IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17036 of 2025
Arising Out of PS. Case No.-7 Year-2022 Thana- E.C.I.R (GOVERNMENT OFFICIAL) District- Patna

==

Jai Narayan Gupta S/O Late Om Prakash Gupta R/O 1DA Manikala, 156C Manikala Main Road, Kolkata, West Bengal- 700054.

... ... Petitioner

Versus

1. The Union of India through the Director, Directorate of Enforcement Pravartan Bhawan, APJ Abdul Kalam Road, New Delhi, 110011
2. The Deputy Director, Directorate of Enforcement, Patna Zonal Office First Floor, Chandpura Place, Bank Rad, West Gandhi Maidan, Patna
3. The Assistant Director, Directorate of Enforcement, Patna Zonal Office First Floor, Chandpura Place Bank Road West Gandhi Maidan, Patna

... ... Opposite Parties

==

Appearance :

For the Petitioner/s : Mr. P.N. Shahi, Sr. Advocate
Mr. Madhuresh Singh, Advocate
Mr. Prakash Priyadarshi, Advocate
Mr. Salil Srivastava, Advocate
Mr. Vishal Gupta, Advocate

For the Union of India : Dr. K.N. Singh, Addl. S.G.

For the Enforcement Directorate: Mr. Tuhin Shankar, Advocate
Mr. Manoj Kumar Singh, Advocate
Mr. Ankit Kumar Singh, Advocate

==

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL JUDGMENT

Date : 22-09-2025

Heard Mr. P.N. Shahi, learned Senior Counsel for the petitioner, Dr. K.N. Singh, learned Additional Solicitor General of India and Mr. Tuhin Shankar, learned counsel for the Enforcement Directorate.

2. The present application has been moved on behalf of the petitioner seeking regular bail in connection with Special Trial (P.M.L.A.) Case No.08 of 2024, arising out of Supplementary Record of Special Trial (P.M.L.A.) Case No.09

of 2023, which in turn arises out of E.C.I.R. No. PTZO/07/2022 dated 10.01.2022 and the addendum E.C.I.Rs dated 04.06.2023 and 09.11.2023, registered for the offence under sections 3 and 4 of the Prevention of Money Laundering Act, 2002, pending before the Court of Learned District and Sessions Judge-cum-Special Judge (P.M.L.A.), Patna.

3. The nucleus of the entire matter is that several F.I.Rs. were registered by the Bihar Police against M/s Aditya Multicom Private Limited (for short “M/s. AMPL”) and others for the offence under the Mines and Minerals (Development and Regulation) Act of 1957, the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Rules, 2019, the Indian Penal Code, 1860 and other penal provisions for the alleged wrongful loss to the State exchequer to the tune of Rs.2,09,76,53,871/-.

4. Based on the aforesaid, several F.I.Rs and also F.I.R in connection with Dehri Nagar (Dalia Nagar) P.S. Case No.407 of 2021 for the offence under sections 379, 384, 406, 411, 420, 467, 468, 471 read with sections 34 and 120-B of the Indian Penal Code, Rule-21 of the Mines and Minerals (Development and Regulation) Act of 1957, Rule-40 of the Bihar Minor Minerals concession Rules, 1972, Rules 11 and 39 of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Rules, 2019 and section 15 of the Environment Protection Act, 1986, the investigation under Prevention of Money Laundering Act, 2002 was initiated against M/s. AMPL and others and the subject ECIR PTZO /07/ 2022 dated 10.01.2022 was recorded. Subsequently, two addendum ECIRs dated 04.06.2023 and 09.11.2023 to the aforementioned subject ECIR were also recorded. Pertinently the offences in the underlying F.I.Rs i.e. the offences under sections 384, 411, 420, 467, 471 read with section 120-B of the Indian Penal Code are scheduled offences under Para-1 in Part-A of the Schedule to the P.M.L.A., 2002.

5. The crux of the allegation revolves around the illegal sand mining and embezzlement of sand by the accused company M/s. AMPL which has caused huge loss to the State exchequer to the tune of Rs.2,09,76,53,871/-, which was controlled/operated by an organized syndicate, of which the present petitioner is alleged to be a member. It is alleged that the syndicate by investing funds in the company through banking or non-banking channels became a part/member of the syndicate and the profits generated from the illegal sale of sand was distributed among the aforesaid syndicate members. It is further alleged that M/s AMPL had sold sand without issuing e-c*hallans* and the there were instances where on the website/portal of the Mining Department, the stock of sand was shown as 'nil', however during the course of inspection at the storage sites, it was found that the sand stock was available. It was further alleged that on certain occasions the quantity of the stock of sand at the site was found to be less than what was shown at the portal/website of the Mining Department in order to cause revenue loss to the exchequer.

6. The present petitioner, who is a practicing Chartered Accountant, has been made accused in the Second Supplementary Prosecution Complaint dated 26.11.2024, wherein it has been stated that in the course of investigation, searches were carried out on 05.06.2024 under section 17(1) of the PMLA, 2002, at the premises of M/s. AMPL, its Directors and other stakeholders, spanning the States of Bihar, Jharkhand and in Kolkata, which resulted in recovery of physical documents relevant for investigation, seizure of bank accounts, fixed deposits worth about Rs.6.85 crore and seizure of cash amounting to Rs.24.6 lakhs. Further during the course of investigation, it was also gathered that the Income Tax Department, had carried out searches under the provisions of the Income Tax Act, 1961 in the month of February, 2023 at the premises of one Ashok Kumar, Director of M/s. Broad Son Commodities Private Limited and his associate one Sudama Kumar and a syndicate member Radha Charan Sah. The investigation further revealed that the documents seized from the premises of aforesaid Radha Charan Sah and Ashok Kumar included increminating materials i.e. details of ledger of income and expenditure related to sale of sand from multiple river banks (*ghats*) including those at Rohtas and Aurangabad districts along with profit sharing percentages among the syndicate members. It was alleged that the entries recorded therein were further corroborated with the bank transactions of M/s AMPL and other entities involved in illegal sand mining. It was also alleged that the documents seized from the premises of Radha Charan Sah revealed that during the period between April, 2020 and August, 2020, sand worth about Rs.38.71 crores was illegally sold without generating *e-challans* which consequently resulted in loss to the exchequer and the generation of proceeds of crime, which is pertinently in addition to the amount totaling to about Rs.2,09,76,53,871/- under the aforementioned F.I.Rs. Therefore, allegedly, so far the total identified proceeds of crime or the revenue loss caused by the M/s. AMPL is allegedly Rs.249.63 crores.

7. The Prosecution Complaint No.09/2023 dated 10.11.2023 was filed against M/s. AMPL, Jag Narayan Singh and Satish Kumar Singh, upon which cognizance was taken by the learned Court vide order dated 10.11.2023. Consequent upon further investigation, first and second supplementary Prosecution Complaint were also filed on 23.10.2024 and 26.11.2024 respectively.

8. It has further been stated in the Second Supplementary Prosecution Complaint that one Sadashiv Prasad Singh was maintaining the cash book for unaccounted cash, which reveals that sand were being sold in cash and part of the same was being diverted to Jag Narayan Singh, S.K. Jindal, one Kolkatta based C.A. and other persons from time to time. The aforesaid Sadashiv Prasad Singh, in his statement under section 50 of the PMLA, when confronted with the seized documents as procured by the Income Tax Department during search, confirmed that “Calcutta C.A.” as mentioned in the seized cash book was none other but present petitioner i.e. Jai Narayan Gupta. He further confirmed that on 23.11.2015 and 24.11.2025 Rs.2,00,00,000/- and Rs.1,90,00,000/- respectively were paid in cash to the present petitioner and similarly on 04.06.2016 Rs.2,50,00,000/- was again paid in cash to the present petitioner. It is alleged that the aforesaid huge cash transactions highlights the role of the present petitioner in managing or facilitating the movement of unaccounted funds generated in the business of illegal sand minding and illegal sale of sand.

9. The learned Senior Counsel for the petitioner submits that the petitioner is a Chartered Accountant, who has been illegally arrested by the Enforcement Directorate while conducting search and seizure on 01.10.2024 without following the due process of law. He further submits that the petitioner is a 68 years old professional, who is suffering from various ailments, such as cardiac, nephrological, liver and spinal. He also submits that the petitioner has an unblemished long career as a Chartered Accountant since 1984 and he had also served as the Chairman of the Eastern Indian Regional Council of I.C.A.I. during 2002-03. The petitioner on account of his old age and multiple medical issues, had resigned from his chartered accountancy firm in the month April, 2004.

10. Learned Senior Counsel for the petitioner further submits that the on the basis of the allegations levelled against the petitioner in the Second Supplementary Prosecution

Complaint, no case under section 3 and 4 of the P.M.L.A. is made out and the petitioner qualifies the twin conditions as envisaged in section 45 of P.M.L.A.

11. In reply to the allegation that the petitioner has assisted M/s. AMPL in projecting and concealing of the Proceeds of Crime, learned Senior Counsel for the petitioner submits that the main allegation is that while conducting the audit of M/s. AMPL the petitioner exaggerated revenue from alleged non-existent businesses such as vegetables, fish and earthen clay, is wholly unfounded. Learned Senior Counsel has emphasized that the premise of such allegations hinges upon an unfounded expectation that a statutory auditor is responsible for independently, personally, and physically verifying the operational existence of every reported business activity, which is beyond the scope of standard audit practices, is impractical and untenable. It is submitted that a contract for sand mining was awarded to M/s. AMPL and therefore, it engaged the services of various Chartered Accountants and audit firms for statutory compliance and financial auditing, including the firm of the petitioner, which was entrusted with the statutory audit functions. The firm of the petitioner acting through its partners and Associates, undertook the statutory audit of M/s. AMPL acted fairly and in strict adherence to the professional obligations and standards. The established regulatory frameworks define the scope and limitations of a statutory auditor's responsibilities and do not impose an investigative obligation akin to that of a forensic auditor or that of the Enforcement Directorate. The audit of M/s. AMPL was executed with due diligence and all financial statements including balance sheets and books of accounts, were scrutinized in accordance with prescribed accounting and auditing norms.

12. It has also been argued that whenever any suspicion arose during the auditing / accounting, the petitioner and the said firm raised appropriate queries and doubts to the management of M/s. AMPL. The petitioner, along with his daughter, C.A. Nancy Gupta, has already furnished a detailed explanation regarding the auditing process of the firm and compliance measures during their respective statements recorded under section 50 of the PMLA. Pertinently, M/s. AMPL had concurrently availed the services of other reputed Chartered Accountant firms for various financial and tax-related audits and consultancy. Therefore, the auditing and reporting was subjected to multiple layers of professional scrutiny. It is argued that the very essence of a statutory audit is to ensure compliance with financial reporting norms based on documentary verification, and any expectation beyond this legally defined framework is misplaced and contrary to well established jurisprudence on liability of the auditors.

13. In response to the allegation regarding receipt of huge cash amount by the petitioner based upon the statement of one Sadashiv Prasad Singh, it is submitted by learned Senior Counsel that that said Sadashiv Prasad Singh had been acting as Chief Executive Officer of M/s AMPL during the period of commission of alleged money laundering. Adverting to the statement of said Sadashiv Prasad Singh recorded under section 50 of the P.M.L.A. on 06.09.2023, which has been relied by the Enforcement Directorate, it has been submitted that a bare perusal of the statement of said Sadashiv Prasad reveals that he does not know anything about the workings of M/s. AMPL. Further, the Enforcement Directorate had arrested the Directors of M/s. AMPL namely, Jag Narayan Singh and Satish Kumar Singh and neither of them had indicated any indulgence of the petitioner in the commission of alleged offence. It is vehemently argued that even though an unaccounted cash of Rs.24,00,000/- has been recovered/seized from the house of said Sadashiv Prasad Singh yet the Enforcement Directorate has not chosen to arrest him and rather subsequently concocted statement has been procured by the Enforcement Directorate from him in order to justify its otherwise hopeless case against the petitioner. It is emphasized that the Enforcement Directorate had seized the Books of Account of M/s AMPL in the year 2017 itself and the present concocted version of said Sadashiv Prasad Singh was recorded after a long gap of more than seven years. Pointing towards the Income Tax Appraisal report dated 21.12.2017, which forms part of the Second Supplementary Prosecution Complaint, the learned Senior Counsel has submitted that the source of cash was Patna *Balu Ghat* and not the *Balu Ghats* of Aurangabad or Rohtas and therefore, *ex-facie* the allegations are false, self-contradictory and untenable.

14. Learned Senior Counsel discrediting the statement of the aforesaid Sadashiv Prasad Singh recorded under section 50 of the P.M.L.A. has brought to the attention of this Court the fact that a complaint against the officers of the Enforcement Directorate was filed by said Sadashiv Prasad Singh before the Bihar Human Rights Commission vide Complaint Case / File No 7868/4/26/2024 regarding the abuse and torture suffered by him on 26.09.2024 when he was forced to name the petitioner in his statement. It is emphasized that the petitioner never came in contact with said Sadashiv Prasad Singh and there was no way that he was even aware of the workings of the petitioner.

15. Insofar the allegation that the petitioner allegedly accepted in his statement recorded under section 50 of the PMLA regarding formation of paper/shell companies to allegedly assist M/s AMPL, learned Senior Counsel has submitted that the Enforcement Directorate has failed to provide incorporation documents, control structures or any documentary proof demonstrating that these entities were paper/shell companies created for unlawful purposes. It is argued that the Enforcement Directorate has not shown any financial transactions or corporate filings to indicate that these entities were used to facilitate alleged money laundering or any illegal financial activity.

16. On the allegation that Kolkata based paper/shell companies which were allegedly owned and controlled by the petitioner had invested Rs.1,00,00,000/- in M/s. AMPL for purchasing 1,00,000/- shares, the learned Senior Counsel submits that the Enforcement Directorate has frivolously attempted to rope in the petitioner by referring to four companies i.e. Pigeon Barter Private Ltd., Samskar Financial Services Pvt. Ltd., Achman Sales Pvt. Ltd., and Bhagya Laxmi Commerce Pvt. Ltd. However, a close scrutiny of the statutory documents including annual returns and shareholding records of M/s. AMPL, as filed with the Registrar of Companies (RoC), unequivocally establishes that since 30.09.2011, the shareholding of M/s AMPL was vested in Mr. Jag Narayan Singh, Mr. Satish Singh, and the entities owned by them including Mahabir Fuels (Aurangabad) Pvt. Ltd. It is argued that the baseless nature of allegation is further underscored by the fact that neither the petitioner nor any of the companies allegedly linked to him had any control or influence over M/s. AMPL during the period relevant to the present investigation. It is a well-settled principle of law that allegations of financial misconduct or criminal liability must be substantiated by cogent documentary evidence. However, in the in instant case, the Enforcement Directorate has completely failed to present any credible material linking the petitioner to the alleged acquisition of shares in M/s. AMPL and mere reference to companies without any corroborative evidence, does not suffice to establish criminal liability. The statutory records confirm that between 31.03.2010 and 31.03.2016, the shareholders of M/s AMPL were Jag Narayan Singh, Mr.Satish Kumar Singh and Mahabir Fuels (Aurangabad) Pvt. Ltd., with no shareholding whatsoever being held by the petitioner or the entities allegedly linked to him.

17. On the allegation that the petitioner had provided rent free accommodation to M/s AMPL as an arrangement to secure the auditing contract, the learned Senior Counsel submits that M/s AMPL was introduced to the firm of the petitioner by late N.R. Pal (since deceased), Chartered Accountant, and on the request of said late Mr. N.R. Pal, the address of the firm of the petitioner was used merely for retaining the client on a long term basis. It is argued that therefore, the firm of the petitioner had allowed M/s. AMPL to use the address of the said firm on rent free basis, which is the usual and common practice adopted by Chartered Accountants to procure and retain clients. Therefore, the learned Senior Counsel has submitted that evidently there was no direct involvement of the petitioner in M/s AMPL and the allegation is entirely speculative and devoid of any substance.

18. The learned Senior Counsel for the petitioner has submitted that Samskar Financial Services

Private Limited was incorporated on 19.11.1997 and has been functioning as Non-Banking Finance Company (NBFC) since 12.05.2006 and since then it has been engaged in the business of advancing loans and other financial services as per the rules and norms established for the NBFCs in India. The petitioner has long been engaged with the aforesaid Samskar Financial Services Private Limited in a professional capacity, providing legal, taxation and accounting services to it, which are standard business arrangements between a company and external professionals or consultants.

19. It has also been submitted that the Enforcement Directorate has failed to specify the dates or the period in which the transactions listed in the Second Supplementary Prosecution Complaint which allegedly occurred between the petitioner and the aforesaid NBFC. Secondly, the Enforcement Directorate has not only failed to correctly tabulate the list of transactions between aforesaid NBFC and the family members of the petitioner but has also failed to acknowledge or account for the repayments made to said NBFC.

20. Learned Senior Counsel further submits that the Samskar Financial Services Private Limited is a Non-

Banking Financial Corporation and as per the information gathered by the petitioner from records perused by him in the capacity of an accountant, it had extended an unsecured loan to the tune of Rs. 1 crore to M/s AMPL in the year 2014 i.e. much prior to the commission of alleged offence. Further, Samskar Financial Services Private Limited had received money from M/s. AMPL towards the interest and principal of loan amount.

21. On the allegation that the petitioner is a member of an organized syndicate, the learned Senior Counsel has submitted that the same is an utter contradiction to the stand taken by the Enforcement Directorate in the provisional Attachment Order No.01 of 2024. To support the aforesaid stand, the learned Senior Counsel submits that the Enforcement Directorate had not mentioned the name of the petitioner as one of the alleged members in the provisional attachment order. Further, the Enforcement Directorate has allocated 100% of the said alleged syndicate where the name of the petitioner does not appear in any capacity.

22. Lastly, it has been submitted by learned Senior Counsel that co-accused Ajay Singh, who was also made an accused in the same Second Supplementary Prosecution Complaint and thereafter he was arrested by the Enforcement

Directorate, against which the aforesaid co-accused had preferred a Criminal Writ before this Court and a coordinate Bench of this Court has declared his arrest as illegal and he has been released vide order dated 05.02.2025 passed in Cr. W.J.C 2167 of 2024 titled as '***Ajay Singh vs Directorate of Enforcement through the Director and Ors***'.

23. Learned Senior Counsel for the petitioner, in support of his submissions, has relied upon the following decisions:-

i. ***Ranjitsing Brahmjit Singh Sharma vs. State of Maharashtra & Anr.*** reported as (***2005) 5 SCC 294.***

ii. ***Pankaj Bansal vs. Union of India & Ors.*** reported as ***(2024) 7 SCC 576.***

iii. ***Arvind Kejiriwal vs. CBI*** reported as ***2024 SCC OnLine SC 2550.***

iv. ***Manish Sisodiya vs. Directorate of Enforcement*** reported as (***2024) 12 SCC 660.***

v. ***Prem Prakash vs. Union of India through Directorate of Enforcement*** reported as ***(2024) 9 SCC 787.***

vi. V. Senthil Balaji vs. The Deputy Director, Directorate of Enforcement reported as ***2024 SCC OnLine SC 2626***

24. In this case, the Enforcement Directorate has filed a counter affidavit wherein the facts of the present case leading to the recording of the subject ECIR dated 10.01.2022 and two addendums thereto dated 04.06.2023 and 09.11.2023 have been elaborated.

25. At the outset, it is brought to the notice of this Court that F.I.R. vide Dehri Nagar (Dalia Nagar) P.S. Case No.407 of 2021 dated 03.08.2021 was quashed by a coordinate Bench of this Court in the case of ***Aditya Multicom Pvt. Limited vs. The State of Bihar &Ors. (Cr.W.J.C. no. 1233 of 2021 vide order dated 07.04.2022)*** but, the said judgment has subsequently been held as *per incuriam* by the Division Bench of this Court in Cr. W.J.C. No. 299 of 2022 & connected matters.

26. It has been stated in the counter affidavit that illegal sale of sand by the company is mainly controlled by a syndicate, in which the petitioner is a member and who by investing funds in the company either through banking or non-banking channels became a member of the syndicate and the profit generated from this illegal sale of sand was the proceeds of crime which has been distributed amongst the members of the syndicate. Further, out of the said proceeds of crime, M/s AMPL through its Directors is having share equivalent to Rs. 20,07,07,312/- in its possession generated out of illegal sand mining done by M/s. AMPL in the districts of Aurangabad and Rohtas. The proceeds of crime amounting to Rs. 7,10,37,580/- was seized or frozen during the course of search operation and has been subsequently confirmed by the Adjudicating Authority. It has further been stated that the firm of the petitioner i.e. J. Gupta & Company is the auditor of M/s. AMPL since the year 2005. Summons were issued to the petitioner for personal appearance on various dates, however, he kept on avoiding the investigation by not joining the same on various flimsy grounds and he appeared only on 21.08.2023 and 11.09.2024.

27. It has further been stated that the petitioner in his statement recorded under section 50 of PMLA stated that he is the only Chartered Accountant for M/s AMPL for last 15 years and his firm was carrying out the audit work of the company. Further, the investigation revealed that the Audit report of the company is signed by one Nancy Gupta, who is the daughter of the petitioner and the Partner at the firm. However, as per her statement recorded under section 50 of the PMLA, the final audit of M/s. AMPL is done on the directions of her father i.e. the petitioner. Further, the documents collected under section 54 of the PMLA from Income Tax Department revealed that M/s. AMPL has received amount of Rs.1,00,00,000/- from various Kolkata based companies owned and controlled by the petitioner and subsequently, the shares were transferred to one of the group companies of M/s. AMPL namely M/s. Mahabir Fuels Pvt. Ltd. This routing of money in the guise of unsecured loans and subsequently acquiring shares of such companies by the group entity of M/s. AMPL is nothing but layering and laundering of proceeds of crime which was planned, arranged and facilitated by the petitioner. Further, the petitioner in his statement under section 50 of the PMLA has stated that he and his firm has no business dealings/investment with M/s. AMPL apart from audit fees. However, when confronted with documentary evidence, the petitioner accepted that all these companies which invested in the share capital of M/s. AMPL are owned and controlled by him. He further stated that he had given an unsecured loan of Rs.1,00,00,000/- through Samskar Financial Services Pvt. Ltd. to M/s. AMPL which is an entity under his control. Further, the petitioner in his statement has stated that he had given rent-free accommodation to M/s. AMPL from the year 2010 for the sake of securing them as a client.

28. It has been stated in the counter affidavit that all statutory requirement have been strictly adhered to while arresting the petitioner and it was only after due investigation the petitioner was arrested. The Enforcement Director in the counter affidavit has disputed the terminal illness of the petitioner and has submitted that the jail authorities are well equipped to treat the petitioner. Further, once the accused is remanded in the judicial custody, it becomes responsibility of the concerned jail authorities to treat him as per the Bihar Prison Manual, 2012. Chapter-VIII of the aforesaid Manual specifically envisages the provisions to be applied in case a prison inmate needs any medical treatment. In the instant case, the petitioner has directly approached this Court surpassing all the rules and regulations, therefore, this petition is fit to be dismissed on this ground alone. Further, the petitioner is not facing any life-threatening condition requiring any immediate intervention. In this regard, reliance is placed upon a decision of the Hon’ble Supreme Court rendered in the case of ***State through D.C.P. Special Branch vs. Jaspal Singh Gill*** reported as ***(1984) 3 SCC 555*** and ***Satendra Kumar Antil vs. C.B.I. & Anr.*** reported as (***2022) 10 SCC 51.***

29. It has also been stated that mere attendance of the petitioner in response to summons does not automatically imply cooperation in the investigation. The arrest order clearly states that the petitioner was withholding information and not co-operating with the investigation. The purpose of issuing summons is distinct from the powers of arrest provided under section 19 of the P.M.L.A.

30. In the counter affidavit, the Enforcement Directorate has placed reliance on the following decisions to substantiate their argument for denial of bail under section 45 of the PMLA for failure to comply with the twin conditions therein.

i. Tarun Kumar vs. Assistant Director, Directorate of Enforcement reported as ***2023 SCC OnLine SC 1486.***

ii. Anoop Bartaria & Ors. vs. The Directorate of Enforcement reported in ***2023 SCC OnLine SC 477.***

iii. Directorate of Enforcement vs. M. Gopal

Reddy & Anr reported as ***2022 SCC OnLine SC 1862.***

iv. Saumya Chaurasia vs. The Directorate of Enforcement reported as ***(2024) 6 SCC 401.***

31. Refuting the assertion that the Second Supplementary Prosecution Complaint spanning 102 pages contains only *"few purported allegations"* against the petitioner, it has been submitted that the aforesaid complaint and its accompanying documents show the involvement of the petitioner and the same is supported by material evidence not only the statement of the petitioner recorded under Section 50 of the PMLA but also the financial trail, documentary evidence, digital data and call detail records and corroborative statements of co-accused and witnesses.

32. It has further been stated that investigation revealed that the petitioner while acting as a Chartered Accountant has misused his professional knowledge and expertise to facilitate money laundering committed by M/s AMPL and has created more than 50 companies, all registered at premises owned or managed by him or his firm. Further, the admission of the petitioner suggests that these entities have been set up with an intent of creating a layered structure to transfer funds and obscure the origin and purpose of transactions and to promote money laundering activities under the guise of legitimate business operations.

33. It has also been stated that at the stage of bail the Court is not required to undertake a summary trial and is only required to form a *prima facie* observation as to whether the material present confirms to complicity of the accused in the offence. The investigation against the petitioner, who is the Chartered Accountant of M/s. AMPL has revealed that he is directly involved in money laundering by knowingly assisting M/s. AMPL in process connected with proceeds of crime including its possession, acquisition, use and projecting it as untainted property.

34. In the counter affidavit, the Enforcement Directorate has vehemently opposed the contention that the statement of co-accused recorded under section 50 is inadmissible. The PMLA operates under a distinct statutory scheme compared to regular criminal jurisprudence under Cr.P.C. The position is well settled that section 50 statements are not confession to police but are akin to statements before a judicial authority. It is submitted that the statement of the co-accused was recorded voluntarily, under proper legal procedure, and without any coercion or inducement. The statement is detailed, consistent, and supported by other material, making it reliable and admissible. Reliance is placed on the following decisions:-

i. ***Vijay Madanlal Choudhary vs. Union of India*** reported as ***(2023) 12 SCC 1.***
ii. ***Kashmira Singh vs. State of Madhya Pradesh*** reported as ***AIR 1952 SC 159;***
iii. ***Rohit Tandon vs. Directorate of Enforcement*** reported as ***(2018) 11 SCC 46;***
iv. ***Enforcement Directorate vs. Aditya Tripathi*** reported as ***(2023) SCC OnLine SC 619.***

35. It has also been stated that the investigation revealed that the petitioner owned and controlled Kolkata-based paper/shell companies which invested Rs.1,00,00,000/- in M/s AMPL and the petitioner in his statement has accepted that several directors and shareholders of entities like Pigeon Barter Pvt. Ltd., Samskar Financial Services Pvt. Ltd., Aachman Sales Private Limited and Bhagya Laxmi Commerce Pvt. Ltd. are either employees or partners of the firm of the petitioner and were working under his instructions. Therefore, it is evident that these individuals serve as nominal directors to facilitate control by the petitioner. Further, the Enforcement Directorate has provided bank account statements of Samskar Financial Private Limited and submitted that the statement clearly indicates that the NBFC was controlled by the petitioner and his family.

36. Adverting to section 3 of PMLA, it is submitted that the role of the petitioner in knowingly providing assistance to co-accused in layering, concealment and further projection of proceeds of crime as untainted is extensively discussed in the prosecution complaints filed by the Enforcement Directorate. Further, it is submitted that if the accused is granted bail, he may indulge into the practice of influencing the witnesses and tamper with the evidence and therefore, this Court may not enlarge the petitioner on bail. In this regard, reliance is placed upon the judgment of the Hon'ble Supreme Court in the case of ***Aditya Tripathi (supra)***.

37. Refuting the reliance placed on the judgment of ***Ranjitsing Brahmjit Singh Shrama (supra)*** by the petitioner, it is submitted that the aforesaid decision is not applicable to facts and circumstances of the case as the Hon'ble Supreme Court in the case of ***Vijay Madanlal Chaudhary***

(supra) has specifically dealt with the scope of interplay between Articles 21 vis-a-vis bail provision contained in Section 45 of the PMLA. The Court while considering the bail petition is required to make an objective finding on the strength of the material on record to assess the entitlement for bail. If the Court having regard to the material brought on record is satisfied that, in all probability, the accused may not be ultimately convicted, an order granting bail may be passed, which is not the case at hand. Further, since PMLA is a special statute the claim of the petitioner regarding meeting the "triple test / tripod test" is insufficient in the present case. The petitioner has not provided compelling reasons to justify his release on bail, and as such, the application for bail should be rejected. In this regard, reliance is placed on the following decisions:-

i. ***Radhika Agarwal vs. Union of India***, reported as ***2025 INSC 272***.

ii. ***State of Bihar & Anr. vs. Amit Kumar @ Bachcha Rai*** reported as (***2017) 4 SCR 503.***

iii. Union of India vs. Kanhaiya Prasad reported as ***2025 INSC 210.***

38. I have considered the submissions of the parties and perused the material on record.

39. From perusal of the records, it appears that the petitioner has been arrayed as an accused in the Second Supplementary Prosecution Complaint. The petitioner is neither named in the underlying F.I.Rs. nor in the subject E.C.I.R. The allegation against the present petitioner is to have assisted M/s AMPL in laundering huge sums of money to the tune of Rs.2,09,76,53,871/- in the guise of providing accounting and auditing services to the aforesaid company. The petitioner is in custody since 01.10.2024.

40. Section-45 of the P.M.L.A., 2022 reads as under:-

> ***"45. Offences to be cognizable and non-bailable.***
>
> *(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no person accused of an offence [under this Act] shall be released on bail or on his own bond unless--*
>
> > *(i) the Public Prosecutor has been given a opportunity to oppose the application for such release; and*
> > *(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:*
>
> *Provided that a person, who, is under the age of sixteen years, or is a woman or is sick or infirm [or is accused either on his own or along with other co-accused of money-laundering a sum of less than one crore rupees] may be released on bail, if the Special Court so directs:*

Provided further that the Special Court shall not take cognizance of any offence punishable under section 4 except upon a complaint in writing made by--

(i) the Director; or

(ii) any officer of the Central Government or a State Government authorised in writing in this behalf by the Central Government by a general or special order made in this behalf by that Government.

(1A) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), or any other provision of this Act, no police officer shall investigate into an offence under this Act unless specifically authorised, by the Central Government by a general or special order, and, subject to such conditions as may be prescribed.]

(2) The limitation on granting of bail specified in sub-section (1) is in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.

Explanation.--For the removal of doubts, it is clarified that the expression "Offences to be cognizable and non-bailable" shall mean and shall be deemed to have always meant that all offences under this Act shall be cognizable offences and non-bailable offences notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973 (2 of 1974), and accordingly the officers authorised under this Act are empowered to arrest an accused without warrant, subject to the fulfillment of conditions under section 19 and subject to the conditions enshrined under this section."

41. In the case of ***Vijay Madanlal Choudhary (supra),*** the Hon'ble Supreme Court upholding the Constitutionality of section 45 of the P.M.L.A. had held that though the aforesaid provision imposes stringent twin conditions for grant of bail, but the aforesaid statutory condition does not impose an absolute restraint on the grant of bail and the discretion vests in the Court, which is to be exercised fairly, judiciously and not in an arbitrary manner. The relevant paragraphs of the aforesaid decision read as under:-

> *"302. It is important to note that the twin conditions provided under Section 45 of the 2002 Act, though restrict the right of the accused to grant of bail, but it cannot be said that the conditions provided under Section 45 impose absolute restraint on the grant of bail. The discretion vests in the court which is not arbitrary or irrational but judicial, guided by the principles of law as provided under Section 45 of the 2002 Act. While dealing with a similar provision prescribing twin conditions in Mcoca, this Court in Ranjitsing Brahmajeetsing Sharma [(2005) 5 SCC 294] held as under :-*
>
> > *"44. The wording of Section 21(4), in our opinion, does not lead to the conclusion that the court must arrive at a positive finding that the applicant for bail has not committed an offence under the Act. If such a construction is placed, the court intending to grant bail must arrive at a finding that the applicant has not committed such an offence. In such an event, it will be impossible for the prosecution to obtain a judgment of conviction of the applicant. Such cannot be the intention of the legislature. Section 21(4) of Mcoca, therefore, must be construed reasonably. It must be so construed that the court is able to maintain a delicate balance between a judgment of acquittal and conviction and an order granting bail much before commencement of trial. Similarly, the court will be required to record a finding as to the possibility of his committing a crime after grant of bail. However, such an offence in futuro must be an offence under the Act and not any other offence. Since it is difficult to predict the future conduct of an accused, the*

court must necessarily consider this aspect of the matter having regard to the antecedents of the accused, his propensities and the nature and manner in which he is alleged to have committed the offence.

45. It is, furthermore, trite that for the purpose of considering an application for grant of bail, although detailed reasons are not necessary to be assigned, the order granting bail must demonstrate application of mind at least in serious cases as to why the applicant has been granted or denied the privilege of bail.

46. The duty of the court at this stage is not to weigh the evidence meticulously but to arrive at a finding on the basis of broad probabilities. However, while dealing with a special statute like Mcoca having regard to the provisions contained in sub-section (4) of Section 21 of the Act, the court may have to probe into the matter deeper so as to enable it to arrive at a finding that the materials collected against the accused during the investigation may not justify a judgment of conviction. The findings recorded by the court while granting or refusing bail undoubtedly would be tentative in nature, which may not have any bearing on the merit of the case and the trial court would, thus, be free to decide the case on the basis of evidence adduced at the trial, without in any manner being prejudiced thereby." (emphasis supplied)

303. We are in agreement with the observation made by the Court in Ranjitsing Brahmajeetsing Sharma. The Court while dealing with the application for grant of bail need not delve deep into the merits of the case and only a view of the court based on available material on record is required. The court will not weigh the evidence to find the guilt of the accused which is, of course, the work of the trial court. The court is only required to place its view based on probability on the basis of reasonable material collected during investigation and the said view will not be taken into consideration by the *trial court in recording its finding of the guilt or acquittal during trial which is based on the evidence adduced during the trial. As explained by this Court in Nimmagadda Prasad v. CBI, (2013) 7 SCC 466, the words used in Section 45 of the 2002 Act are "reasonable grounds for believing" which means the court has to see only if there is a genuine case against the accused and the prosecution is not required to prove the charge beyond reasonable doubt."*

42. The Hon'ble Supreme Court in its recent decision rendered in the cases of ***Manish Sisodia (supra)*** has clarified and crystallized the law on the aspect of harmonization between the stringent twin conditions under section 45 of the P.M.L.A. and the valuable and treasured right to personal liberty enshrined under Article 21 of the Constitution of India.

43. The relevant portion of the decision rendered in the case of ***Manish Sisodia (supra)*** read as under:-

*"47. **We find that, on account of a long period of incarceration running for around 17 months and the trial even not having been commenced, the appellant has been deprived of his right to speedy trial.***

48. As observed by this Court, the right to speedy trial and the right to liberty are sacrosanct rights. On denial of these rights, the trial court as well as the High Court ought to have given due weightage to this factor.

49. Recently, this Court had an occasion to consider an application for bail in Javed Gulam Nabi Shaikh v. State of Maharashtra [(2024) 9 SCC 813] wherein the accused was prosecuted under the provisions of the Unlawful Activities (Prevention) Act, 1967. This Court surveyed the entire law right from the judgment of this Court in Gudikanti Narasimhulu v. High Court of A.P. [(1978) 1 SCC 240], Gurbaksh

Singh Sibbia v. State of Punjab [(1980) 2 SCC 565], Hussainara Khatoon (1) v. State of Bihar [(1980) 1 SCC 81], Union of India v. K.A. Najeeb [(2021) 3 SCC 713] and Satender Kumar Antil v. CBI [(2022) 10 SCC 51] .

50. The Court observed thus: (Javed Gulam Nabi Shaikh case

> *"17.* ***If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime."***

51. The Court also reproduced the observations made in Gudikanti Narasimhulu [(1978) 1 SCC 240], which read thus:

> *"8. In the aforesaid context, we may remind the trial courts and the High Courts of what came to be observed by this Court in Gudikanti Narasimhulu v. High Court of A.P. (1978) 1 SCC 240. We quote (SCC p. 243, para 5):*
>
> > *'5. … What is often forgotten, and therefore warrants reminder, is the object to keep a person in judicial custody pending trial or disposal of an appeal. Lord Russel, C.J., said [R. v. Rose (1898) 18 Cox CC 717]:*
> >
> > > *"****I observe that in this case bail was refused for the prisoner. It cannot be too strongly impressed on the magistracy of the country that bail is not to be withheld as a punishment, but that the requirements as to bail are merely to secure the attendance of the prisoner at trial.****"*

52. ***The Court in Javed Gulam Nabi Shaikh case*** *__further observed that, over a period of time, the trial courts and the High Courts have forgotten a very well-settled principle of law that bail is not to be withheld as a punishment.__ From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non-grant of bail even in straightforward open-and-shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. __It is high time that the trial courts and the High Courts should recognise the principle that "bail is rule and jail is exception".__*

53. *__In the present case, in ED matter as well as CBI matter, 493 witnesses have been named. The case involves thousands of pages of documents and over a lakh pages of digitised documents. It is thus clear that there is not even the remotest possibility of the trial being concluded in the near future. In our view, keeping the appellant behind bars for an unlimited period of time in the hope of speedy completion of trial would deprive his fundamental right to liberty under Article 21 of the Constitution. As observed time and again, the prolonged incarceration before being pronounced guilty of an offence should not be permitted to become punishment without trial.__*

54. *As observed by this Court in Gudikanti Narasimhulu v. High Court of A.P., (1978) 1 SCC 240, the objective to keep a person in judicial custody pending trial or disposal of an appeal is to secure the attendance of the prisoner at trial.*

55. *In the present case, the appellant is having deep roots in the society. There is no possibility of him fleeing away from the country and not being available for facing the trial. In any case, conditions can be imposed to address the concern of the State.*

56. *Insofar as the apprehension given by the learned ASG regarding the possibility of tampering the evidence is concerned, it is to be noted that the case largely depends on documentary evidence which is already seized by the prosecution. As such, there is*

no possibility of tampering with the evidence. Insofar as the concern with regard to influencing the witnesses is concerned, the said concern can be addressed by imposing stringent conditions upon the appellant." (emphasis supplied).

44. In light of the aforesaid judgments, it is evident that the stringent requirement under section 45 of the P.M.L.A. for grant of bail i.e. the twin conditions do not create an absolute restraint or barrier in granting bail on the grounds of delay in conclusion of trial and long period of incarceration. Further, the proviso to section 45 (1) carves out an exception to the twin conditions of bail. One such exception is sickness or infirmity. In the present case, the petitioner has brought on record several medical prescriptions and pathological reports to establish his sickness and it is also noted that the petitioner is a septuagenarian.

45. In cases involving money laundering, the PMLA provides stringent conditions under section 45 for grant of bail, however such provisions have to be harmoniously interpreted with the right of personal liberty enshrined under Article 21 of the Constitution of India. It is trite law that statutory bar under such bail provisions cannot override the rights of personal liberty and speedy trial, nor can such statutory restrictions be construed as an instrument for indefinite incarceration.

46. The Hon'ble Supreme Court in the case of ***Prem Prakash vs. Union of India through Directorate of Enforcement*** reported as ***(2024) 9 SCC 787*** relying upon ***Vijay Madanlal Choudhary (supra)*** has held as under:-

> *"12.* ***All that Section 45 PMLA mentions is that certain conditions are to be satisfied. The principle that, "bail is the rule and jail is the exception" is only a paraphrasing of Article 21 of the Constitution of India, which states that no person shall be deprived of his life or personal liberty except according to the procedure established by law. Liberty of the individual is always a Rule and deprivation is the exception. Deprivation can only be by the procedure established by law, which has to be a valid and reasonable procedure. Section 45 PMLA by imposing twin conditions does not re-write this principle to mean that deprivation is the norm and liberty is the exception. As set out earlier, all that is required is that in cases where bail is subject to the satisfaction of twin conditions, those conditions must be satisfied.***
>
> *13. Independently and as has been emphatically reiterated in Manish Sisodia v. Enforcement Directorate, (2024) 12 SCC 660, relying on Ramkripal Meena v. Enforcement Directorate, (2024) 12 SCC 684 and Javed Gulam Nabi Shaikh v. State of Maharashtra, (2024) 9 SCC 813,* ***where the accused has already been in custody for a considerable number of months and there being no likelihood of conclusion of trial within a short span, the rigours of Section 45 PMLA can be suitably relaxed to afford conditional liberty. Further, Manish Sisodia v. Enforcement Directorate, (2024) 12 SCC 660 reiterated the holding in Javed Gulam Nabi Sheikh v. State of Maharashtra, (2024) 9 SCC 813], that keeping persons behind the bars for unlimited periods of time in the hope of speedy completion of trial would deprive the fundamental right of persons under Article 21 of the Constitution of India and that prolonged incarceration before being***

<u>pronounced guilty ought not to be permitted to become the punishment without trial.</u>

14. *In fact, Manish Sisodia v. Enforcement Directorate, (2024) 12 SCC 660 reiterated the holding in Manish Sisodia v. CBI (2024) 12 SCC 691 : wherein it was held as under : (Manish Sisodia case [Manish Sisodia v. CBI, (2024) 12 SCC 691 : 2023 SCC OnLine SC 1393], SCC paras 34-35)*

> *"34. Detention or jail before being pronounced guilty of an offence should not become punishment without trial. If the trial gets protracted despite assurances of the prosecution, and it is clear that case will not be decided within a foreseeable time, the prayer for bail may be meritorious. While the prosecution may pertain to an economic offence, yet it may not be proper to equate these cases with those punishable with death, imprisonment for life, ten years or more like offences under the Narcotic Drugs and Psychotropic Substances Act, 1985, murder, cases of rape, dacoity, kidnapping for ransom, mass violence, etc. Neither is this a case where 100/1000s of depositors have been defrauded. The allegations have to be established and proven.*
>
> *35.* ***<u>The right to bail in cases of delay, coupled with incarceration for a long period, depending on the nature of the allegations, should be read into Section 439 of the Code and Section 45 of the PML Act. The reason is that the constitutional mandate is the higher law, and it is the basic right of the person charged of an offence and not convicted, that he be ensured and given a speedy trial. When the trial is not proceeding for reasons not attributable to the accused, the court, unless there are good reasons, may well be guided to exercise the power to grant bail. This would be truer where the trial would take years</u>****."*

15. ***<u>It is in this background that Section 45 PMLA needs to be understood and applied. Article 21 being a higher constitutional right, statutory</u>***

provisions should align themselves to the said higher constitutional edict.” (emphasis supplied)

47. In an another decision, the Hon’ble Supreme Court in the case of ***V. Senthil Balaji (supra)*** has held as under:-

> *“25. Considering the gravity of the offences in such statutes, expeditious disposal of trials for the crimes under these statutes is contemplated. Moreover, such statutes contain provisions laying down higher threshold for the grant of bail. T**he expeditious disposal of the trial is also warranted considering the higher threshold set for the grant of bail. Hence, the requirement of expeditious disposal of cases must be read into these statutes. Inordinate delay in the conclusion of the trial and the higher threshold for the grant of bail cannot go together**. **It is a well-settled principle of our criminal jurisprudence that “bail is the rule, and jail is the exception.” These stringent provisions regarding the grant of bail, such as Section 45(1)(iii) of the PMLA, cannot become a tool which can be used to incarcerate the accused without trial for an unreasonably long time.***
>
> *26. **There are a series of decisions of this Court starting from the decision in the case of K.A. Najeeb2, which hold that such stringent provisions for the grant of bail do not take away the power of Constitutional Courts to grant bail on the grounds of violation of Part III of the Constitution of India. We have already referred to paragraph 17 of the said decision, which lays down that the rigours of such provisions will melt down where there is no likelihood of trial being completed in a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence. One of the reasons is that if, because of such provisions, incarceration of an undertrial accused is continued for an unreasonably long time, the provisions may be exposed to the vice of being violative of Article 21 of the Constitution of India.***

27. *Under the Statutes like PMLA, the minimum sentence is three years, and the maximum is seven years. The minimum sentence is higher when the scheduled offence is under the NDPS Act. When the trial of the complaint under PMLA is likely to prolong beyond reasonable limits, the Constitutional Courts will have to consider exercising their powers to grant bail. The reason is that Section 45(1)(ii) does not confer power on the State to detain an accused for an unreasonably long time, especially when there is no possibility of trial concluding within a reasonable time. What a reasonable time is will depend on the provisions under which the accused is being tried and other factors. One of the most relevant factor is the duration of the minimum and maximum sentence for the offence. Another important consideration is the higher threshold or stringent conditions which a statute provides for the grant of bail. Even an outer limit provided by the relevant law for the completion of the trial, if any, is also a factor to be considered. The extraordinary powers, as held in the case of K.A. Najeeb2, can only be exercised by the Constitutional Courts. The Judges of the Constitutional Courts have vast experience.* ***Based on the facts on record, if the Judges conclude that there is no possibility of a trial concluding in a reasonable time, the power of granting bail can always be exercised by the Constitutional Courts on the grounds of violation of Part III of the Constitution of India notwithstanding the statutory provisions.*** *The Constitutional Courts can always exercise its jurisdiction under Article 32 or Article 226, as the case may be. The Constitutional Courts have to bear in mind while dealing with the cases under the PMLA that, except in a few exceptional cases, the maximum sentence can be of seven years.* ***The Constitutional Courts cannot allow provisions like Section 45(1)(ii) to become instruments in the hands of the ED to continue incarceration for a long time when there is no possibility of a trial of the scheduled offence and the PMLA offence concluding within a reasonable time.*** ***If the Constitutional Courts do not exercise their jurisdiction in such cases, the rights of the***

<u>undertrials under Article 21 of the Constitution of India will be defeated</u>. *In a given case, if an undue delay in the disposal of the trial of scheduled offences or disposal of trial under the PMLA can be substantially attributed to the accused, the Constitutional Courts can always decline to exercise jurisdiction to issue prerogative writs. An exception will also be in a case where, considering the antecedents of the accused, there is every possibility of the accused becoming a real threat to society if enlarged on bail. The jurisdiction to issue prerogative writs is always discretionary.*

28. Some day, the courts, especially the Constitutional Courts, will have to take a call on a peculiar situation that arises in our justice delivery system. There are cases where clean acquittal is granted by the criminal courts to the accused after very long incarceration as an undertrial. When we say clean acquittal, we are excluding the cases where the witnesses have turned hostile or there is a bona fide defective investigation. In such cases of clean acquittal, crucial years in the life of the accused are lost. In a given case, it may amount to violation of rights of the accused under Article 21 of the Constitution which may give rise to a claim for compensation.

29. As stated earlier, the appellant has been incarcerated for 15 months or more for the offence punishable under the PMLA. In the facts of the case, the trial of the scheduled offences and, consequently, the PMLA offence is not likely to be completed in three to four years or even more. If the appellant's detention is continued, it will amount to an infringement of his fundamental right under Article 21 of the Constitution of India of speedy trial." (emphasis supplied).

48. It is now settled principle that the stringent statutory provisions under section 45 of the PMLA has to be harmonized with the right to personal liberty enshrined under Article 21 of the Constitution in light of the decisions of the

Hon'ble Supreme Court in the case of ***V. Senthil Balaji (supra)*** and ***Manish Sisodia (supra).*** The prolonged incarceration before even being pronounced guilty of an offence should not be permitted to become a punishment without trial and when there is long period of incarceration and the trial is not likely to be concluded soon then the accused cannot be deprived of his liberty and weightage has to be given while considering his bail application. In the case of ***V. Senthil Balaji (supra)*** the Hon'ble Supreme Court has categorically held that if the Court concludes that there is no possibility of the trial concluding in a reasonable time, the power of granting bail can always be exercised by Constitutional Courts on the ground of violation of part-III of the Constitution notwithstanding the statutory provisions.

49. Turning to the facts of the present case, the Enforcement Directorate has filed the Second Supplementary Prosecution Complaint, upon which, the learned Special Court has taken cognizance against the petitioner and other accused persons. However, there are altogether 38 witnesses and 28 documents, which runs into 5787 pages and the trial itself will take considerable time and it is not reasonably excepted to conclude soon and therefore, it would not be in the interest of justice and would be affront to the fundamental rights of the petitioner, who is sick and approximately 70 years old, to keep him in custody as under-trial for an indefinite period. Further, the allegations levelled against the petitioner involves complex questions and issues which warrants detailed appreciation of evidence which is to be considered by the Special Court.

50. In the considered opinion of this Court, the petitioner, who is a septuagenarian and has clean antecedents, deserves to be enlarged on bail on the grounds of his prolonged incarceration and that there being no possibility of conclusion of trial in near future. Further, keeping the petitioner in custody without actually being held guilty would be against Article 21 of the Constitution of India and the law laid down by the Hon'ble Supreme Court in the cases of ***V. Senthil Balaji (supra)*** and ***Manish Sisodia (supra).***

51. Accordingly, let the petitioner be released on bail on furnishing bail bonds of Rs.1,00,000/- (Rupees One Lakh) with two sureties of the like amount each to the satisfaction of learned Sessions Judge -cum- Special Judge (PMLA), Patna, in connection with Special Trial (PMLA) Case No.08 of 2024, arising out of Supplementary Record of Special Trial (PMLA) Case No.09 of 2023, which in turn arises out of

ECIR No. PTZO/07/2022 dated 10.01.2022 read with addendum ECIRs dated 04.06.2023 and 09.11.2023, subject to the following conditions:-

i. The petitioner shall not leave the country without the permission of the Trial Court;

ii. The petitioner shall appear before the Special Court / concerned Court as and when the matter shall be taken up i.e. on each and every date.

iii. The petitioner shall provide his mobile number to the Enforcement Directorate at the time of his release, which shall be kept in working condition and active at all times and he shall not switch off or change the same without prior intimation to the Enforcement Directorate during the period of bail.

iv. In case, the petitioner changes his address, he will inform the Enforcement Directorate as well as to the concerned Court.

v. The petitioner shall not indulge in any criminal activity during the bail period.

vi. The petitioner shall not influence the prosecution witnesses directly or remotely.

vii. The prosecuting agency will be at liberty to file an application for modification / recalling of the order passed by this Court if the petitioner violates any of the conditions imposed by this Court.

52. Accordingly, the present bail application is allowed with the aforesaid conditions.

53. Needless to state that this Court has not expressed any opinion on the merits of the case.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	23.09.2025
Transmission Date	23.09.2025