ble High Court of Delhi. Thereafter, both applicants/accused Vaibhav Jain and Ankush Jain had approached the Hon'ble Supreme Court of India but appeal against the order of the Hon'ble High Court of Delhi was also dismissed on 29.11.2019. Therefore, there exists no declaration under the IDS, 2016 that the entire undisclosed income of Rs.16.50 Crore by way of accommodation entries is the unaccounted income of applicants/accused Vaibhav Jain and Ankush Jain.

**97.** Yet another reason to show that the entire amount of Rs.16.50 Crore, which includes Rs.4.61 Crore received as accommodation entry during the check period is not that of applicants/accused Vaibhav Jain and Ankush Jain, is the fact that accommodation entries have been taken by applicants/accused Vaibhav Jain and Ankush Jain in four companies namely, M/s.Manglayatan Developers/Projects Pvt.Ltd., M/s. Akinchan Developers

Pvt.Ltd., M/s.Paryas Infosolutions Pvt.Ltd. and M/s.Indo Metalimpex Pvt.Ltd. where apart from applicants/accused Vaibhav Jain and Ankush Jain, even co-accused Satyendar Kumar Jain was the shareholder through his wife.

**98.**A specific question was put to co-accused Sunil Kumar Jain and applicant/accused Ankush Jain in their statements under Section 50 of PMLA that if the entire amount of accommodation entries was provided by them, then why they had obtained accommodation entries in those companies where co-accused Satyendar Kumar Jain and his family members were also the shareholders. Both applicant/accused Ankush Jain and co-accused Sunil Kumar Jain had refused to answer this question even though co-accused Sunil Kumar Jain had admitted in his statement recorded on 01.03.2018 (RUD-66) that all the shareholders including co-accused Satyendar Kumar Jain and his family would have got the benefit of accommodation entries. The refusal of answer to the aforesaid question by co-accused Sunil Kumar Jain and applicant/accused Ankush Jain makes this court raise an adverse inference against them that had they answered this question, then it would not have been favourable to their defence that the entire cash given for accommodation entries belonged to them.

**99.**Further, it is an admitted fact that applicants/accused Ankush Jain and Vaibhav Jain were having their separate family owned companies namely M/s.Ajit Traders, M/s. Veera Fragrance and M/s.Ankush Fragrances. Therefore, it is not believable that any reasonable and a prudent man would bring his unaccounted income into the aforementioned four companies where the share

capital increased by way of accommodation entries would have been shared by all the shareholders.

**100.** The very fact that the amount brought in the aforementioned four companies was required to be shared by all the shareholders including co-accused Satyendar Kumar Jain and his family shows that entire amount paid in cash for accommodation entries was not that of applicants/accused Vaibhav Jain and Ankush Jain but was also of co-accused Satyendar Kumar Jain.

**101.** It has also come in the statement of Sh.Jagdish Prasad Mohta that on the request of applicants/accused Vaibhav Jain and Ankush Jain, they were made Directors in M/s.Manglayatan Developers/Projects Pvt.Ltd., M/s. Akinchan Developers Pvt.Ltd., M/s.Paryas Infosolutions Pvt.Ltd. and M/s.Indo Metalimpex Pvt.Ltd. from January, 2016 and the said back dating was done in October, 2016 and Sh.Jagdish Prasad Mohta had also provided an explanation as to why these back dating documents was done to show applicants/accused Vaibhav Jain and Ankush Jain as Directors. Sh. Jagdish Prasad Mohta had explained that to the best of his knowledge, said back dating in the documents was done to support the income declaration made by applicants/accused Vaibhav Jain and Ankush Jain under IDS, 2016 wherein they had shown accommodation entries received to the tune of Rs.16.50 Crore in the aforementioned four companies. The said statement of Sh.Jagdish Prasad Mohta has been duly corroborated by applicant/accused Vaibhav Jain, who in his statement dated 30.06.2022 at page 2263 (RUD-53) admitted that he had requested Sh.Jagdish Prasad Mohta to appoint him a Director in three companies from the back date.

**102.** In the opinion of this court, the said back dating in the documents was got done by applicants/accused Vaibhav Jain and Ankush Jain to support the fact that the entire amount was paid by them and they had brought back the money into the aforementioned companies wherein they were Directors with a motive to conceal the proceeds of crime of co-accused Satyendar Kumar Jain. There was no reason for applicants/accused Vaibhav Jain and Ankush Jain to have declared accommodation entries with regard to four companies where co-accused Satyendar Kumar Jain and his family were shareholders if the entire amount belonged to them. Applicants/accused Vaibhav Jain and Ankush Jain could have obtained accommodation entries in their own companies by the names of M/s.Ajit Traders, M/s.Veera Fragrances and M/s. Ankush Fragrances if the entire amount belonged to them. The very fact that the amount was brought into these four companies was done with the motive to ensure that share/ interest of co-accused Satyendar Kumar Jain by way of accommodation entries is protected indirectly.

**103.** The other contention of Ld.Counsel for applicants/accused Vaibhav Jain and Ankush Jain that since no benefit had accrued to co-accused Satyendar Kumar Jain as money has been transferred into the accounts of the aforementioned three companies, wherein co-accused Satyendar Kumar Jain is neither a Director nor a shareholder during the check period and even the shares were bought back in their names, therefore, no offence of money laundering is made out, deserves to be rejected.

**104.** The reason for the same is that shareholding in a company or accused being Director in the company has got no nexus to the offence of money laundering. An accused can be guilty of the

offence of money laundering if it is shown that any property which is acquired by any person including a company is the result of proceeds of crime. For example, if **A** by committing scheduled offence generates proceeds of crime to the tune of Rs.2 Crore and the same is transferred through Hawala channel into the account of Company owned by his friend **B**, where in the said company of **B**, **A** is neither a Director or a shareholder, **A** is still liable for the offence of money laundering as he is indirectly enjoying the proceeds of crime by concealing it to be the income of the company of **B**. Therefore, co-accused Satyendar Kumar Jain being not a Director or a shareholder in the aforementioned three companies or not getting any benefit in the form of shares, is of no consequence as the part source of funds which had come in the account of these three companies was in fact proceeds of crime generated by committing offence under Section 13(1)(e) of the PC Act and co-accused Satyendar Kumar Jain was indirectly enjoying the same through applicants/accused Vaibhav Jain and Ankush Jain in whose names shares were bought back without any consideration. **I am supported in my reasoning by Explanation (ii) of Section 3 of PMLA** wherein it is provided that an accused can indirectly enjoy the proceeds of crime by way of concealment or it being claimed as untainted property in any manner.

**105.** The Ld.Defence Counsel had also relied upon the MOU dated 28.03.2010 entered into between co-accused Satyendar Kumar Jain and co-accused Sunil Kumar Jain and Ajit Prasad Jain to show that entire investment was required to be made by co-accused Sunil Kumar Jain and Ajit Prasad Jain and the role of co-accused Satyendar Kumar Jain was to identify the agricultural



land for purchase and to provide his services as an Architect. This MOU dated 28.03.2010 is also of no help to the case of applicants/accused Vaibhav Jain and Ankush Jain as it has come in the statement of co-accused Satyendar Kumar Jain recorded under Section 50 of PMLA that the said document was never filed before the Registrar of Companies and even Sh.Jagdish Prasad Mohta in his statement recorded on 14.11.2019 at page 2167 (RUD-50) had stated that being the auditor of the company, he had never seen the MOU dated 28.03.2010. Therefore, applicants/accused Vaibhav Jain and Ankush Jain cannot take any benefit of the said MOU dated 28.03.2010 to show that the entire cash was paid by them. Even otherwise, the said MOU dated 28.03.2010 talks about investment to be made by co-accused Ajit Prasad Jain and Sunil Kumar Jain in the three companies for the purpose of acquiring 50 acres of land. However, as discussed hereinabove these three companies were not doing any business whereby they could have earned profit to buy land in Delhi and the only source of income of these companies was through accommodation entries on the basis of cash provided by co-accused Satyendar Kumar Jain and applicants/accused Vaibhav Jain and Ankush Jain. Therefore, this MOU dated 28.03.2010 was prima facie a sham document which was never acted upon by the parties and was brought on record just to conceal the proceeds of crime.

**106.** The other contention of Ld.Counsel for applicants/accused Vaibhav Jain and Ankush Jain was that there can be no offence of money laundering on notional basis/ assumption. In this regard, Ld. Defence Counsel has relied upon para 33 of the judgment of



the Hon'ble Supreme Court of India delivered in **Vijay Madanlal Chowdhary's case (supra)**.

**107.** The said contention of Ld.counsel for applicants/accused Vaibhav Jain and Ankush Jain deserves to be rejected. The reason for the same is that in the present case, proceeds of crime is not notional or assumptive as it has been generated pursuant to the commission of scheduled offence under Section 13(1)(e) of the PC Act.

**108.** In the opinion of this court, the money which had come into the account of three companies during the check period was not the income of the companies arising from any lawful business but in reality the same was the accommodation entries obtained by co-accused Satyendar Kumar Jain and applicants/accused Vaibhav Jain and Ankush Jain by providing cash to the Kolkata based entry operators. The amount lying in the accounts of these three companies was in fact the amount belonging to co-accused Satyendar Kumar Jain and applicants/accused Vaibhav Jain and Ankush Jain. The cash which was provided by co-accused Satyendar Kumar Jain and applicants/accused Vaibhav Jain and Ankush Jain was to the tune of Rs.4.61 Crore during the check period. The amount of Rs.4.61 Crore is not notional or assumptive but has been established on record by the statement of Sh.Jagdish Prasad Mohta and Rajender Bansal, who was the Kolkata based entry operator. The process adopted by co-accused Satyendar Kumar Jain and applicants/accused Vaibhav Jain and Ankush Jain whereby proceeds of crime and unaccounted cash was converted into the income of the companies and shares of applicants/accused Vaibhav Jain and Ankush Jain was the process or the activity

done with an intention of concealment of proceeds of crime and to show that the shares bought back by applicants/accused Vaibhav Jain and Ankush Jain or that the money received in three companies, was untainted. Therefore, prima facie this activity falls within the four corners of offence of money laundering as defined in Section 3 of PMLA.

**109.** The other contention of the Ld. Counsel for applicants/accused Vaibhav Jain and Ankush Jain that declaration made by applicants/accused Ankush Jain and Vaibhav Jain under IDS, 2016 is required to be considered as the basis for passing of order by the Income Tax Commissioner dated 09.06.2017 by referring to the proceedings under the Benami Property Transactions Act, 1988, already stands quashed by the Hon'ble High Court of Delhi in W.P. (C) 5158/2017 filed by co-accused Satyendar Kumar Jain vide order dated 10.10.2022 .

**110.** The said contention of Ld. Counsel deserves to be rejected. Although it is true that proceedings under the Benami Property Transactions Act, 1988 (amended in 2016) stand quashed by the Hon'ble High Court of Delhi in W.P. (C) 5158/2017 vide its order dated 10.10.2022 but the order dated 09.06.2017 of the Chief Commissioner of Income Tax, New Delhi declaring the declaration under IDS, 2016 to be invalid, has not been set aside till date. On the contrary, the said order stands affirmed by the Hon'ble Supreme Court of India. Even otherwise, the proceedings under the Benami Property Transactions Act, 1988 and under the Income Tax Act, 1961 are separate proceedings. Further, apart from relying upon the proceedings of the Initiating Officer, Benami Property Transactions Act, 1988, the Chief Commissioner of Income Tax, New Delhi had also given his own

finding that there has been suppression of information by applicants/accused Ankush Jain and Vaibhav Jain by suppressing the names of the persons in whose names, shares were held. Even otherwise, there is material on record to show that income declared under the IDS, 2016 by applicants/accused Vaibhav Jain and Ankush Jain was not their own income and part of the income was also that of co-accused Satyendar Kumar Jain in the form of proceeds of crime, which has been prima facie established on record from the statement of Sh.Jagdish Prasad Mohta, Rajender Bansal and applicant/accused Vaibhav Jain.

- 111.** In the light of aforesaid discussion, it has prima facie come on record that applicants/accused Vaibhav Jain and Ankush Jain knowingly assisted co-accused Satyendar Kumar Jain in the concealment of proceeds of crime and by projecting the proceeds of crime to be untainted by claiming the proceeds of crime to be their unaccounted income under IDS, 2016 and hence, are prima facie guilty of the offence of money laundering as defined in Section 3 of the PMLA. Further, the offence of money laundering is a serious economic offence and the view of the Hon'ble Supreme Court of India with regard to economic offences is that they constitute a class apart and need to be visited with a different approach in the matter of bail. The Hon'ble Supreme Court of India has held that "the economic offences have deep rooted conspiracies and involve huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country." [**Reliance is made in this regard to the judgment of the Hon'ble Supreme Court of India delivered in Nimmagadda Prasad's case**

**(supra) and Rohit Tandon's case (supra)].** Hence, applicants/accused Vaibhav Jain and Ankush Jain are not entitled to the benefit of bail having regard to the twin conditions provided in Section 45 of the PMLA. Hence, applications of applicants/accused Vaibhav Jain and Ankush Jain are dismissed.

**112.** Nothing stated hereinabove shall tantamount to an expression of opinion on the merits of the case.

**Announced in the open court**

**Dated: 17.11.2022**

**(Vikas Dhull)**  
**Special Judge (PC Act) (CBI)-23**  
**(MPs/MLAs Cases) RADC**  
**New Delhi**