

The Deputy Director vs Shri Ramees K T on 21 May, 2025

Author: V.G.Arun

Bench: V.G.Arun

Crl.M.C.No.9728/23

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2025:KER:35485

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

WEDNESDAY, THE 21ST DAY OF MAY 2025 / 31ST VAISAKHA, 1947

CRL.MC NO. 9728 OF 2023

CRIME NO.ECIR/KCZ0/31/20/2020 OF ENFORCEMENT DIRECTORATE

KOCHI, Ernakulam

AGAINST THE ORDER/JUDGMENT DATED 09.06.2023 IN CRMP
NO.1841 OF 2023 OF DISTRICT COURT & SESSIONS COURT,
ERNAKULAM

PETITIONER:

THE DEPUTY DIRECTOR,
DIRECTORATE OF ENFORCEMENT, COCHIN ZONAL OFFICE,
GOVERNMENT OF INDIA, KANOOS CASTLE, A.K. SESHADRI
ROAD, COCHIN, PIN - 682011

BY ADV JAISHANKAR V.NAIR

RESPONDENTS

SHRI RAMEES K T,
AGED 34 YEARS
(ACCUSED NO.5), S/O ABDUL SATHAR, KANNAMTHODI,
THEKKEKALATHIL HOUSE, VETTATHUR P.O.,
PERINTHALMANNA, MALAPPURAM, PIN - 679322

Crl.M.C.No.9728/23

2025:KER:35485

BY ADVS.
BALAMURALI K.P.
MANU TOM
SHAJI T.M.
RENIL IQUBAL K.

OTHER PRESENT:

SRI. JAISHANKAR. V. NAIR, SC FOR ED.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 29.01.2025, THE COURT ON 21.05.2025 PASSED THE
FOLLOWING:
Crl.M.C.No.9728/23

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V.G.ARUN, J
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Crl.M.C.No.9728 of 2023
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Dated this the 21st day of May, 2025

ORDER

The Directorate of Enforcement is aggrieved by Annexure A6 order granting bail to the respondent, the 5 th accused in S.C.No.610 of 2020 on the files of the Sessions Court, Ernakulam. The essential facts are as under;

On 06.07.2020, the Customs Preventive Commissionerate, Cochin registered O.R.No.7 of 2020 alleging that certain persons had attempted to smuggle 30kgs of 24 carat gold worth Rs.14,82,00,000/- branded as Diplomatic Cargo through Trivandrum International Airport. Considering the magnitude of the crime, the National Investigation Agency registered a case for

offences under Sections 16, 17 and 18 of the Unlawful 2025:KER:35485 Activities (Prevention) Act, 1967 ('the UAPA' for short). The offences under Sections 16, 17 and 18 of the UAPA being scheduled offences under the Prevention of Money Laundering Act (PMLA for short), the Directorate of Enforcement registered ECIR/KCZO/31/2020 for offences under Sections 3 and 4 of the PMLA. In the initial complaint filed by the Enforcement Directorate, 4 persons were arrayed as accused. Further investigation revealed that the respondent was also associated with the smuggling activities and had coordinated all actions, from acquisition of the gold up to its delivery to local dealers. The respondent was thereupon arrayed as the 5th accused and arrested on 05.04.2023. Prior to that, the respondent had been in custody from 13.07.2020 to 23.11.2021 in the Customs and NIA cases pertaining to the same incident. The respondent's application for bail in the PMLA case was dismissed as per Annexure A3 order. He later moved another application for bail, which the learned Sessions Judge allowed as per Annexure A6 order. Hence, this CrI.M.C. 2025:KER:35485

2. Learned Standing Counsel for the Enforcement Directorate submitted that the respondent is the kingpin of the smuggling conducted through diplomatic channel and had arranged the entire activity right from shipping the cargo till delivery of the same to local sellers. In fact, it was the respondent who had recruited and collated the gang for smuggling activities. Investigation had revealed the respondent's involvement in smuggling of gold via diplomatic channel to investors on multiple occasions. It is contended that the first application for bail having been rejected by Annexure A3 order, the Sessions Court committed an illegality by allowing the second application. According to the standing counsel, the impugned order is passed without considering the rigour of Section 45 of the PMLA. As held by the Apex Court in *Vijay Madanlal Choudhary and Others v. Union of India and Others* [2022 SCC OnLine SC 929], the underlying principles and rigours of Section 45 of the PMLA must come into play 2025:KER:35485 without exception for upholding the objectives of the Act, which is a special legislation providing for stringent regulatory measures to combat the menace of money laundering. Being so, bail cannot be granted unless and until the court is satisfied that there are reasonable grounds to believe that the accused is not guilty of the offence alleged and is not likely to commit any offence while on bail. In the respondent's case, there is clear proof that he is guilty of the offence and it cannot be assumed that he is not likely to commit any offence while on bail. Referring to the decision in *Union of India v. Kanhaiya Prasad* [2025 SCC OnLine SC 306], it is pointed out that the Supreme Court has frowned upon the casual and cavalier manner in which bail was granted to an accused in a PMLA case, despite the rigour of Section 45 of the Act.

3. Learned counsel for the respondent contended that the well reasoned order of the Sessions Judge warrants no interference at this distant point of time. According to the counsel, Section 45 is not an absolute embargo against 2025:KER:35485 granting bail to the accused in PMLA cases. In granting bail to the respondent the court below was prompted by the fact that accused Nos.1 to 3, against whom similar allegations are raised, had been granted bail. The fact that the 4th accused was granted bail by the High Court after considering the rigour of Section 45 of PMLA and the investigation is over was also taken into consideration. Moreover, the stringent conditions imposed while granting bail have been scrupulously complied with by the respondent till date.

4. It is beyond cavil that before granting bail, the court should arrive at the satisfaction of there being reasonable grounds to believe that the accused is not guilty of the alleged offence and is not likely to commit any offence while on bail. It is true that in Annexure A3 order, there is an observation to the effect that the respondent had an active role in the smuggling of gold to the country. Even if so, the fact that the other accused, facing prosecution for the same offences, were granted bail cannot be overlooked. More importantly, 2025:KER:35485 investigation in the case being complete, no purpose is served by the respondent's incarceration. Indisputably, the conditions imposed by the court while granting bail to the respondent are being complied with. Taking all the above factors into consideration, I find the scale to be tilting in favour of respondent's liberty despite the rigour of Section 45, bail being the rule and jail, the exception.

For the aforementioned reasons, the Crl.M.C is dismissed.

sd/-

V.G.ARUN, JUDGE sj 2025:KER:35485 PETITIONER ANNEXURES Annexure A1 A TRUE COPY OF THE ARREST ORDER DATED 05.04.2023 Annexure A2 TRUE COPY OF THE GROUNDS OF ARREST COMMUNICATED TO RESPONDENT/ACCUSED NO.5 AnnexureA3 A TRUE COPY OF THE ORDER IN CRL MP NO.

1441/2023 DATED 29.04.2023 OF THE SESSIONS COURT, ERNAKULAM Annexure A4 TRUE COPY OF THE BAIL APPLICATION NUMBERED AS CR.M.P NO. 1841/2023 IN SC Annexure A5 A TRUE COPY OF THE OBJECTIONS FILED BY THE DIRECTORATE OF ENFORCEMENT Annexure A6 A TRUE COPY OF THE ORDER OF THE HON'BLE SESSIONS COURT IN SPECIAL COURT AS CRL.

M.P. NO.1841 OF 2023 DATED 09.06.2023