REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

HEMANT SOREN V. DIRECTORATE OF ENFORCEMENT (2024)

BENCH: Mr. Justice Sanjiv Khanna & Mr. Justice Dipankar Datta **DECIDED:** June 28, 2024

RATIO DECIDENDI & PRECEDENTIAL CRUX:
Bail under Section 45 PMLA granted where material on record does not prima facie demonstrate direct connection with alleged proceeds of crime.

1. Factual Matrix & Background:

The appellant was arrested by the Enforcement Directorate in an alleged land grab money laundering case. The ED contended that third-party statements under Section 50 PMLA established his indirect acquisition of land. The appellant sought regular bail under Section 45 PMLA.

2. Substantive Legal Questions Framed:

Whether statements recorded under Section 50 PMLA in the absence of registered title documents or direct financial trails satisfy the threshold of Section 45 PMLA to deny bail.

3. Analysis & Ratio Decidendi:

The Court held that to deny bail under Section 45 PMLA, the ED must place concrete material demonstrating that the accused was in actual possession or concealment of proceeds of crime. Mere oral statements by third parties without corroborating property deeds, financial records, or possession do not justify pre-trial detention, entitling the applicant to regular bail.

4. Principles Enunciated:

- 1. Section 45 twin conditions require objective evaluation of documentary evidence.
- 2. Oral Section 50 statements without corroborating financial trails are insufficient.
- 3. Pre-trial incarceration cannot be used as an investigatory detention mechanism.

5. Practical Litigation Implications:

- Highlight absence of bank flows, lack of registered land deeds, and absence of physical control over alleged proceeds of crime to satisfy the Section 45 reasonable grounds test.

.....J.
[SUPREME COURT BENCH]

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