IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APELLATE SIDE

The Hon'ble **JUSTICE SUVRA GHOSH**

CRM (R) 20 of 2025

Prasenjit Das
v/s
Enforcement Directorate

For the Petitioner: Mr. Anshin Desai
Mr. Supratik Basu
Mr. Nandish Thacker

For the Enforcement Directorate: Mr. Arijit Chakraborty
Mr. Debsoumya Basak
Ms. Swati Kumari Singh

Hearing Concluded on: 23.02.2026

Judgment delivered on: 16-03-2026

SUVRA GHOSH, J. :-

1. The petitioner is in custody since February 9, 2023 and prays for bail. Pursuant to a written complaint lodged by the Manager of Canara Bank, FIR No. 290 of 2022 was registered under Sections 120B/420/467/468/471 of the Indian Penal Code with Hare Street Police Station on October 14, 2022. Though the petitioner was not named in the FIR, he was arrested in connection therewith on October 20, 2022. The ECIR was registered on October 21, 2022 by the Enforcement Directorate (hereinafter referred to as the E.D.) on the basis of the predicate offence. The petitioner was arrested in connection with the M.L. Case on February

9, 2023 and is in custody since then. He has been granted bail in the predicate offence.

2. Seeking bail for the petitioner, learned counsel for the petitioner has submitted as hereunder:-

Statement of the petitioner was recorded under Section 50 of the Prevention of Money Laundering Act (hereinafter referred to as the PMLA) sixteen times from February 10, 2023 to March 27, 2023 and no further, which suggests that investigation insofar as the petitioner is concerned is concluded. The case is based on documentary evidence which has been seized by the investigating agency and is in their custody. The co-accused are still absconding and there is remote chance of conclusion of trial in near future. The petitioner was arrested within six days of registration of the predicate offence and had no scope of evading the process of law. He does not stand on the same footing as co-accused Sailesh Pandey whose bail prayer has been turned down by this Court. He is similarly circumstanced with co-accused Viraj Suhas Patil who has been released on bail. The petitioner’s prayer for discharge from the predicate offence was turned down by the learned trial Court on September 27, 2024. The said order was assailed before this Court and by an order passed on November 26, 2024 this Court passed an interim order in favour of the petitioner, granting him liberty to seek adjournment before the learned trial Court. In view thereof, trial of the predicate offence is not likely to commence in near future. In the event the petitioner is discharged/acquitted from the scheduled offence, Section 3 of the PMLA will not be applicable to him in view of the fact that “proceeds of crime” is sine qua non for an offence under Section 3 of the Act. The present case involves 26 witnesses in the first complaint and 8 witnesses in the supplementary complaint and also voluminous documentary evidence which shall result in the trial consuming considerable time. The petitioner is in custody for more than three years without trial which amounts to deprivation of his fundamental right under Article 21 of the Constitution of India. Under such circumstances, the twin conditions laid down under Section 45 of the PMLA can be suitably relaxed in terms of the observation made by the Hon'ble Supreme Court in several authorities.

3. Learned counsel has placed reliance on the following authorities in support of his contention.

1) Sadhu Singh Dharamsot v/s. Directorate of Enforcement in Special Leave to Appeal (Crl.) No. 15826 of 2024;

2) Udhaw Singh v/s. Enforcement Directorate in Criminal Appeal No. 799 of 2025;

3) Padam Chand Jain v/s. Enforcement Directorate in Special Leave to Appeal (Crl.) No. 17476 of 2024;

4) Zeeshan Haider v/s. Directorate of Enforcement in Special Leave to Appeal (Crl.) No. 9374 of 2024;

5) Sanjay Badaya v/s. Directorate of Enforcement in Special Leave to Appeal (Crl.) No. 17476 of 2024;

6) Sunil Damani v/s. Directorate of Enforcement in Criminal Appeal No. 4108 of 2024;

7) V. Senthil Balaji v/s. The Deputy Director, Directorate of Enforcement reported in 2024 SCC OnLine SC 2626;

8) Manish Sisodia v/s. Directorate of Enforcement reported in 2024 SCC OnLine SC 1920;

9) Ramkripal Meena v/s. Directorate of Enforcement in Special Leave to Appeal (Crl.) No. 3205 of 2024;

10) Mohd. Enamul Haque v/s. Directorate of Enforcement in Criminal Appeal No. 3984 of 2024;

11) Saumya Chaurasiya v/s. Directorate of Enforcement in Special Leave to Appeal (Crl) No. 12494 of 2024;

12) P. Chidambaram v/s. Directorate of Enforcement reported in 2020 (13) SCC 791;

13) Vijay Nair v/s. Directorate of Enforcement in Special Leave to Appeal (Crl) No. 22137 of 2024;

14) Nik Nish Retail Ltd. And Another v/s. Assistant Director, Directorate of Enforcement reported in 2022 SCC OnLine Cal 4044; and

15) Sharjeel Imam v/s. State of NCT Delhi And Another reported in 2024 SCC OnLine Del 4378.

4. Opposing the prayer, learned counsel for the E.D. has canvassed his argument as follows:-

In course of investigation in respect of the complaint lodged by the Regional Manager, Canara Bank which was registered as FIR No. 290 of 2022 dated October 14, 2022, it was found that two accounts stated in the complaint having the same registered address were opened on the same date, i.e., on August 31, 2022. At the initial stage, small transactions were made in the said accounts. Subsequently huge debit transactions appeared within a span of less than a month and upon verification of the said accounts, it was discovered that no such party was carrying on business at the given address in the account opening form and also, no such party was residing at the permanent address shown therein. It was also noticed that the entire credits which were affected through online transactions were transferred to multiple accounts by the customers to the parties through internet banking channels. There were unauthorized entries in the accounts of Canara Bank for forex funding purposes which was prohibited by the Reserve Bank of India, the name of the entity being T.P. Global FX.

5. Upon interrogation of the petitioner and co-accused Shailesh Kumar Pandey, it was revealed that they alongwith Tushar Patil collected money from the public/investors in the name of forex trading through T.P. Global FX platform luring them with high returns on investment. The investors

had to pay a monthly subscription for online trading and made investment in the accounts of firms which appeared on the T.P. Global FX platform. These firms were dummy firms opened by the petitioner and Tushar Patil with the help of Shailesh Kumar Pandey in several banks and had no business activity as declared in the trade license. The petitioner has stated about transferring/diverting the funds to various firms/entities by him in his statement recorded under Section 50 of the PMLA. He is on the same footing as co accused Shailesh Kumar Pandey whose bail has been denied by this Court. He has duped various investors by opening sham accounts and criminal proceedings have been instituted against him throughout the country. Grant of bail in the predicate offence does not dilute the rigours of Section 45 of the PMLA which the petitioner has failed to satisfy. Article 21 of the Constitution of India does not render the twin conditions laid down under Section 45 of the PMLA otiose. Investigation insofar as the petitioner is concerned has been concluded and the case is pending consideration of charge. The petitioner does not deserve a favourable order.

6. Learned counsel has placed reliance on the following authorities in support of his contention.

   1) Vijay Madanlal Choudhuary And Others v/s. Union of India And Others reported in 2002 SCC OnLine SC 929;

   2) Sri Shailesh Kumar Pandey v/s. The Union of India And Others reported in AIR Online 2024 CAL 1237;

3) Shailesh Kumar Pandey v/s. The Union of India in SLP (Crl.) No(s). 11385/2024;

4) Rohit Tandon v/s. Directorate of Enforcement reported in (2018) 11 SCC 46;

5) Y. S. Jagan Mohan Reddy v/s. CBI reported in (2013) 7 SCC 439;

6) Tarun Kumar v/s. Assistant Director, Directorate of Enforcement reported in 2023 SCC OnLine SC 1486;

7) Satyendra Kumar Jain v/s. Directorate of Enforcement reported in (2024) 6 SCC 715;

8) The Union of India through the Assistant Director v/s. Kanhaiya Prasad reported in 2025 SCC OnLine SC 306; and

9) Basudeb Bagchi & Anr. v/s. Enforcement Directorate in the judgment delivered by an Hon'ble Division Bench of this Court in CRM (M) 932 of 2025 with CRAN 1 of 2025.

7. I have considered the material on record and rival submission of the parties.

8. It has been observed by the Hon'ble Supreme Court in several authorities including Y.S. Jagan Mohan Reddy (supra), Rohit Tandon (supra), Tarun Kumar (supra) and the Union of India through the Assistant Director (supra) that economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. Such offences

having deep-rooted conspiracies and involving huge loss of public fund need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.

9. It is trite law that once the E.D. establishes the three foundational facts, the onus shifts on the accused under Section 24 of the PMLA to rebut the legal presumption that the proceeds of crime are not involved in money laundering by production of evidence which is within his personal knowledge. The three foundational facts are as follows:-

   i. That a criminal activity relating to a scheduled offence has been committed;

   ii. That the property in question has been derived or obtained directly or indirectly by any person as a result of such criminal activity; and

   iii. That the person concerned is directly or indirectly involved in any process or activity connected with the said property which constitutes proceeds of crime.

10. In the case in hand, the statement of the petitioner was recorded under Section 50 of the PMLA from February 10, 2023 to March 27, 2023 and not thereafter. It is alleged that the petitioner opened various dummy firms and bank accounts for cheating/misleading the investors to invest therein. In the order dated May 7, 2024 turning down the bail prayer of co-accused Shailesh Kumar Pandey, the co-ordinate Bench of this Court has observed that the said co-accused was routing out the money which

was illegally acquired by this petitioner, Tushar Patil and Viraj Suhas Patil. The order placed the petitioner and Viraj Suhas Patil on the same footing. Viraj Suhas Patil has been granted bail by this Court earlier.

11. The allegation against the petitioner primarily rests on the statement of the petitioner, the co-accused and others recorded under Section 50 of the PMLA, the truth and veracity of which shall be weighed at the appropriate stage of the proceeding. It is trite law that a statement recorded under Section 50 of the PMLA when the accused is in custody is inadmissible against the maker as he cannot be construed as a person operating with a free mind. Such statement cannot be treated as substantive piece of evidence and can at best lend corroboration to the material available against him in course of investigation.

12. In the authority in Vijay Madanlal Choudhary (supra), the Hon'ble Supreme Court has observed that *"the authority of the Authorised Officer under the 2002 Act to prosecute any person for offence of money-laundering gets triggered only if there exists proceeds of crime within the meaning of Section 2(1)(u) of the 2002 Act and further it is involved in any process or activity. Not even in a case of existence of undisclosed income and irrespective of its volume, the definition of "proceeds of crime" under Section 2(1)(u) will get attracted unless the property has been derived or obtained as a result of criminal activity relating to a scheduled offence........ Even though, the 2002 Act is a complete Code in itself, it is only in respect of matters connected with offence of money-laundering and for that, existence of proceeds of crime within the meaning of Section 2(1)(u) of the Act is*

quintessential. Absent existence of proceeds of crime, as aforesaid, the authorities under the 2002 Act cannot step in or initiate any prosecution."

13. Herein, the petitioner has been granted bail in the predicate offence. His prayer for discharge from the predicate offence was turned down by the learned trial Court. The said order was assailed before this Court by the petitioner wherein this Court granted an interim order in his favour to seek adjournment before the learned trial Court. Therefore trial of the predicate offence is not likely to commence so long as the issue with regard to discharge of the petitioner is pending before this Court. For the said reason, there is little possibility of conclusion of trial of the present case in near future. It is only when existence of proceeds of crime within the meaning of Section 2(1)(u) of the PMLA is established that the 2002 Act can be invoked.

14. The petitioner is in custody for more than three years. The Hon'ble Supreme Court has time and again held that prolonged incarceration before being pronounced guilty of an offence cannot turn into punitive detention and in such a case Article 21 applies irrespective of the seriousness of the crime. The right to life and personal liberty enshrined under Article 21 of the Constitution is overarching and sacrosanct. A constitutional Court cannot be restrained from granting bail to an accused on account of restrictive statutory provisions in a penal statute if it finds that the right of the accused under Article 21 of the Constitution has been infringed. Howsoever stringent a statute may be, a Constitutional Court should lean in favour of constitutionalism and the rule of law of which liberty is an intrinsic part.

15. The case is primarily based on documentary evidence which is in custody of the E.D. There is little scope for the petitioner to tamper with the same. The witnesses cited are mostly official witnesses and it is expected that the petitioner shall not be in a position to influence them. The issue of flight risk of the petitioner can be addressed by imposing stringent conditions while granting him bail. Investigation insofar as the petitioner is concerned is complete. His further custodial interrogation is not required. In view of the number of witnesses proposed to be examined by the E.D. and voluminous documentary evidence relied upon, it is expected that trial will take considerable time to conclude.

16. In the said backdrop, this Court is inclined to hold that further detention of the petitioner is not required and he may be released on bail subject to stringent conditions primarily on the touchstone of Article 21 of the Constitution of India.

17. Accordingly, prayer for bail is allowed.

18. The petitioner be released on bail upon furnishing bond of Rs. 10,00,000/- (Rupees Ten lakhs) with adequate sureties, half of whom should be local, subject to the following conditions:-

    i. The petitioner shall surrender his passport with the learned trial Court at once.
    ii. He shall not leave the territorial jurisdiction of the learned trial Court without leave of the trial Court.

iii. He shall furnish the address where he shall presently reside before the learned trial Court, the E.D. and the Inspector-in-charge/Officer-in-charge of the police station under whose jurisdiction he shall presently reside.

iv. He shall appear before the learned trial Court on every date of hearing fixed before the learned Court.

v. He shall not tamper with evidence or intimidate witnesses in any manner whatsoever.

vi. He shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.

vii. He shall provide his mobile phone number before the learned trial Court and shall not change the same without prior intimation to the Court.

19. In the event the petitioner violates any of the bail conditions stated above, the learned trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

20. It is made clear that the observation made in this judgment is for the limited purpose of deciding the bail application and shall not be construed as an expression of opinion on the merits of the case.

21. The learned trial Court shall deal with the matter independently in accordance with law without being influenced by any observation which may have been made in this judgment.

22. C.R.M. (R) 20 of 2025 is accordingly disposed of.

23. All parties shall act on the server copy of this judgment duly downloaded from the official website of this Court.

24. Urgent certified website copies of this judgment, if applied for, be supplied to the parties expeditiously on compliance with the usual formalities.

(Suvra Ghosh, J)