



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 02nd July, 2025

Pronounced on: 22nd July, 2025

+ **BAIL APPLN. 552/2025**

NARESH KUMAR @ PAHELWAN

.....Petitioner

Through: Mr. Akshay, Mr. Anurag S. Tomar,
Ms. Shivangi Shokeen and Mr.
Dinesh Ashok Kr., Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Tarang Srivastava, APP.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

J U D G M E N T

SANJEEV NARULA, J.:

1. The present bail application filed under Sections 483 read with 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ seeks grant of regular bail in proceedings emanating from case FIR No. 55/2016 dated 19th April, 2016, registered at P.S. Crime Branch, under Sections 3/4 of the Maharashtra Control of Organized Crime Act, 1999². Subsequently, by a supplementary chargesheet dated 7th December, 2017, the Applicant has been implicated under Sections 3(1)/3(2)/3(3)/3(4)/3(5) of MCOCA.

CASE OF PROSECUTION:

2. The factual background leading to the filing of the present application is summarised as follows:

2.1. The aforementioned case was registered against one Manoj @ Morkheri and his associates, part of a structured and well-organised criminal

¹ "BNSS"

² "MCOCA"



syndicate, operating primarily in Delhi NCR and adjoining states. The syndicate is stated to be involved in a series of grave offences, including murder, kidnapping for ransom, extortion, robbery, and attempt to murder, which are committed through acts of violence, intimidation, and other unlawful means. These offences were carried out with the objective of deriving pecuniary benefit and securing undue economic advantage. The gang's sustained criminal activities have instilled fear in the region. The members of this syndicate, acting either individually or in concert, operate as part of, or on behalf of, an organised crime network.

2.2. The impugned FIR was registered following a proposal for approval to invoke the provisions of MCOCA under Section 23(1)(a) of the Act in light of the consistent and continuing criminal activities of the syndicate. Manoj Morkheri, acting in concert with his associates, is engaged in organised criminal activity within the meaning of Section 2(1)(e) of MCOCA, primarily for pecuniary gain. They constitute an organised crime syndicate as defined under Section 2(1)(f) of the Act. Their continued engagement in criminal conduct has resulted in accumulation of considerable illicit assets, both movable and immovable, which have been derived from the proceeds of crime. The network allegedly functions with a high degree of coordination and exerts influence through sustained patterns of criminal conduct.

2.3. The Applicant was absconding to evade arrest in the present case, leading to the issuance of Non-Bailable Warrants against him on 5th December, 2016. Meanwhile, he was apprehended in connection with FIR No. 28/2017, P.S. Barwala, Hissar, Haryana. Subsequently, he was arrested in the present case on 16th June, 2017, following which he was committed to



trial before the Court of the Additional Sessions Judge, Rohini Courts, where the matter is presently at the stage of prosecution evidence.

2.4. During investigation, the Applicant volunteered to make a confession and was accordingly produced before the competent authority. Pursuant thereto, his confessional statement under Section 18(1) of the MCOCA was recorded on 21st June, 2017, wherein he admitted to his involvement in the alleged syndicate. Similarly, other co-accused persons, whose confessions were also recorded, confirmed the Applicant's involvement in the crime syndicate.

2.5. The Applicant is an active gang member of the crime syndicate. He is accused of playing a direct role in multiple offences, including those involving murder, kidnapping for ransom, robberies and extending threats, criminal intimidation, across different jurisdictions. For instance, he was implicated in FIR No. 415/2011, P.S. Narnaund, Hisar, under Sections 302/148/149 IPC and Section 25 of the Arms Act for allegedly murdering a rival using weapons supplied by Manoj Morkheri. Subsequently, the Applicant and co-accused are alleged to have kidnapped a student, Rishu Mittal, at gunpoint and demanded a ransom of INR 1 crore, resulting in the registration of FIR No. 497/2011, P.S. Prashant Vihar, under Sections 364A and 120B IPC. Further, under Manoj's instructions, they allegedly committed a car robbery, pursuant to which FIR No. 914/2011, P.S. Civil Lines, Karnal came to be registered under Section 393 IPC and Section 25 Arms Act. Accordingly, based on the investigation conducted and the evidence collected, it is alleged that the Applicant is a habitual offender, involved in a number of serious crimes, and accordingly, should not be released on bail.



ARGUMENTS ADVANCED BY THE APPLICANT:

3. Counsel for the Applicant advances the following submissions seeking grant of regular bail:

3.1. ***Long Period of Custody and Delay in Trial:*** The Applicant was arrested on 16th June, 2017 and has remained in custody for over 8 years. Out of the 126 prosecution witnesses cited, only 35 have been examined thus far, and none of the public witnesses have deposed anything incriminating against the Applicant. The protracted nature of the trial, which cannot be attributed to any delay on the part of the Applicant, ought to weigh in favour of granting him bail. The Supreme Court has consistently held that even in cases involving special statutes like MCOCA, the stringent bail conditions can be relaxed when the accused has undergone long periods of incarceration. In ***Mohd. Enamul Haque v. Enforcement Directorate***,³ the Supreme Court held that prolonged incarceration will inure to the benefit of the accused for bail when delay in trial is not attributable to him. In ***Mohd. Muslim v. State (NCT of Delhi)***,⁴ the Court affirmed that bail can be granted if there is an undue delay in the trial, even under the stringent provisions of special statutes like the NDPS Act. Reliance is also placed on the judgement in ***Union of India v. K.A. Najeeb***.⁵

3.2. ***Lack of Evidence to satisfy twin conditions under MCOCA:*** To invoke Sections 3 and 4 of MCOCA, the Prosecution must establish two essential elements: (i) continuing unlawful activity, and (ii) the involvement of the accused in an organised crime syndicate for pecuniary gain.⁶ Neither

³ 2024 SCC OnLine SC 4069.

⁴ (2023) 18 SCC 166.

⁵ (2021) 3 SCC 713.

⁶ Prasad Shrikant Purohit v. State of Maharashtra and Ors., MANU/SC/0449/2015.



of these elements is made out in the present case against the Applicant.

3.3 *Absence of evidence to establish Continuing Unlawful Activity and membership in an Organized Crime Syndicate:* To establish continuing unlawful activity and membership in an organized crime syndicate, it is imperative that there be multiple chargesheets in which the competent court has taken cognizance. In the present case, as per the proposal for invoking MCOCA, the Applicant's alleged association with the organised crime syndicate rests solely on his implication in FIR No. 497/2011 registered at P.S. Prashant Vihar, Delhi. Pertinently, the Applicant has been acquitted in the said case *vide* order dated 29th May, 2025 passed by the ASJ-04, Rohini Courts, Delhi. In any event, even if this FIR were to be considered against the Applicant, there are no other offences committed by the Applicant that could demonstrate his involvement in continuing unlawful activity. As regards the other cases referenced by the Prosecution in the status report, the Applicant has been acquitted in the majority of those matters and is currently on bail in the others. Consequently, the present case remains the only obstacle preventing his release from custody.

3.4. *Absence of Pecuniary Gain:* The Applicant has not derived any pecuniary benefit or other advantage for himself or any other person. The inventory prepared by the IO reveals that only ordinary household items were found at his residence, and no evidence has been presented to establish that the Applicant profited from any criminal activity.

3.5. *Parity with Co-Accused Granted Bail:* The Applicant is entitled to bail on the ground of parity. Two co-accused persons, namely Sumit @ Sam and Anil Kumar @ Ganja, have already been granted bail by the Sessions Court. Additionally, two other co-accused, namely Arun and Jitender Dixit



@ Bantu, have also been granted regular bail by this Court by orders dated 7th April, 2025 and 19th May, 2025, respectively, in BAIL APPLN. 3348/2023 and BAIL APPLN. 3831/2023. Reliance is placed on the decisions of the Supreme Court in *Akhil Ali Jehangir Ali Sayyed v. State of Maharashtra*,⁷ and *Suryavir v. State of Haryana*,⁸ wherein the Court held that Article 21 of the Constitution of India does not permit courts to deny a benefit to an accused if the same benefit has been extended to a co-accused who is similarly situated.

3.6. ***No Risk of Tampering Evidence or Threat to Witnesses:*** As noted above, the Applicant has already been acquitted in most of the FIRs registered against him and is on bail in the remaining ones. Reliance is placed on *Prabhakar Tiwari v. State of Uttar Pradesh*,⁹ wherein the Supreme Court has held that that the seriousness of the offence or the pendency of multiple cases alone cannot be the sole grounds to deny bail; the Court must adopt a holistic view of the overall facts and circumstances. Furthermore, in the present case, all public and material witnesses have been discharged, and there is no likelihood of the Applicant threatening any witness or tampering with evidence.

ARGUMENTS ADVANCED BY THE STATE:

4. Mr. Tarang Srivastava, APP for the State, strongly opposes the present bail application and advances the following submissions:

4.1. ***Grave Criminal Antecedents and Invocation of MCOCA:*** The present case is being investigated under MCOCA, which is a special legislation aimed at curbing organised criminal syndicates. The proposal for

⁷ 2003 (2) SCC 708.

⁸ AIRONLINE 2022 SC 219.



invoking MCOCA under Section 23(1)(a) was approved by the competent authority on the basis of multiple FIRs involving the Applicant and his associates, dating back to 2011. These cases reflect a pattern of organised criminal activity committed for pecuniary gain through means such as violence and intimidation. The proposal specifically highlighted that courts of competent jurisdiction had, over time, taken cognizance of more than one chargesheet against members of the alleged crime syndicate. A summary of these cases is set out in the chargesheet dated 17th October, 2016.

4.2. ***Risk of Absconding/ Witness Intimidation:*** The Applicant's previous criminal record clearly establishes that he is a hardcore criminal. Moreover, following the invocation of MCOCA and the registration of the present FIR, the Applicant absconded, giving rise to significant apprehension that, if granted bail, he may attempt to abscond or evade justice. Additionally, considering the serious nature of the allegations and the Applicant's past conduct, there is a reasonable apprehension that he may commit further offences or attempt to influence witnesses, thereby justifying his continued detention.

4.3. ***Lack of Reform and Misconduct During Incarceration:*** Despite the Applicant being in judicial custody, he continues to engage in unlawful activities. He has been booked in multiple FIRs registered under the Prisons Act, 1894,¹⁰ and the Narcotic Drugs and Psychotropic Substances Act, 1985,¹¹ while in custody. Such conduct clearly indicates an absence of remorse or any effort at reformation.

4.4. ***Misplaced Reliance on Parity:*** The Applicant's claim for bail on the

⁹ (2020) 11 SCC 648.

¹⁰ "Prisons Act"



ground of parity with the co-accused is wholly untenable. The Applicant stands on a completely different and more serious footing compared to the other co-accused persons who have been released on bail. The Courts have repeatedly emphasised that parity must be assessed contextually, keeping in view the nature of individual roles and criminal antecedents.

ANALYSIS:

5. The Court has carefully considered the submissions advanced by the parties as well as perused the record. Section 21(4) of MCOCA imposes stringent conditions for granting bail, stipulating as follows:

(4) Notwithstanding anything contained in the Code, no person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond, unless—

(a) the Public Prosecutor has been given an opportunity to oppose the application of such release; and

(b) 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.

6. In the present case, the principal thrust of the Applicant's plea lies in the prolonged period of incarceration and the undue delay in the conclusion of trial; and the principle of parity with co-accused who have already been granted bail. The Applicant also seeks to invoke his right to avail the relief of bail already granted to him in the other cases registered against him, which can only be realised upon his release on bail in the present matter.

7. The right to a speedy trial, now firmly entrenched in our constitutional jurisprudence under Article 21 of the Constitution of India, is not an abstract or illusory safeguard. It is a vital facet of the right to personal liberty and cannot be whittled down merely because the case arises under a special

¹¹ "NDPS Act"



statute such as MCOCA.

8. The Supreme Court has consistently held that where trials under special laws are unduly delayed, the rigour of stringent bail provisions must yield to the constitutional promise of liberty. The more rigorous the provisions of the legislation, the more expeditious the adjudication must be.¹² In other words, where enactments stipulate strict conditions for granting bail, it is the unequivocal responsibility of the State to ensure that such trials are prioritized and concluded within a reasonable timeframe. Therefore, although Section 21(4) of MCOCA imposes stringent conditions for the grant of bail, these provisions must be balanced with the fundamental right to personal liberty of the accused, the presumption of innocence, and the societal interest in ensuring the right to a speedy trial.¹³

9. In this context the observations in the recent decision of **Mohd. Muslim**, are apposite, where the Supreme Court, while dealing with Section 37 of the NDPS Act, which is *pari materia* to Section 21(4) of MCOCA, held that protracted incarceration as an undertrial, even in cases involving serious offences, must weigh heavily in favour of granting bail, particularly when such delay is not attributable to the accused. The relevant observations are excerpted below:

“12. This court has to, therefore, consider the appellant’s claim for bail, within the framework of the NDPS Act, especially Section 37. In Supreme Court Legal Aid Committee (Representing Undertrial Prisoners) v. Union of India, this court made certain crucial observations, which have a bearing on the present case while dealing with denial of bail to those accused of offences under the NDPS Act:

“On account of the strict language of the said provision very few persons accused of certain offences under the Act could secure bail.

¹² *Satender Kumar Antil v. Central Bureau of Investigation*, (2022) 10 SCC 51.

¹³ *Vijay Madanlal Chaudhary v. Union of India*, 2022 SCC Online SC 929.



Now to refuse bail on the one hand and to delay trial of cases on the other is clearly unfair and unreasonable and contrary to the spirit of Section 36(1) of the Act, Section 309 of the Code and Articles 14, 19 and 21 of the Constitution. We are conscious of the statutory provision finding place in Section 37 of the Act prescribing the conditions which have to be satisfied before a person accused of an offence under the Act can be released. Indeed we have adverted to this section in the earlier part of the judgment. We have also kept in mind the interpretation placed on a similar provision in Section 20 of the TADA Act by the Constitution Bench in *Kartar Singh v. State of Punjab* [(1994) 3 SCC 569]. Despite this provision, we have directed as above mainly at the call of Article 21 as the right to speedy trial may even require in some cases quashing of a criminal proceeding altogether, as held by a Constitution Bench of this Court in *A.R. Antulay v. R.S. Nayak* [(1992) 1 SCC 225] , release on bail, which can be taken to be embedded in the right of speedy trial, may, in some cases be the demand of Article 21. As we have not felt inclined to accept the extreme submission of quashing the proceedings and setting free the accused whose trials have been delayed beyond reasonable time for reasons already alluded to, we have felt that deprivation of the personal liberty without ensuring speedy trial would also not be in consonance with the right guaranteed by Article 21. Of course, some amount of deprivation of personal liberty cannot be avoided in such cases; but if the period of deprivation pending trial becomes unduly long, the fairness assured by Article 21 would receive a jolt. It is because of this that we have felt that after the accused persons have suffered imprisonment which is half of the maximum punishment provided for the offence, any further deprivation of personal liberty would be violative of the fundamental right visualised by Article 21, which has to be telescoped with the right guaranteed by Article 14 which also promises justness, fairness and reasonableness in procedural matters.”

13. When provisions of law curtail the right of an accused to secure bail, and correspondingly fetter judicial discretion (like Section 37 of the NDPS Act, in the present case), this court has upheld them for conflating two competing values, i.e., the right of the accused to enjoy freedom, based on the presumption of innocence, and societal interest – as observed in *Vaman Narain Ghiya v. State of Rajasthan* (“the concept of bail emerges from the conflict between the police power to restrict liberty of a man who is alleged to have committed a crime, and presumption of innocence in favour of the alleged criminal....”). They are, at the same time, upheld on the condition that the trial is concluded expeditiously. The Constitution Bench in *Kartar Singh v. State of Punjab* made observations to this effect. In



Shaheen Welfare Association v. Union of India again, this court expressed the same sentiment, namely that when stringent provisions are enacted, curtailing the provisions of bail, and restricting judicial discretion, it is on the basis that investigation and trials would be concluded swiftly.”

[Emphasis Supplied]

10. This view was reaffirmed in the case of ***Satender Kumar Antil v. Central Bureau of Investigation***,¹⁴ where the Supreme Court undertook a comprehensive analysis of earlier decisions dealing with prolonged incarceration and delay in trials. The Court clarified that the mandate under Section 436A of the CrPC, requiring release of an undertrial on bail if the trial is not concluded within a stipulated period, applies equally to prosecutions under special statutes, notwithstanding the rigours they impose. The Court observed as follows:

*“We do not wish to deal with individual enactments as each special Act has got an objective behind it, followed by the rigour imposed. The general principle governing delay would apply to these categories also. To make it clear, the provision contained in Section 436-A of the Code would apply to the Special Acts also in the absence of any specific provision. For example, the rigour as provided under Section 37 of the NDPS Act would not come in the way in such a case as we are dealing with the liberty of a person. **We do feel that more the rigour, the quicker the adjudication ought to be. After all, in these types of cases number of witnesses would be very less and there may not be any justification for prolonging the trial. Perhaps there is a need to comply with the directions of this Court to expedite the process and also a stricter compliance of Section 309 of the Code.**”*

[Emphasis Supplied]

11. A similar position was adopted in ***Union of India v. K.A. Najeeb***,¹⁵ where while dealing with bail application under the Unlawful Activities (Prevention) Act, 1967, the Supreme Court underscored that the constitutionality of stringent bail conditions under special enactments, such

¹⁴ (2022) 10 SCC 51.



as the NDPS Act or the Terrorist and Disruptive Activities (Prevention) Act, 1987, must be primarily justified based on the requirement of speedy trials, ensuring that the fundamental rights of accused persons are safeguarded.

12. In *Ranjana Tanaji Wanve v. State of Maharashtra*,¹⁶ the Supreme Court considered a bail plea in a case where the accused had remained in custody for over two years with minimal progress in trial. This case involved Sections 364A, 384, 386, 388, 323, 506(2), 143, and 120B of the IPC, as well as Sections 3(1)(ii), 3(2), and 3(4) of MCOCA. The Court noted that charges had not yet been framed, and a large number of witnesses remained to be examined. In light of this, the Court concluded that prolonged detention without trial was contrary to the principles of justice, holding that extended detention, without any foreseeable progress in the case, necessitated a reconsideration of the accused's bail application. In such circumstances, the Court granted bail to the accused.

13. Likewise, in the case of *Siddhant v. State of Maharashtra*,¹⁷ the Supreme Court considered a bail application under MCOCA, and reiterated that excessive pre-trial incarceration, particularly in the absence of any meaningful progress in the proceedings, infringes the fundamental rights of an accused. Relying on the decision in *Manish Sisodia v. Directorate of Enforcement*,¹⁸ the Court observed that the right to a speedy trial is an essential facet of Articles 19 and 21 of the Constitution. It was held that prolonged incarceration, without trial, amounts to punitive detention prior to adjudication, which cannot be countenanced within our constitutional

¹⁵ (2021) 3 SCC 713.

¹⁶ Special Leave to Appeal (Crl.) No. 12740/2024, decided on 22nd October, 2024.

¹⁷ 2024 SCC OnLine SC 3798.

¹⁸ 2024 SCC OnLine SC 1920.



framework. In ***Siddhant***, where the accused had already spent six years in custody without framing of charges, the Court observed:

“10. The material placed on record would reveal that for a period of the last six years, out of 102 dates, the accused has not been produced before the Court either physically or through virtual mode on most of the dates. On the last date, we had put a query to the learned counsel appearing for the State as to why the charges were not framed as of date in this case. Shri Kilor fairly states that the charges have not been framed in the cases which are registered prior to the registration of the present case. We may say with anguish that this is a very sorry state of affairs. If an accused is incarcerated for a period of approximately five years without even framing of charges, leave aside the right of speedy trial being affected, it would amount to imposing sentence without trial. In our view, such a prolonged delay is also not in the interest of the rights of the victim.”

14. In view of the above principles, this Court is of the considered opinion that while Section 21(4) of MCOCA imposes stringent statutory conditions for the grant of bail under Section 483 of BNSS (corresponding to Section 439 of CrPC), these provisions cannot be construed in a manner that forecloses judicial scrutiny under Article 21 of the Constitution. Where there is a manifest and continuing violation of the right to a speedy trial, constitutional courts are not only empowered but duty-bound to intervene.

15. The Court now turns to analyse the case at hand. As per the latest nominal roll, as on 12th March, 2025, the Applicant has already spent 7 years, 8 months, and 21 days in custody. Thus, as of today, he has been in custody for more than 8 years, and despite the prolonged detention, the trial remains far from conclusion. Accordingly, this case falls squarely within the purview of Article 21, which guarantees the right to a speedy trial. It is noted that out of 126 prosecution witnesses, only 35 have been examined so far. The inordinate delay and excessive period of detention violate the Applicant's fundamental rights under Article 21. Therefore, the Applicant's



plea for bail, based on these constitutional grounds has merit.

16. In light of the above discussion, the rigour of Section 21(4) of MCOCA stands diluted. Nevertheless, in view of the Prosecution's reliance on the Applicant's involvement in other criminal cases, the Court considers it appropriate to briefly address the same. To this end, the following table outlines the criminal cases registered against the Applicant, along with the current stage of proceedings in those cases. The details are set out below:

S. No.	FIR No. (filed on)	Under Sections, P.S.	Status
1.	201/08 (29.09.08)	148/149/323/452 of IPC at P.S. Bhuna, Fatehabad, Haryana	Acquitted
2	360/09	148/149/323/457/427/448/506 of IPC at P.S. City Jind, Haryana	Acquitted
3.	479/10 (19.08.10)	25/54/59 Arms Act at P.S. City Hansi, Haryana	Acquitted
4.	415/11 (20.10.11)	302/148/149 of IPC and 25 Arms Act at P.S. Narnaund, Hisar, Haryana	Acquitted
5.	497/11 (11.11.11)	364A of IPC at P.S. Prashant Vihar, Delhi	Acquitted
6.	914/11 (22.12.11)	392 of IPC and 25 of Arms Act at P.S. Civil Line, Karnal, Haryana	Acquitted
7.	717/15 (11.11.15)	302/201/120B/216 of IPC and 25 of Arms Act at P.S. Sector-5, Gurgaon, Haryana	On Bail
8.	55/16	3/4 of MCOCA at P.S. Crime	Present



	(19.04.16)	Branch, Delhi	Matter
9.	463/16 (13.10.16)	302/34 of IPC and 25 of Arms Act at P.S. Narnaun, Hissar, Haryana	Acquitted
10.	28/17 (27.01.17)	302/120B/34 of IPC and 25 of Arms Act at P.S. Barwala, Hissar, Haryana	Acquitted
11.	13/17 (19.05.17)	25/54/59 of Arms Act at Sector-9A, Gurgaon, Haryana	Acquitted
12.	166/17 (05.06.17)	25/54/59 of Arms Act at P.S. Narnaund, Hissar, Haryana	Acquitted

17. A perusal of the Applicant's criminal record reveals that he has been acquitted in all but one case, and in the remaining matter, he is presently on bail. A perusal of the nominal roll also reveals certain other cases registered against the Applicant under the provisions of the NDPS Act or the Prisons Act. However, these FIRs arise out of incidents that occurred within the confines and secure precincts of the jail premises. *Prima facie* the incidents were not related to any external criminal activity but were instead custodial episodes involving other inmates or jail personnel. Furthermore, the Applicant has already been granted bails in connection with these FIRs.

18. Significantly, the only case considered by the authorities at the time of granting sanction under MCOCA was case FIR No. 497/2011, registered at P.S. Prashant Vihar, Delhi, in which the Applicant has already been acquitted during the pendency of the present bail application. None of the other FIRs, cited during the approval process under MCOCA, implicate the present Applicant.

19. Upon a comprehensive consideration of the foregoing submissions, it



emerges that the Applicant has either been acquitted or has been granted bail in all the cases referred to by the State. Consequently, the pendency of the present matter stands as the sole impediment preventing the Applicant from availing the benefit of liberty conferred upon him by various judicial orders of competent courts. The continued deprivation of liberty, despite such favourable orders, assumes particular significance in view of the protracted progress of the trial in the present case. The delay, therefore, not only prolongs the Applicant's pretrial detention, but also renders nugatory the reliefs granted to him in other matters. Such an outcome defeats the ends of justice and cannot be permitted to persist indefinitely.

20. The Applicant has also sought to advance his case on merits, arguing that the essential ingredients required for an offence under MCOCA, *i.e.*, continuing unlawful activity and membership in an organized crime syndicate with the intent to gain pecuniary benefits, are not satisfied in this case. However, at this stage, the Court is not inclined to engage in a detailed examination of the merits of the case or conduct a mini-trial to determine whether the offence against the Applicant is made out. It must, however, be emphasized that the provisions under MCOCA are invoked specifically pursuant to "continuing unlawful activity" committed by the accused. However, apart from FIR No. 497/2011, the Applicant was not involved in any of the eight prior FIRs considered by the Prosecution for the registration of the subject FIR, nor was he named in any of the additional 23 FIRs that the Prosecution relied upon after the investigation concluded.

21. As regards the other cases cited by the Prosecution, alleging the Applicant's involvement in offences such as murder and kidnapping alongside Manoj Morkehri or other co-accused in the present case, it is



pertinent to highlight that the aforesaid FIRs were not considered by the authorities when granting approval under MCOCA. This indicates that the aforesaid cases did not factor into their conclusion that the Applicant was involved in the offense under MCOCA. As such, the invocation of MCOCA was primarily based on the Applicant's alleged involvement in FIR No. 497/2011, in which he stands acquitted. This FIR formed the predicate offence necessary to establish the element of "continuing unlawful activity" under Section 2(1)(d) of MCOCA. In view of the acquittal, the foundational basis for invoking MCOCA against the Applicant stands undermined, which, at the very least, *prima facie* casts a serious doubt in favour of the Applicant. In any event, a detailed examination of such cases is not warranted at the stage of consideration of bail, and the merits thereof shall appropriately be adjudicated during the course of trial.

22. The Applicant has also sought to advance his case on the principle of parity, arguing that co-accused Sumit @ Sam and Anil Kumar @ Ganja, both of whom have multiple prior criminal involvements (seven and nine, respectively), have already been granted bail. Moreover, co-accused Arun was granted bail by this Court, despite his conviction and sentence for life imprisonment (in another case) having been upheld by the Supreme Court. Similarly, co-accused Jitender Dixit @ Bantu, a convict in two other cases (in which the sentences have been suspended), was also granted bail by this Court. In contrast, the Applicant has no prior convictions and is named only in FIR No. 497/2011, P.S. Prashant Vihar, Delhi, in which he has since been acquitted during the pendency of the present bail application. In all the other FIRs registered against him, he has either been acquitted or is on bail. Therefore, considering the principle of parity and the more favourable



circumstances of the Applicant, he is similarly entitled to the benefit of bail.

23. Although the State has drawn the attention of this Court to the Applicant's status as a Proclaimed Offender and the fact that a substantial number of witnesses are yet to be examined, it is well settled that bail cannot be denied solely on apprehensions, particularly when the Applicant has already undergone significant detention and the trial is not likely to conclude in the near future. Moreover, any concerns the Prosecution may have regarding the Applicant fleeing from justice or tampering with evidence can be adequately addressed by imposing appropriate conditions at the time of granting bail.

24. In view of the foregoing facts and circumstances, this Court is of the considered view that the Applicant has made out a case for grant of bail. Accordingly, it is directed that the Applicant shall be released on regular bail on furnishing a personal bond in the sum of INR 50,000/- along with one surety of the like amount to the satisfaction of the concerned Trial Court/ Metropolitan Magistrate, subject to the following conditions:

- (a) The Applicant will not leave the country without prior permission of the Court.
- (b) The Applicant shall provide permanent address to the Trial Court. The Applicant shall intimate the Court by way of an affidavit and to the IO regarding any change in his residential address.
- (c) The Applicant shall appear before the Court as and when the matter is taken up for hearing.
- (d) The Applicant shall provide all mobile numbers to the concerned IO, which shall be kept in working condition at all times.
- (e) The Applicant shall not switch off his phone or change his mobile



number without prior intimation to the concerned IO.

(f) The Applicant will report to the concerned IO on the second and fourth Friday of every month, at 4:00 PM, and will not be kept waiting for more than an hour.

(g) The Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, or tamper with the evidence of the case.

(h) It is clarified that the Applicant shall not be released on bail till the time he has secured bail in other cases, as required as per law.

25. It is explicitly clarified that, observations, if any, concerning the merits of the case are solely for the purpose of deciding the question of grant of bail and shall not be construed as an expression of opinion on the merits of the case.

26. In case the Applicant violates any of the aforementioned conditions or is found to be involved in any other or similar offence, the Prosecution shall be at liberty to seek cancellation of the bail granted to the Applicant, uninfluenced by this order.

27. A copy of the order be sent to the Jail Superintendent for information and necessary compliance.

28. With the above directions, the present application is disposed of.

SANJEEV NARULA, J

JULY 22, 2025

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