LEGAL UPDATES

SC: RIGOURS OF SEC. 45 OF THE PMLA ACT ARE APPLIED WHEN ANTICIPATORY BAIL IS SOUGHT IN CONNECTION WITH A PMLA OFFENSE

A Division bench of the Supreme Court, headed by Justice A.M. Khanwilkar and Justice C.T. Ravikumar, strikes down the decision of the Telangana High Court granting anticipatory bail for the Respondent in the proceedings pertaining to PMLA. SC further remands the case to the Telangana High Court for reconsideration of the anticipatory bail petition afresh in accordance with Sec 438 of CrPC. The highest Court observes that "the PMLA Act indeed depends on the predicate offence which would be under ordinary law, including provisions of the IPC," as the HC considered the matter as if it were dealing with a prayer for anticipatory bail in relation to an ordinary offence under the IPC. As a result, sec.45 of the PMLA Act will still be relevant while considering a request for anticipatory bail for a PMLA offence." In addition, the SC suggested that the Respondent misunderstood the observations made in the Nikesh Tarachand Shah case. The court explains the interplay between the PMLA and CrPC, by stating that sec.45 is applicable when anticipatory bail is sought w.r.t. PMLA contravention even when bail is applied under sec.438 of CrPC; in those scenarios, sec.45 is bound to be considered. Thus, the statutory requirement of sec.45 of must be fulfilled even though bail is sought under sec.438 of CrPC. In light of the fact that the HC did not touch upon the aforesaid issue at all, and in light of the Respondent's claim that the aforesaid objection has never been raised with the HC, the SC remarks that, Taking objection is not the duty of the court; rather, it is the duty of the court to look at the jurisdictional facts, which includes Section 45 of the PMLA Act. Lastly, Court specifies that HC may hear the remanded proceedings expeditiously and that the interim protection given by HC to the Respondent shall continue for a period of 4 weeks and will be subject to the outcome of the said remanded/restored petition. Thus, SC allowed the appeal.