

IN THE COURT OF ADDL. SESSIONS JUDGE,
THE DESIGNATED SPECIAL COURT UNDER PMLA,
CITY SESSIONS COURT, MUMBAI,
REMAND APPLICATION NO OF 2020

IN

ECIR/MBZO-I/03/2020

DIRECTORATE OF ENFORCEMENT,
THROUGH THE ASSISTANT DIRECTOR,
ZONAL OFFICE - I, KAISER-I-HIND BUILDING
BALLARD ESTATE, FORT, MUMBAI
MUMBAI - 400 001.

... APPLICANT

Vs.

Sh. Rana Kapoor
S/o Late Raj Kishore Kapoor
Aged about 62 years
R/o 27 Samudra Mahal
Dr. Annie Besant Road, Worli,
Mumbai 400018

..... Accused

Arrest date and time - 08.03.2020 at about 04.00 Hours

**APPLICATION UNDER SECTION 65 OF PMLA, 2002 READ
WITH SECTION 167(2) OF Cr.P.C. FOR FURTHER CUSTODY OF
THE ACCUSED ABOVENAMED TO THE APPLICANT FOR
PURPOSE OF INVESTIGATION UNDER THE PROVISIONS OF
THE PREVENTION OF MONEY LAUNDERING ACT, 2002 IN
ECIR/MBZO-I/03/2020 DATED 07.03.2020**

Most humbly submitted -

1. That the applicant, Sh. Rajiv Kumar, is presently working as Assistant Director, Directorate of Enforcement, Ministry of Finance, Department of Revenue, Government of India, Zonal Office-I, Mumbai, having its office 04th floor, Kaiser-I-Hind Building, Currimbhoy Road, Ballard Estate, Mumbai - 400 001 and is competent to make this application.
2. That the Directorate of Enforcement, Ministry of Finance, Department of Revenue, Government of India, is a statutory Investigating Agency, established by the Government of India and is

the only Agency/Department entrusted and empowered to investigate the cases of money-laundering as defined under section 3, punishable u/s 4 of the Prevention of Money Laundering Act, 2002.

3. It is humbly submitted that the abovesaid accused Sh. Rana Kapoor was arrested by the applicant u/s 19 of the PMLA, 2002 in accordance with the law under the reasonable belief that he is guilty of the offence of money laundering as defined u/s 3 of the PMLA. He was arrested by the applicant on 08.03.2020 at about 0400 hours. He was produced before the Hon'ble Holiday Court, City Civil Court, Mumbai on 08.03.2020 and the Hon'ble Court was pleased to send the said accused to ED Custody till today i.e. 11.03.2020 in the interest of ongoing investigation under PMLA, 2002. It may be pertinent to mention here that Sh. Rana Kapoor has refused to give his acknowledgment on the arrest memo and accordingly, at the time of his arrest, a Panchnama was made.
4. The background of the case including arrest of the said accused was placed before Hon'ble Court in the Remand Application filed on 08.03.2020 which may be kindly referred to and read in the context of the present application in order to appreciate the facts and circumstances of this case. However, the same is being reproduced herein for immediate reference of the Hon'ble Court:
 - i. It is submitted that during the course of investigation in another ECIR/MBZO-I/02/2020 being investigated by this Directorate against M/s Deewan Housing Finance Limited (DHFL) & Ors., it was found that M/s Yes Bank had subscribed to debentures issued by DHFL worth Rs. 3,700/- crores during the period April to June, 2018. It was further noticed that simultaneously, DHFL had sanctioned a loan of Rs. 600 crores to M/s DOIT Urban Ventures Limited (DOIT), a family enterprise of Sh. Rana Kapoor. The said transactions appearing to be suspicious in nature, searches u/s 17 of PMLA, 2002 were conducted at the residential premises of Shri Rana Kapoor at about 23.00 hours on 06.03.2020 in connection with the said transactions and further investigation is ongoing in this regard.
 - ii. During the course of investigation, it has come to light that CBI/EO-I, New Delhi, vide FIR No. RC 219 2020 E0004 dated 07.03.2020, registered a case against DHFL, M/s DOIT Urban

Ventures (India) Limited, Shri Rana Kapoor, the then Promoter Director and CEO of M/s Yes Bank Ltd, Shri Kapil Wadhwan, Promoter Director of M/s Dewan Housing Finance Limited &Ors. Under Sections 120B r/w 420 of IPC & Section 7, 12 & 13 of Prevention of Corruption Act, 1988.

- iii. As per the said FIR, Shri Rana Kapoor entered into a criminal conspiracy with Shri Kapil Wadhawan, Promoter Director of M/s DHFL and others for extending financial assistance to M/s DHFL by Yes Bank Limited in lieu of substantial undue benefit to himself and his family members through the companies held by them. During April to June, 2018, M/s Yes Bank Limited invested Rs. 3700 cr. in the short term debentures of M/s DHFL. Simultaneously, Shri Kapil Wadhawan paid a kickback of Rs. 600 crores to Shri Rana Kapoor and his family members in the garb of loan of Rs. 600 crores given by M/s DHFL to M/s DOIT Urban Ventures (India) Pvt. Ltd. (A Rana Kapoor Group Company).
- iv. Furthermore, it was found that the daughters of Shri Rana Kapoor namely Ms. Roshini Kapoor, Ms. Radha Kapoor Khanna and Ms. Raakhee Kapoor Tandon are 100% shareholders of M/s DOIT Urban Ventures (India) Pvt. Ltd. through M/s Morgan Credits Pvt. Ltd. The loan of Rs. 600 crores was sanctioned by M/s DHFL to M/s DOIT Urban Ventures (India) Pvt. Ltd. on the basis of mortgage of sub-standard properties having very meagre value and by considering its future conversion from agriculture land to residential land.
- v. It was further found that M/s DHFL had not redeemed the amount of Rs. 3,700 crores invested by M/s Yes Bank in its debentures till date. In addition to the above, M/s Yes Bank Ltd, also sanctioned a loan of Rs. 750 crores to M/s RKW Developers Pvt. Ltd. (Director- Shri Dheeraj Wadhawan) which is a DHFL group company for their Bandra Reclamation Project, Mumbai and the whole amount was siphoned off by Shri Kapil Wadhawan since the entire amount was transferred by M/s RKW Developers Pvt. Ltd. to M/s DHFL without making investment in Bandra Reclamation Project for which the loan was sanctioned.

- vi. Thus, Shri Rana Kapoor obtained undue pecuniary advantage from M/s DHFL in the matter of investment in the debentures of M/s DHFL by M/s Yes Bank, through the companies held by his wife and daughters. It is also apprehended that Shri Rana Kapoor has similarly misused his official position in several other transactions and obtained illegal kickbacks directly or indirectly through entities controlled by him or his family members.
- vii. That as the offences mentioned in the CBI FIR are scheduled offences under the PMLA, 2002, a new ECIR bearing ECIR/MBZO-1/03/2020 was recorded on 07.03.2020 against the said accused person & entities on the basis of the said FIR and investigation under the provisions of the PMLA, 2002 has been initiated.
- viii. That during the course of investigation, statement of various persons were recorded under Section 50 (2) & (3) of the PMLA wherein it was revealed that M/s DHFL had sanctioned and disbursed loan of Rs. 600 crores to M/s DOIT Urban Ventures (India) Pvt. Ltd. (DUVPL) in the year 2018 for repayment of earlier loan of Rs. 300 crores and rest for general corporate purpose; that against that loan, five properties were given as collateral by DUVPL; that DHFL arrived at the valuation of these properties on the basis of future development potential as per the instructions of Sh. Kapil Wadhawan, CMD of DHFL at Rs. 735 crores whereas the acquisition cost/purchase cost of these properties was only Rs. 39.66 crores; that the valuation of lands was done on the basis of assumption that these lands would be converted from agricultural to residential by obtaining approval from local authorities and thereafter, utilized in construction and eco-tourism activity; that as of now, there is no change in status of the lands/plots namely 7.79 acres of land at Alibaug and 91.63 acres at Raigad and therefore, their collectively assessed value of Rs. 485 crores by DHFL would have been obtained only after conversion of land use and development thereafter. Therefore, the claimed value of these properties is highly inflated. Ms. Rakhee Kapoor Tandon, Ms. Roshini Kapoor and Ms. Radha Kapoor Khanna, the shareholders of M/s DUVPL never interacted in respect of this loan or otherwise; that in fact, one Mrs. Lata Dave, Senior

Executive Secretary of Shri Rana Kapoor used to coordinate and at senior level, Shri Rana Kapoor used to interact with CMD Shri Kapil Wadhawan and Mr. Wadhawan and Mr. S. Govindan (Executive Assistant to Mr. Wadhawan) used to give instructions. There was no active or operating business of DUVPL and as such, there was no activity or revenue of DUVPL. Further, he stated that the loan was structured such that the principal amount was to be repaid in 2023 (after 60 months from the date of first disbursal) in single bullet payment and till now, only the interest is being serviced.

- ix. During the course of investigation, it was further revealed from statements recorded under PMLA, 2002 that loan of Rs. 750 crores was disbursed in the year 2018 by Yes Bank to M/s Belief Realtors Pvt. Ltd. (an RKW group company) for SRA re-development of Bandra Reclamations project; that out of the said Rs. 750 crores, Rs. 118 crores was taken by Yes Bank as processing fees and GST and the balance amount of Rs. 632 crores was transferred to M/s Belief Realtors Pvt. Ltd. and from there, immediately to M/s KYTA Advisors Pvt. Ltd. through three other group companies of Dheeraj Realty; that M/s KYTA Advisors further transferred the full amount to M/s RIP Developers Pvt. Ltd. which transferred the whole amount to DHFL immediately. It was also revealed that there was no outstanding loan or any other financial transaction between M/s Belief Realtors Pvt. Ltd. and these three intermediary group companies; that since all these companies were controlled by the Wadhawans, the funds available were transferred between group companies as and when required. He further stated that the actual purpose of loan taken by M/s Belief Realtors was to make the loan repayments to DHFL by RIP Developers Pvt. Ltd. He also stated that there were negligible expenses incurred by M/s Belief Realtors in project Bandra Reclamation prior to loan taken from Yes Bank.
- x. Statement of Shri Rana Kapoor, Ex-CEO of Yes bank was also recorded in this connection u/s 50 (2) & (3) of PMLA, 2002 on 07.03.2020. He, inter-alia stated that in 2018, they purchased debentures worth Rs. 3000 crores from DHFL and Rs. 600 crores loan against property was sanctioned to DUVPL by DHFL in Aug, 2018. He further stated that he believed that the

property mortgaged and securities and monetization of various investment of DOIT would be able to cover the loan risk and repayment of loan on due date. He further stated that Ms. Lata Dave was his secretary in Yes Bank for 15 years. He further informed that the loan of Rs. 750 crores was granted to M/s Belief Realtors. He further stated that Rs. 450 crores out of this loan was ultimately transferred by Belief Realtors to DHFL. DHFL, in turn, sanctioned a loan to Radius Group and Paresh Shah Group, who in turn, paid an amount of Rs. 450 crores from the monies received from DHFL, to Yes Bank for repayment of earlier loan to these companies. However, he was not co-operating with the investigation with regard to further utilization of the monies received from DHFL.

- xi. Therefore, from the statements recorded and evidence collected so far, it appears that Mr. Rana Kapoor and promoter directors of DHFL - Mr. Kapil Wadhawan and Dheeraj Wadhawan criminally conspired to get illegally sanction loans to their respective entities (Belief Realtors and DUVPL) from Yes Bank and DHFL respectively. M/s DHFL had granted loan of Rs. 600 crores to DUVPL on mortgage of property worth only Rs. 39.66 crores by showing inflated value as Rs. 735 crores. It is significant to mention here that just before sanction of this loan, Yes Bank had invested Rs. 3700 crores in the debentures of DHFL (Rs. 3000 crores as per Rana Kapoor). It is further apparent that behind the façade of DUVPL, Mr. Rana Kapoor was the person on ground interacting with Mr. Kapil Wadhawan for sanction of loan. In fact, the so called shareholders of DUVPL (three daughters of Rana Kapoor) appear to have never interacted with DHFL personnel and it was Ms. Lata Dave, Secretary of Sh. Rana Kapoor in Yes Bank at the material time, who used to interact with DHFL in connection with the aforesaid loan. Therefore, there appears to be a criminal conspiracy between Mr. Rana Kapoor and the promoters of DHFL to get loan of Rs. 600 cr. by pledging highly overvalued assets as mortgage.
- xii. The criminal conspiracy between Shri Rana Kapoor and the Wadhawans became apparently clear with the fact that Rs. 750 crores was sanctioned to M/s Belief Realtors (Group company of RKW Developers) and the same amount was rotated through

various entities of RKW group and ultimately, transferred to DHFL without a penny being spent by Belief Realtors for the alleged purpose of re-development of SRA project in Bandra Reclamation. Rs. 450 crores, out of this amount, came back to Yes Bank through another company. Thus, the entire loan of Rs. 750 crores appears to have been obtained fraudulently as the same was not used for the purpose for which it was obtained

xiii. That prima facie, there appears to be generation and laundering of proceeds of crime to the tune of rupees thousands of crores by the said accused person in terms of Section 2 (1)(u) of the PMLA, 2002. The said monies have been acquired, concealed and projected by the accused persons to project and claim the same as untainted. Further investigation qua the money trail of the said proceeds of crime is under progress.

xiv. That from investigation conducted during the custody of the accused with the applicant, it has been revealed that 78 companies/firms were owned by the family of the accused. Sh. Rana Kapoor is the person who has been controlling/managing the affairs of these companies. Documents related to these companies/firms are to be obtained and are to be confronted with Sh. Rana Kapoor to ascertain the siphoning of funds from Yes Bank to these companies.

xv. It has also been noticed that more than Rs. 30,000 crores were given as loan by Yes bank to several companies/entities during the tenure of Mr. Rana Kapoor in Yes Bank which has converted into bad debt. Sh. Rana Kapoor is required to be interrogated to ascertain if in the guise of these loans the monies have been siphoned and laundered.

xvi. Loans of more than Rs. 20,000/- crore sanctioned during the tenure of Shri Rana Kapoor have turned into NPA. The sanctioning of these loans from the point of view of irregularity/quid pro quo/diversion is being investigated.

xvii. Many key persons related to this case are required to be examined and confronted with the accused. It is submitted that custody of the accused was granted by the Hon'ble Holiday Court in the afternoon of 08th of March 2020, which was a Sunday. Further, 10th March, 2020 being a national

holiday, ED could not summon these key persons. They will be examined during the next 05-06 days. Therefore, it is imperative that further custody of the accused is granted to the applicant so that the accused can be confronted with statements of these persons.

xviii. That based on the investigation conducted so far, which has just begun, and the material in the shape of statements, seizures made during searches under PMLA, there are reasons to believe that Sh. Rana Kapoor is guilty of the offence of money laundering and that further sustained interrogation of Shri Rana Kapoor is required in order to enable the investigation to get to the bottom of the aforesaid nefarious deals entered into by the accused through a complex web of companies. Further, the veracity of the statement of Mr. Rana Kapoor and others are required to be established.

5. In view of the given facts, the role of Shri Rana Kapoor appears to be crucial for investigation under the PMLA. It is also apparent that he is guilty of the offence of money laundering as defined under section 3 of the PMLA. His further custodial interrogation is required for further investigation in the matter. He is required to be confronted with the other persons whose statements will be recorded during next few days. He is also required to trace the end-use of the huge amounts of monies which appear to have been laundered in this case.

6. It may be appreciated that it is clear that accused above named has played a very crucial role in the offence of money laundering. He is not cooperating with the investigation. He has not yet provided the required information regarding the laundering of *proceeds of crime*. Sustained interrogation under custody is required to unearth the trail of funds, for corroboration and confrontation with other persons involved in the case. It may also be appreciated that Mr. Rana Kapoor is an influential person, and if his further custody is not granted to the applicant, it may hamper the ongoing investigation.

7. As stated above, further interrogation of Shri Rana Kapoor may reveal crucial facts which are in his exclusive domain, he being the key personnel, deeply and directly involved and in-charge of the affairs of Yes Bank and active conspirator with the other accused in this case. His personal interrogation is the need of the hour and in

- the interest of investigation of the offence of money laundering under PMLA, his further custody for a period of at least 07 days may be granted to the Directorate.
8. That this Hon'ble Court may kindly appreciate that the offence of money-laundering as defined under section 3 punishable under section 4 of the PMLA, 2002 is a serious and grave offence in nature. Considering the same and the role of the accused in the offence of money laundering as brought out above, further custody of accused may kindly be given to the Directorate of Enforcement.
9. Hence, this application praying for extension of ED custody of the accused above named.

PRAYER

It is therefore humbly prayed that -

- i) This Hon'ble Court be pleased to extend the custody of the accused Shri Rana Kapoor to the Directorate of Enforcement for at least 07 days for the purpose of investigation into the offence of money laundering in the above said case.
- ii) Pass such other and further order(s) as this Hon'ble Court may deem fit and proper in the circumstances of the case.

(Rajiv Kumar)

Assistant Director,

For Directorate of Enforcement, Mumbai

Applicant

Place - Mumbai

This 11th day of March, 2020

VERIFICATION

I, Rajiv Kumar, aged about 50 years, presently working as Assistant Director, Directorate of Enforcement, Ministry of Finance, Department of Revenue, Government of India, Zonal Office, Mumbai having its office at Kaiser-I-Hind, 04th Floor, Currimbhoy Road, Ballard Estate, Mumbai - 400 001, do hereby solemnly affirm and state that what is stated in the above paragraphs of this application is true and correct to the best of my knowledge and belief and I believe that the same to be true and correct.

Solemnly affirmed at Mumbai

This 11th March, 2020

Identified by me

Special PP for the Applicant

Applicant / Deponent