IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51347 of 2025

Arising Out of PS. Case No.-5 Year-2024 Thana- E.C.I.R (GOVERNMENT OFFICIAL) District- Patna

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Sandip Kumar Singh Son of Lal Bahadur Singh Resident of 3rd floor, 1/1A, Motilal sen lane, Narkeldanga, P.S.- Narkeldanga, P.O- Narkeldanga, kolkata 700911 ... ... Petitioner/s

Versus

The Union of India through the assistant director, Directorate of enforcement, 1st Floor, Chandpura Place, Bank Road, West Gandhi Maidan road, Patna ... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. P.N. Shahi, Sr. Advocate Mr. Amit Anand, Advocate Mr. Pushkar Prashant, Advocate
For the Respondent/UOI/ED	:	Dr. Krishna Nandan Singh (A.S.G.) Mr. Prabhat Kumar Singh, Advocate Mr. Raghav Raj Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY

CAV ORDER

5 22-01-2026 Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner has prayed for regular bail in a case registered in connection with Special Trial PMLA Case No. 02 of 2025, arising out of ECIR No. PTZO/05/2024, registered under Sections 3 and 4 of the Prevention of Money Laundering Act, 2022 (hereinafter referred to as the 'PMLA').

3. The case of the prosecution, in short, is that the petitioner made accused in this case ECIR/PTZ0/05/2024 dated 14.03.2024 relying upon three FIRs viz 1. FIR bearing No. 933 of 2023 dated 18.11.2023 of Nagar P.S. Vaishali, under Sections 409, 420, 67, 468, 471 and 120B 2. FIR No. 629/2023 dated

13/03/2023 relying upon three FIR's viz 1. FIR bearing No 933/23 dated 18/11/2023 of Nagar P.S. Vaishali, u/s 409,420,67,468,471/120B. 2. FIR No;- 629/2023 dated 13/03/2023 of Nagar P.S. Vaishali, u/s 379 & 420 and 3. FIR No;- 785/23 dated 30/09/2023 registered in Nagar PS Vaishali, u/s 409,420,467,468 & 471 of I.P.C.

4. A financial irregularity took place in the Vaishali Shahri Vikas Cooperative Bank Ltd., Hajipur, wherein several officials of the said bank, in collusion with private individuals and entities, allegedly committed offences such as cheating, forgery, criminal conspiracy, and misappropriation of public funds, resulting in the generation of proceeds of crime to the tune of approximately Rs. 83.50 Crores. The ED has alleged that the petitioner along with others was involved in layering and utilization of these alleged Proceed of Crime (in short 'PoC'). It has been further submitted by the learned advocate of the petitioner that petitioner has been falsely implicated in the present case without any cogent or credible evidence linking him to the commission of any offence under the Prevention of Money Laundering Act. Petitioner has no direct or indirect role in the commission of the alleged scheduled offence nor he has been named as an accused in any of the FIRs relied upon for the registration of impugned ECIR/PTZO/05/2024.

5. It is further submitted that petitioner has not derived or obtained any monetary gain personal enrichment or pecuniary advantage and petitioner does not own or possess any movable or immovable property traceable to the alleged PoC. The petitioner was merely working in a supervisory capacity in the firm RSDR Agri Aqua Llp for a monthly remuneration of Rs. 25,000/- and had no involvement in the decision making process or financial control of the operation. No incriminating document has been produced to indicate that petitioner derived any monetary benefit or had any knowledge about the illicit origin of the funds. It has been further submitted that the petitioner is a chronic diabetic and requires daily insulin therapy, including subcutaneous injections of long-acting insulin analogues and prandial insulin and his wife is also suffering from uterine fibroid disease.

6. As against this the learned counsel for the ED has vehemently opposed the bail prayer of the petitioner and has submitted that Vipin Tiwari, the then Chief Executive Officer of VSV, Sajeev Kumar, the then chairman of loan committee of VSV, Saiyad Shahanwaz Wajih, the then manager of VSV and others generated PoC by disbursing bank money through 383 fraud loans amounting to Rs. 83.50 Crores approx based on fake/forged warehouse/LIC receipts and later on same was transferred to the various suspected persons/entities who were directly or indirectly connected to Vipin Tiwari, Sanjeev Kumar and their associates and from the analysis of money trail it was found that ICICI Bank Account No. 129205000838 in the name of N Dimension were the major receivers from the VSV saving Bank Account linked to the fraud accounts. Petitioner Sandip Kumar Singh is the owner of N Dimensions and he received Rupees 4.151 crores from the fraud loans disbursement and they also layered the PoC through various other accounts and routed the major part of fraud loan amount to the accounts related to the Vipin Tiwari, the then CEO of VSV.

7. From perusal of materials available on the record it is clear that three FIRs (supra) were filed and as a result of these three FIRs, this ECIR was instituted . The allegation is that bank officials conspired themselves and embezzled an amount of Rs. 83.50 Crores through cheating and forgery. During investigation it was revealed that an amount of Rs.2.53 Crores was transferred from the account of Mehra Travels and 74 lakhs from the account of N Dimension to the different personal accounts of Vipin Tiwari during the period December, 2021 to December, 2022.

8. From perusal of the brief summary of the outcome of the investigation under PMLA against Sandeep Kumar Singh it is clear that the petitioner Sandeep Kumar Singh is involved in the transfer and layering of funds obtained fraudulently from the

VSV Co-operative Bank and he is the owner of N Dimension which was a major beneficiary of these fraud loans. The ICICI bank account No. 129205000838 held in the name of N Dimension receives PoC through RTGS/NEFT from VSV Co-operative Bank to the tune of Rs. 4,15,10,000/-. The petitioner transferred PoC to the bank accounts of Vipin Tiwari, the then CEO of VSV amounting to Rs.2,32,16,300/- and received routed and layered PoC of Rs.11,87,400/- from Tiwari's account. He transferred PoC of Rs.30,50,000/- to the account of Nitin Mehra, another accused and directly received PoC from VSV Co-operative bank accounts. The petitioner transferred PoC of Rs. 28,00,000/- to Mandavi Singh, a VSV co-operative bank employee and associate of Vipin Tiwari and received routed/layered PoC of Rs.32,00,000/- from Mandavi Singh's bank account. He transferred PoC of Rs. Five lakh to Neeraj Tiwari, a relative of Vipin Tiwari. Singh transferred PoC of Rs.3,17,700/- to Jitendra Yadav, another associate of Vipin Tiwari. He transferred PoC of Rs.5,24,500/- to the account related to Anjani Kumar Mishra, another associate of Vipin Tiwari for his travels and has transferred Rs.19,20,000/- in the various accounts related to Vipin Tiwai maintained in Purvanchal Co-operative Bank, Ghazipur. Rs. 1,4,69,190 was deposited into the N Dimension account from various locations, with a significant amount in cash deposited from Hajipur, where VSV Co-operative Bank was located, after RTGS and NEFT transactions from VSV Co-operative Bank accounts. This cash is believed to have been deposited by Vipin Tiwari and his associates. Rs. 23,00,000 was debited to Al Simran Enterprises on January 21, 2021. Sandeep Kumar Singh also withdrew Rs. 9,00,000 in cash from a Delhi ATM. This cash was used to purchase a Toyota Fortuner for Vipin Tiwari's use. The vehicle was later returned to Al Simran Enterprises, and the account received a credit of Rs. 21,00,000. Singh is involved in the fisheries business of Vipin Tiwari in M/S RSDR Agri aqua LLP. He transferred PoC of Rs. 22,08,500 to the bank accounts of M/S RSDR Agr iaqua LLP and received routed layered PoC and profit arose in fisheries business, which is also a part of the PoC, of Rs. 1,09,91,934. He transferred PoC in the bank accounts of various persons related to the fisheries business of Vipin Tiwari in M/S RSDR Agriaqua LLP. Singh transferred PoC of Rs. 7,64,642 towards JCV Works and Rs. 10,59,328 in the accounts of West Bengal Electricity Distribution Company for electricity bills related to the works of M/S RSDR Agri aqua LLP. He received Rs. 17,00,000 from Saurabh with respect to sales in fisheries business. Singh transferred PoC to various automobile entities for the maintenance and purchase of vehicles used by Vipin

Tiwari, including JSU Motors (Rs. 3,40,000), Speed Motors Pvt. Ltd. (Rs. 2,13,000), SRM Motors Pvt. Ltd. (Rs. 2,13,000), Harlalka Tyre (Rs. 1,16,0000), and Buddha Motors (Rs. 1,00,000). He transferred PoC of Rs. 2,36,700 to Mahindra Holiday Homes and Rs. 42,530 to Make My Trip for Vipin Tiwari's tours/trips.

9. The learned counsel for the ED has further submitted that from above statements it is clear that the petitioner is punishable under Sections 3 and 4 of the PMLA Act, 2002.

10. Learned counsel for the ED has further submitted that in the PMLA cases once a person is accused under this act, the burden of proving that the PoC are untainted shall be on the accused.

11. Heard the learned counsel for the parties.

12. Learned counsel for the petitioner has submitted that on a comprehensive consideration of the records it is evident that the petitioners' implication rests solely on conjecture and association; there is no material to suggest that the petitioner knowingly participated in or benefited from any process connected with the alleged PoC. The petitioner has no previous criminal antecedent.

13. Learned counsel for the petitioner has relied on following citations :-

(I) Ramkripal Meena v. Enforcement Directorate, **2024 SCC Online SC 2276** wherein the Hon'ble Apex Court has held in Paragraph '7' as under :-

> **7.** Adverting to the prayer for grant of bail in the instant case, it is pointed out by learned counsel for ED that the complaint case is at the stage of framing of charges and 24 witnesses are proposed to be examined. The conclusion of proceedings, thus, will take some reasonable time. The petitioner has already been in custody for more than a year. Taking into consideration the period spent in custody and there being no likelihood of conclusion of trial within a short span, coupled with the fact that the petitioner is already on bail in the predicate offence, and keeping in view the peculiar facts and circumstances of this case, it seems to us that the rigours of Section 45 of the Act can be suitably relaxed to afford conditional liberty to the petitioner. Ordered accordingly.

(II) Manish Sisodia v. Enforcement Directorate, **2024 SCC Online SC 1920** wherein the Hon'ble Supreme Court has held in Paragraph '52' as under :-

> 52. The Court also reproduced the observations made in Gudikanti Narasimhulu (supra), which read thus:
> "10. 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. Public Prosecutor, High Court reported in (1978) 1 SCC

> 240. We quote:
> "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]:
> "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.""

(III) Prem Prakash v. Enforcement Directorate, **(2024) 9 SCC 787** wherein in Paragraph '18' of the judgment, the Hon'ble Apex Court has quoted **Vijay Madanlal Choudhary v. Union of India** case, **(2023) 12 SCC 1** as under :-

> "**237**. Be that as it may, we may now proceed to decipher the purport of Section 24 of the 2002 Act. In the first place, it must be noticed that the legal presumption in either case is about the involvement of proceeds of crime in money-laundering. This fact becomes relevant, only if, the prosecution or the authorities have succeeded in establishing at least three basic or foundational facts. **First, that the criminal activity relating to a scheduled offence has been committed. Second, that the property in question has been derived or obtained, directly or indirectly, by any person as a result of that criminal activity. Third, the person concerned is, directly or indirectly, involved in any process or activity connected with the said**

> **property being proceeds of crime. On establishing the fact that there existed proceeds of crime and the person concerned was involved in any process or activity connected therewith, itself, constitutes offence g of money-laundering.** The nature of process or activity has now been elaborated in the form of Explanation inserted vide Finance (No. 2) Act, 2019. On establishing these foundational facts in terms of Section 24 of the 2002 Act, a legal presumption would arise that such proceeds of crime are involved in money-laundering. The fact that the person concerned had no causal fact about his involvement in any process or activity connected therewith, by producing evidence in that regard, the legal presumption would stand the rebutted.**"**

(IV) V. Senthil Balaji v. Enforcement Directorate, **2024 SCC Online SC 2626** wherein the Hon'ble Apex Court has held in Paragraph '27' of the judgment as under :-

> "**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."

(V) P. Chidambram v. Directorate of Enforcement, **(2020) 13 SCC 791** wherein the Hon'ble Apex Court has held as under :-

> **"A. Criminal Procedure Code, 1973 5. 439 Bail in economic offences involving corruption and abuse of high public office (of Union Finance Minister in present case) - When can be given offences - It would depend upon facts of each case - Considerations for grant of bail in present -Held, it is not a rule that bail (with appropriate conditions) cannot be granted in casebe such Case - Appellant directed to be released on bail subject to executing bail bonds for sum of Rs 2 lakhs with two sureties of like sum produced to satisfaction of Special Judge Other conditions Petitioner shall not leave country, shall make himself available for interrogation, shall not tamper with evidence, shall not attempt to intimidate or influence witnesses and shall not give any press interviews nor make any public comment in connection with this case qua him and other co-accused**
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> **- It is not a rule that bail should be denied in case of economic offences – Basic jurisprudence relating to bail is that bail is**

the rule and refusal is the exception - A presumably Innocent person must have freedom to enable him to establish his case – He must have opportunity of seeking fair trial - Though gravity of offence is an important factor and economic offences as in present case are considered grave, considerations for grant of bail would depend upon facts of each case - On facts, appellant entitled to bail in present case"

(VI) Various judgment order of this Court in **Cr. Misc. Nos. 17036** of **2025** and **22880** of **2025** respectively.

14. As against this, learned counsel for the Enforcement Directorate has relied on following citations :-

(I) Vijay Madanlal Choudhary & Ors. v. Union of India & Ors., **2022 SCC Online SC 929** wherein the Hon'ble Apex Court has held in Paragraphs '269' and '295' as under :-

269. From the bare language of Section 3 of the 2002 Act, it is amply clear that the offence of money-laundering is an independent offence regarding the process or activity connected with the proceeds of crime which had been derived or obtained as a result of criminal activity relating to or in relation to a scheduled offence. The process or activity can be in any form- be it one of concealment, possession, acquisition, use or proceeds of crime as much as projecting it as untainted property or claiming it to be proceeds of crime would constitute offence of money-laundering. This offence is otherwise has nothing to do with the criminal activity relating to a scheduled offence – except the proceeds of crime derived or obtained as a result of that crime.

295. ….. The sweep of Section 5(1) is not limited to the accused named in the criminal activity relating to a scheduled offence. It would apply to any person (not necessarily being accused in the scheduled offence), if he is involved in any process or activity connected with the procees of crime. Such a person besides facing the consequence of provisional attachment order, may end up in being named as accused in the complaint to be filed by the authorized officer concerning offence under Section 3 of the PMLA Act, 2002.

(II) Pavanna Dibbur v. Enforcement Directorate, **(2023) SCC Online SC 1486** wherein the Hon'ble Apex Court has held in Paragraphs 15, 17 and 18 as under :-

15. The condition precedent for the existence of proceeds of crime is the existence of a scheduled offence. On this aspect, it is necessary to refer to the decision of this Court in Vijay Madanlal Choudhary. In para 109 of the said decision[2], this Court held thus: (SCC p. 166)

"*109. Tersely put, it is only such property which is derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence that can be regarded as proceeds of crime. The authorities under the 2002 Act cannot resort to action against any person for money laundering on an assumption that the property recovered by them must be proceeds of crime and that a scheduled offence has been committed, unless the same is registered with the jurisdictional police or pending inquiry by way of* *complaint before the competent forum.* For, the expression "derived or obtained" is indicative of criminal activity relating to a scheduled offence already accomplished. Similarly, in the event the person named in the criminal activity relating to a scheduled offence is finally absolved by a court of competent jurisdiction owing to an order of discharge, acquittal or because of quashing of the criminal case (scheduled offence) against him/her, there can be no action for money laundering against such a person or person claiming through him in relation to the property linked to the stated scheduled offence. This interpretation alone can be countenanced on the basis of the provisions of the 2002 Act, in particular Section 2(1)(u) read with Section 3. Taking any other view would be rewriting of these provisions and disregarding the express language of definition clause "proceeds of crime", as it obtains as of now."

(emphasis in original and supplied)

17. Coming back to Section 3 PMLA, on its plain reading, an offence under Section 3 can be committed after a scheduled offence is committed. For example, let us take the case of a person who is unconnected with the scheduled offence, knowingly assists the concealment of the proceeds of crime or knowingly assists the use of proceeds of crime. In that case, he can be held guilty of committing an offence under Section 3 PMLA. To give a concrete example, the offences under Sections 384 to 389 IPC relating to "extortion" are scheduled offences included in Para 1 of the Schedule to PMLA. An accused may commit a crime of extortion covered by Sections

384 to 389 IPC and extort money. Subsequently, a person unconnected with the offence of extortion may assist the said accused in the concealment of the proceeds of extortion. In such a case, the person who assists the accused in the scheduled offence for concealing the proceeds of the crime of extortion can be guilty of the offence of money-laundering. Therefore, it is not necessary that a person against whom the offence under Section 3 PMLA is alleged must have been shown as the accused in the scheduled offence. What is held in para 135 of the decision of this Court in *Vijay Madanlal Choudhary* supports the above conclusion. The conditions precedent for attracting the offence under Section 3 PMLA are that there must be a scheduled offence and that there must be proceeds of crime in relation to the scheduled offence as defined in clause (*u*) of sub-section (1) of Section 3 PMLA.

18. In a given case, if the prosecution for the scheduled offence ends in the acquittal of all the accused or discharge of all the accused or the proceedings of the scheduled offence are quashed in its entirety, the scheduled offence will not exist, and therefore, no one can be prosecuted for the offence punishable under Section 3 PMLA as there will not be any proceeds of crime. Thus, in such a case, the accused against whom the complaint under Section 3 PMLA is filed will benefit from the scheduled offence ending by acquittal or discharge of all the accused. Similarly, he will get the benefit of quashing the proceedings of the scheduled offence. However, an accused in PMLA case

> who comes into the picture after the scheduled offence is committed by assisting in the concealment or use of proceeds of crime need not be an accused in the scheduled offence. Such an accused can still be prosecuted under PMLA so long as the scheduled offence exists. Thus, the second contention raised by the learned Senior Counsel appearing for the appellant on the ground that the appellant was not shown as an accused in the charge-sheets filed in the scheduled offences deserves to be rejected.

(III) Tarun Kumar v. Enforcement Directorate, **(2023) SCC Online SC 1486** wherein the Hon'ble Apex Court has held in Paragraphs 13 to 15 as under :-

> **13.** The first and foremost contention raised by the learned Senior Counsel Mr Luthra would be that the appellant was not named in the FIR nor in first three prosecution/supplementary complaints and has been implicated only on the basis of the statements of witnesses recorded pursuant to the summons issued under Section 50 of the PML Act, without there being any material in support thereof.
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> **14.** In our opinion, there is hardly any merit in the said submission of Mr Luthra. In Rohit Tandon v. Enforcement Directorate, a three-Judge Bench has categorically observed that the statements of witnesses/accused are admissible in evidence in view of Section 50 of the said Act and such statements may make out a formidable case about the involvement of the accused in the

commission of a serious offence of money laundering. Further, as held in Vijay Madanlal, the offence of money laundering under Section 3 of the Act is an independent offence regarding the process or activity connected with the proceeds of crime which had been derived or obtained as a result of criminal activity relating to or in relation to a scheduled offence. The offence of money laundering is not dependent or linked to the date on which the scheduled offence or predicate offence has been committed. The relevant date is the date on which the person indulges in the process or activity connected with the proceeds of crime. Thus, the involvement of the person in any of the criminal activities like concealment, possession, acquisition, use of proceeds of crime as much as projecting it as untainted property or claiming it to be so, would constitute the offence of money laundering under Section 3 of the Act.

15. So far as facts of the present case are concerned, as transpiring from the supplementary complaint filed against the appellant, apart from the statements of witnesses recorded under Section 50 of the said Act, there has been sufficient material collected in the form of documents which prima facie show as to how the appellant was knowingly a party and actually involved in the process and in the activities connected with the proceeds of crime, and how he was projecting/claiming such proceeds of crime as untainted and how he was the beneficiary of the proceeds of crime acquired through the criminal activities relating to the scheduled offences.

(IV) Rohit Tandon vs. Directorate of Enforcement, **(2018) 11 SCC 46** wherein the Hon'ble Apex Court has held in Paragraph 31 as under :-

> **31.** Suffice it to observe that the appellant has not succeeded in persuading us about the inapplicability of the threshold stipulation under Section 45 of the Act. In the facts of the present case, we are in agreement with the view taken by the Sessions Court and by the High Court. We have independently examined the materials relied upon by the prosecution and also noted the inexplicable silence or reluctance of the appellant in disclosing the source from where such huge value of demonetised currency and also new currency has been acquired by him. The prosecution is relying on statements of 26 witnesses/accused already recorded, out of which 7 were considered by the Delhi High Court. These statements are admissible in evidence, in view of Section 50 of the 2002 Act. The same makes out a formidable case about the involvement of the appellant in commission of a serious offence of money laundering. It is, therefore, not possible for us to record satisfaction that there are reasonable grounds for believing that the appellant is not guilty of such offence. Further, the courts below have justly adverted to the antecedents of the appellant for considering the prayer for bail and concluded that it is not possible to hold that the appellant is not likely to commit any offence ascribable to the 2002 Act while on bail. Since the

> threshold stipulation predicated in Section 45 has not been overcome, the question of considering the efficacy of other points urged by the appellant to persuade the Court to favour the appellant with the relief of regular bail will be of no avail. In other words, the fact that the investigation in the predicate offence instituted in terms of FIR No. 205/2016 or that the investigation qua the appellant in the complaint CC No. 700 of 2017 is completed; and that the proceeds of crime are already in possession of the investigating agency and provisional attachment order in relation thereto passed on 13-2-2017 has been confirmed; or that charge-sheet has been filed in FIR No. 205/2016 against the appellant without his arrest; that the appellant has been lodged in judicial custody since 2-1-2017 and has not been interrogated or examined by the Enforcement Directorate thereafter; all these will be of no consequence.

(V) Vijay Madanlal Choudhary & Ors vs. Union of India & Ors, **(2022) SCC Online SC 929** wherein the Hon'ble Apex Court has held in Paragraphs 412, 413 and 416 as under :-

> **412.** As a result, we have no hesitation in observing that in whatever form the relief is couched including the nature of proceedings, be it under Section 438 of the 1973 Code or for that matter, by invoking the jurisdiction of the Constitutional Court, the underlying principles and rigors of Section 45 of the 2002 must come into play and without exception ought to be reckoned to uphold the objectives of the 2002 Act, which is a special legislation providing for

stringent regulatory measures for combating the menace of money-laundering.

413. There is, however, an exception carved out to the strict compliance of the twin conditions in the form of Section 436A of the 1973 Code, which has come into being on 23.6.2006 vide Act 25 of 2005. This, being the subsequent law enacted by the Parliament, must prevail, Section 436A of the 1973 Code reads as under:

[436A. Maximum period for which an undertrial prisoner can be detained. - Where a person has, during the period of investigation, inquiry or trial under this Code of an offence under any law (not being an offence for which the punishment of death has been specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on his personal bond with or without sureties:

Provided that the Court may, after hearing the Public Prosecutor and for reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail instead of the personal bond with or without sureties:

Provided further that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.

Explanation.- In computing the

> period of detention under this section for granting bail, the period of detention passed due to delay in proceeding caused by the accused shall be excluded.]"
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> **416.** The Union of India also recognized the right to speedy trial and access to justice as fundamental right in their written submissions and, thus, submitted that a limited situation right of bail can be granted in case of violation of Article 21 of the Constitution. Further, it is to be noted that the Section 436A of the 1973 Code was inserted after the enactment of the 2002 Act. Thus, it would not be appropriate to deny the relief of Section 436A of the 1973 Code which is a wholesome provision beneficial to a person accused under the 2002 Act. However, Section 436A of the 1973 Code, does not provide for an absolute right of bail as in the case of default bail under Section 167 of the 1973 Code. For, in the fact situation of a case, the Court may still deny the relief owing to ground, such as where the trial was delayed at the instance of accused himself.

(VI) State of Gujarat vs. Mohanlal Jitamajli Porwal, **(1987) 2 SCC 364** wherein the Hon'ble Apex Court has held in Paragraph '5' as under :-

> **5.** The next question which arises is as regards the request made by the learned Assistant Public Prosecutor for adducing additional evidence in order to prove letter Ex. 26 received from the Mint Master certifying that the article in question was made of gold of the purity of 99.60. The request was made in order to invoke the powers of

the court under Section 391 of the Code of Criminal Procedure, 1973, which inter alia provides that in dealing with any appeal under Chapter 29 the appeal court, if it thinks additional evidence to be necessary, shall record its reasons and may either take such evidence itself or ask it to be taken by a Magistrate. The High Court rejected the prayer on the ground that it did not consider it "expedient in the interests of justice to open a new vista of evidence" in view of the fact that the offence had taken place six years back. The mere fact that six years had elapsed, for which time -lag the prosecution was in no way responsible, was no good ground for refusing to act in order to promote the interests of justice in an age when delays in the court have become a part of life and the order of the day. Apart from the fact that the alleged lacuna was a technical lacuna in the sense that while the opinion of the Mint Master had admittedly been placed on record it had not been formally proved the report completely supported the case of the prosecution that the gold was of the specified purity To deny the opportunity to remove the formal defect was to abort a case against an alleged economic offender. Ends of justice are not satisfied only when the accused in a criminal case is acquitted. The community acting through the State and the Public Prosecutor is also entitled to justice. The cause of the community deserves equal treatment at the hands of the court in the discharge of its judicial functions. The community or the State is not a persona-non-grata whose cause may be treated with disdain. The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest. The High Court was therefore altogether unjustified in rejecting the application made by the learned Assistant Public Prosecutor invoking the powers of the Court under Section 391 of the Code of Criminal Procedure. We are of the opinion that the application should have been granted in the facts and circumstances of the case with the end in view to do full and true justice. The application made by the learned Assistant Public Prosecutor is therefore granted. The High Court will issue appropriate directions for the recording of the evidence to prove the report of the Mint Master under Section 391 CrPC when the matter goes back to the High Court and is listed for directions. The appeal is therefore allowed. The order of acquittal is set aside. The matter is remitted to the High Court for proceeding further in accordance with law in the light of the above said directions.

(VII) Union of India vs. Kanhaiya Prasad, **(2025) SCC Online SC 306** wherein the Hon'ble Supreme Court has held in Paragraph '21' as under :-

> **21.** As well settled, the offence of money laundering is not an ordinary offence. The PMLA has been enacted to deal with the subject of money laundering activities having transnational impact on financial systems including sovereignty and integrity of the countries. The offence of money laundering has been regarded as an aggravated form of crime world over and the offenders involved in the activity connected with the Proceeds of Crime are treated as a separate class from ordinary criminals. Any casual or cursory approach by the Courts while considering the bail application of the offender involved in the offence of money laundering and granting him bail by passing cryptic orders without considering the seriousness of the crime and without considering the rigours of Section 45, cannot be vindicated.

15. After hearing learned counsels for the parties, I would like to quote Paragraphs 25 to 29 of the judgment of Hon'ble Apex Court in the case of V. Senthil Balaji (supra) 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. The 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. Najeeb[2], 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. Najeeb[2], 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 undertrials under Article 21 of the Constitution of India will be defeated. 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.

16. The petitioner is in custody since 12.01.2025 and in predicate offence, there is no direct allegation against him and he is on bail in predicate offence. No material to show that he has received any part of POC in his account. He was just and employee getting Rs.25,000/- per month as salary and from perusal of the order of the learned trial court it is clear that the trial has still not started. The petitioner is also suffering from diabetes and he is on insulin and his wife is also suffering from uterine fibroid disease.

17. Considering the above facts and circumstances of the case, this Court is inclined to grant bail to the petitioner with the condition that the petitioner shall co-operate in the trial; shall not leave the country; shall deposit his passport in the learned trial court and shall regularly appear in the trial on each and every date.

18. The above named petitioner is directed to be released on bail in connection with Special Trial PMLA Case No. 02 of 2025, arising out of ECIR No. PTZO/05/2024 on furnishing bail bond of Rs.1,00,000/- (Rupees One Lakh) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-XVI-cum-Special Judge, PMLA, Patna.

19. Accordingly, the present bail application of the petitioner stands allowed with the conditions stated above.

(Ashok Kumar Pandey, J)

Durgesh/-

AFR/NAFR	NAFR
CAV DATE	17.12.2025
Uploading Date	22.01.2026
Transmission Date	22.01.2026