

Vijay Mallya diverted Rs 3,700 crore bank loan funds to F1, IPL: ED

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The King of Good Times-turned-fugitive Vijay Mallya has had a terrible run of bad luck in the past few years, from being declared a wilful defaulter to now fighting an extradition battle in the UK. But if he thought things could not possibly get any worse, he was wrong. According to NDTV, he has now become the first person to be tried under the new Fugitive Economic Offenders Ordinance, which was promulgated by President Ram Nath Kovind in April.

The development follows a fresh chargesheet filed against Mallya by the Enforcement Directorate (ED) yesterday. In the voluminous prosecution complaint filed before a special Mumbai court under the Prevention of Money Laundering Act, the agency charged Mallya and his firms, Kingfisher Airlines Limited (KAL) and United Breweries Holdings Limited (UBHL), of fraudulently "diverting" over Rs 3,700 crore bank loan funds to a UK-based F1 motorsport firm, a T20 Indian Premier League (IPL) team and for enjoying private jet sorties.

According to officials, the chargesheet revolves around a complaint received from the State Bank of India on behalf of a consortium of banks accusing Mallya of causing them a loss of Rs 6,027 crore by defaulting on loans taken during 2005-10. The ED had filed an FIR in the case in August 2016, after going through a CBI FIR. "The SBI, which is the consortium leader, has calculated the amount [of the loan] to the tune of Rs 9,990.07 crore (after including applied interest) as on May 15, 2018," the agency said in the chargesheet.

The ED also alleged that Mallya, the chairman of KAL, and other airline officials "hatched a criminal conspiracy for obtaining/sanctioning of bank loan to Ms KAL in gross violations of established procedures and the firm had no intention for repayment of the loan". Furthermore, the accused had projected the "brand value of the airline as a collateral security inspite of the same being a hypothetical assets and suffering from deficiencies". The loans were also obtained by placing the corporate guarantee of UBHL and personal guarantee of Mallya.

"KAL had offered as a security, negative lien on fleet of hire purchase/finance lease aircraft against the loans availed from the banks despite being well aware that the said security was only a symbolic security in nature and was grossly inadequate to cover the exposure of the banks," the ED added.

According to the chargesheet, KAL also "acquired" a corporate jet to ferry Mallya and senior officials of the UB Group as well as for VVIP trips and chartered tourism. At the time, it was said that surplus income would be generated from the operations of this jet. "However, the said jet was never used for the said purpose and mainly used as a personal carrier for Mallya as it catered to his family members and friends," the ED alleged. As per media reports, Rs 45.42 crore was diverted "for making payment towards the rental lease" of this corporate jet.

KAL has been accused of diverting bank loan funds by way of inflated invoices, too. The ED has claimed that KAL leased two aircraft of Ms Veling Limited at very steep rentals compared to the

market rate. Thus, by "over-invoicing the payments" made to the plane-owning company, KAL allegedly siphoned off Rs 3,432.40 crore.

In addition, KAL is said to have made payments of GBP 30.34 million (over Rs 254 crore) to UK-based Force India Formula One Team Limited (FIF1TL) and Mallya "surreptitiously transferred funds of the firm giving a false purpose of remittance and thus diverted the funds [loan amount]". Nearly Rs 51 crore was reportedly diverted in this manner.

As for the T20 connection mentioned earlier, according to the new chargesheet, the Royal Challengers team of this sporting extravaganza was purchased by Mallya and "loan amount of Rs 15.90 crore was siphoned off and diverted from the bank account of KAL held with Deutsche Bank to Royal Challengers Sports Pvt Ltd, Bengaluru".

In sum, the ED has alleged that Mallya "deliberately and intentionally diverted the loan amounts from the bank accounts of KAL to other bank accounts of his interest". The agency also said that it has attached assets valued at Rs 4,234.84 crore in this case and "by concealing these properties and non-payment of loan amount and diverting the loan proceeds out of India, Mallya and UBHL benefitted from the same, and hence they are involved in the offence of money laundering".

It further charged that some companies of the UB group, of which Mallya was chairman, did not boast "any actual activity and independent source of income" and the embattled businessman controlled all these companies through his office personnel. "The directors in these companies were namesake or dummy directors who were at command of Mallya. There are movable and immovable assets in these companies in the form of shares of public listed companies and landed properties," it said.

So what does this new development mean for Mallya? Under the Fugitive Economic Offenders Ordinance, the next step is that the special court will issue a notice to Mallya, requiring him to appear at a specified place within six weeks. If he fails to do so, he will be declared a fugitive. Significantly, the new law provides for confiscating assets even without a conviction and paying off lenders by selling off the fugitive economic offender's properties. The ED reportedly plans to seek the court's permission to "confiscate" assets worth more than Rs 9,000 crore belonging to Mallya and his firms under the Ordinance.

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