

HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (R) 108 of 2025

Dr. Santi Prasad Sinha
Vs
Union of India & Anr.

For the petitioner:

Mr. Manjit Singh, Sr. Adv.
Mr. Gaganjyot Singh
Mr. Biswajit Mal
Mr. Arkaprabho Roy
Mr. Soujanya Pattanayak
Mr. Uttam Kumar Shaw

...Advocates

For the E.D. :

Mr. Dhiraj Trivedi, Sr. Adv.
Mr. Samrat Goswami
Ms. Swapna Jha
Mr. Shwetank S. Prasad
Ms. Supriti Sarkhel

...Advocates

For the State:

Mr. Kishore Dutta, Ld. AG.
Mr. Rudradipta Nandy, Ld. APP

...Advocates

Heard lastly on:

27.02.2026

Judgement on:

27.02.2026

Jay Sengupta, J:

1. This is an application for bail under Section 483 of the BNSS corresponding to Section 439 of the Code of 1973 in connection with ML Case No.

1 of 2024 arising out of the complaint under Section 44 read with Sections 45 and 70 of the PML Act 2002 corresponding to ECIR Case No. KLZO-II/18/2022, dated 31.05.2022 disclosing commission of offence under Sections 3 and 4 of the PML Act.

2. Learned senior counsel appearing on behalf of the petitioner has submitted and has relied on the written notes as follows. Petitioner is 74 years old having Parkinson's Disease for which he can be termed as infirm thus overcoming restrictions of Section 45 of PML Act. Bail has been granted in predicate offences by the Hon'ble Apex Court in pre-cognizance stage wherein the prosecuting agency was awaiting sanction for the petitioner and few other accused persons. In the instant case, even after more 1 year and 7 months of custody of the petitioner, is in pre-cognizance stage due to want of sanction, causing inordinate delay in trial which, on record, cannot be attributed to the petitioner, as the prosecution failed to make any averment, supported by documents, that sanction had been prayed for from the appropriate authority. The number of witnesses and documents are to be examined, in the totality of PMLA Case and the two cases involving predicate offences, is humongous which cannot foreseeably be examined to completion in near future as the trial of both cases are to be conducted by the Learned Special Court (PML Act), Calcutta as per Section 44 of PML Act. Evidence is documentary in nature which cannot reasonably be tampered with as complaint initiating ML Case No. 01 of 2024 has been filed and all documents

has been seized. Petitioner being retired from every post held by him does not hold any power to influence any witness. No purpose can be served, except for punishment without trial, by keeping the septuagenarian petitioner in custody as he is not even examined in last one year and even months by the ED. Even though there are as many as 108 listed accused persons/entities, most of the key actors of the offence are on bail - including the wife of the petitioner with whom the petitioner was in joint possession of every movable and immovable property which the ED claims to be proceed of crime. Money trail does not directly connect the petitioner with defrauded money gained in predicate offences. The principal accused being the Minister was granted bail in the predicate offences case. He has not been arrested in the present PML Act case and is in bail in another case under the PML Act in connection of which he was arrested. Moreover, the petitioner cannot be held responsible for any delay in granting sanction.

3. Learned senior counsel appearing on behalf of the Enforcement Directorate has submitted and has relied on the written notes as follows. The Central Bureau of Investigation, Anti-Corruption Bureau, Kolkata registered two First Information Report in compliance of the orders of the Hon'ble High Court of Calcutta. Details of the said FIRs are as under: - a) RC0102022A0003 dated 07.04.2022 under Sections 120B and 420 of Indian Penal Code and Section 7 of the Prevention of Corruption Act, 1988 against Dr. SP Sinha, the then Convenor of Five Member Committee as well as Advisor to the West Bengal Central School

Service Commission (WBCSSC), and Ors. for dishonestly extending undue advantage in the matter of giving illegal appointment of Assistant Teachers in Class IX and X in respect of 1st State Level Selection Test, 2016 without maintaining fairness and offering appointment to the undeserving, non-listed and below ranked candidates and depriving the deserving and genuine candidates, in criminal conspiracy with each other by flouting the relevant Rules: b) RC0102022A0004 dated 18.05.2022 under Sections 120B and 420 of Indian Penal Code and Section 7 of the Prevention of Corruption Act, 1988 against Shri Paresh Chandra Adhikary, Ms. Ankita Adhikary and Ors. alleging that the merit list for appointment of Assistant Teachers in Class XI-XII in the subject of Political Science was altered to accommodate Ms. Ankita Adhikary, daughter of Shri Paresh Chand Adhikary, Minister, State of West Bengal while demoting the other candidates in the merit list and thereby giving appointment to the post of Assistant Teacher to Ms. Ankita Adhikary depriving other eligible candidates from getting appointment on merit; (ii) Based on the two FIRs registered under Sections 120B and 420 of the Indian Penal Code, as well as Section 7 of the Prevention of Corruption Act, 1988, which are scheduled offences under Paragraph 1 and Paragraph 8 of Part A of the Schedule to the Prevention of Money Laundering Act, 2002 (PMLA), a prima facie case of money laundering is made out. This is in accordance with the provisions of Section 2(1)(y) read with Section 2(1)(x) of the PMLA, 2002. Consequently, the Directorate has recorded

the brief facts of the case under ECIR/KLZO-II/18/2022 on 31.05.2022 and has initiated an investigation under the provisions of the PMLA, 2002; (iii) Subsequently, this Directorate initiated investigation against present petitioner and other suspected persons. It is revealed that Shri Santi Prasad Sinha was actively involved in high levels of corruption/illegal activities in providing the jobs of Assistant Teachers in lieu of money and thereby acquired huge proceeds of crime and further laundered the same by way of obtaining various properties in his own name, in the name of his wife, and in the name of his close associate, i.e., Ms. Aparupa Mitra. He along with other accused persons executed his illegal activities and generated proceeds through the said illegal activities of facilitating candidates to get jobs illegally. Shri Santi Prasad Sinha was in regular touch with Shri Prasanna Kumar Roy and his employees/associates i.e., Pradip Singh and Rohit Kumar Jha and received the details of candidates of Assistant Teacher through email and through other mode. He used to get details of candidates from the associates of Shri Prasanna Kumar Roy i.e., Pradip Singh and Rohit Kumar Jha who used to visit Shri Santi Prasad Sinha with envelopes containing cash collected from undeserving candidates. Shri Santi Prasad Sinha through Prasanna Kumar Roy and his agents/sub-agents used to collect details of candidates and monies (mostly through cash form) to facilitate the said candidates in getting the job of Assistant Teacher through illegal means. During the course of investigation, scrutiny of the bank accounts of Shri Santi Prasad

Sinha and his wife i.e., Mrs. Debasri Sinha revealed cash deposits of more than Rs. 50,00,000/- during the relevant period. Further, during the course of investigation by CBI Authorities. they had recovered Rs. 49,95,900/- in cash and jewellery worth around Rs. 60 lakh, belonging to Shri SP Sinha as discussed in this complaint, which is nothing but proceeds of crime in terms of Section 2(1)(u) of PMLA. Accused has not only acquired /received the proceeds of crime and also came in possession of such “proceeds of crime”. He has concealed the proceeds of crime for the purpose of concealing or disguising the illegal origin of the said funds to evade the legal consequences of their actions. By the said modus-operandi, Shri Santi Prasad Sinha has obtained proceeds of crime, which was utilized by him to purchase various properties in the name of in his name and in the name of his wife and in the name of another person i.e., Ms. Aparupa Mitra. These properties were found to have been purchased by Shri Santi Prasad Sinha on undervalued price and the difference amount has been paid in cash to the seller, as discussed in this complaint. The proceeds of crime so obtained by Shri Santi Prasad Sinha was layered by him by way of cash deposits in his bank accounts or in the account of his wife. Further, Shri Santi Prasad Sinha has further utilized the cash proceeds obtained from undeserving candidates towards payment to the sellers in cash by undervaluing the purchased properties in the registered deeds. As such, it is established that Shri Santi Prasad Sinha was involved in the acquisition, use, possession, and concealment of proceeds of

crime with the assistance of other accused persons and entities as discussed in this complaint. Thus, the accused person has committed the offence of Money Laundering as defined under Section 3 of PMLA and is, therefore, liable to be punished under Section 4 of PMLA, 2002. The aforesaid acts committed by him are covered by the definition of offence of money-laundering under Section 3 and beneficial owner Section 2(fa). In addition to that, explanation to Section 3 of PMLA also provides that "the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever". As revealed from the facts of the case, he continued to be involved in processes and activities connected with said proceeds of crime and continued to be in possession and use of the said proceeds of crime. In view of the facts and aforesaid legal explanation, it is noticed that he continued to commit offence of money laundering. Subsequently, Shri Prasanna Kumar Roy was arrested under Section 19 of PMLA, 2002 on 19.02.2024 and was produced before the Court on 20.02.2024 within stipulated timeline. This Court, vide Order dated 20.02.2024, granted ED custody of Shri Prasanna Kumar Roy and directed for his production on 28.02.2024. Shri Prasanna Kumar Roy was again produced before the Court on 28.02.2024 and he was again granted ED custody till 04.03.2024. The Court, vide Order dated 04.03.2024 sent

Shri Prasanna Kumar Roy to Judicial custody. Presently, he is in Judicial Custody at Presidency Correctional Home, Alipore, Kolkata. Thereafter, Santi Prasad Sinha, was formally arrested under Section 19 of the PMLA, 2002 inside Presidency Correctional Home on 01.04.2024 as he is guilty of the offence of money laundering. An application for production of the accused person was filed before the Court. The Court, vide order dated 02.04.2024 directed for production of Shri Santi Prasad Sinha on 03.04.2024. Shri Santi Prasad Sinha was granted ED custody till 08.04.2024 vide Order dated 03.04.2024 by the Court. On 08.04.2024, Shri Santi Prasad Sinha was sent to Judicial Custody till 22.04.2024. Presently, he is under Judicial Custody at Presidency Correctional Home, Alipore, Kolkata. Accordingly, this Directorate identified and provisionally attached properties pertaining to petitioner and other co-accused persons/entities having fair market value worth Rs. 230.6 crores under Section 5(1) of the PMLA vide Provisional Attachment Order No. 06/2024 on 10.04.2024. Subsequently Original Complaint bearing No. 2306/2024 was filed before the learned Adjudicating Authority which was confirmed by the Adjudicating Authority vide order dated 18.09.2024. Consequently, this Directorate filed a prosecution complaint under Section 44(1) read with 45 of PMLA, 2002 on 18.04.2024 against the present petitioner and other accused persons, in which he has been arrayed as accused person no.2 before the Judge, Special (CBI Court) at Bichar Bhavan, Calcutta bearing ML NO. 01 of 2024. The Special Court

(PMLA) has taken cognizance of offence of money laundering on the very same date i.e., 18.04.2024, against the present petitioner and other co-accused persons. Presently, the matter is pending for trial. Santi Prasad Sinha had filed applications for bail in the instant matter before the Special Court on multiple occasions, including on 07.04.2024, 18.01.2025 and 07.07.2025. In each instance, the learned Special Court rejected his requests for bail. On 03.09.2025 the petitioner approached the High Court at Calcutta by filing an application for bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023. Subsequently, an affidavit in opposition was filed by the respondent (ED), and an affidavit in reply thereto was filed by the petitioner on 24.09.2025, which were taken on record. On 27.11.2025, this Court had raised certain queries/issues. It is submitted that no accused arrested by the Enforcement Directorate in the present proceedings has been granted bail to date. Enforcement Directorate has arrested 3 persons namely Shri Prasanna Kumar Roy, Shri Santi Prasad Sinha and Shri Jiban Krishna Saha. None of the accused mentioned have been granted bail till date by the Special Court, PMLA. Further, the total number of accused in this case are 109 out of which 90 are juridical entities related to Prasanna Kumar Roy. There was no scope of arrest of Juridical entities. Further, the remaining individuals were not arrested for various reasons some of them like Shri Ashok Kumar Saha and Shri Kalyanmoy Ganguly were already under Judicial Custody in the CBI Case and the requirements for custodial interrogation was not felt in

peculiar facts and circumstances. Some accused persons like Shri Samarjit Acharya were found to be assisting in the processes. Further, the remaining accused have been granted bail in consonance with Section 88 of CrPC following the judgement of the Hon'ble Apex Court in Tarsem Lal (2024 INSC 434 in Criminal Appeal No.2608 of 2024 dated 16.05.2024). It is worth noting that Prosecution complaint of ED was filed on 18.04.2024 and the Tarsem Lal Judgment was pronounced by Hon'ble Supreme court on 16.05.2024. Post the pronouncement of Judgement, there was no scope of arrest of the arraigned accused persons. Santi Prasad Sinha was one of the main conspirator of this recruitment scam as he was the convenor of the Special five member committee formulated to expedite various recruitment processes conducted by WBCSSC. Shri SP Sinha enjoyed the power of the chairman of WBCSSC as he was a close associate of the then MIC Shri Partha Chatterjee; and SP Sinha used to control every aspect of the recruitment process and also used to get the list of candidates recommended by the MIC through Shri Prasanna Kumar Roy, who used to visit SP Sinha regularly even in the office of WBCSSC. Furthermore, SP Sinha used to increase or decrease the vacancy as per need and used to instruct Shri Kalyanmoy Ganguly, the then President of West Bengal Board of Secondary Education (WBBSE) to give the appointment letters against the recommendation letters provided by the WBCSSC. Initially Shri SP Sinha used to give instructions verbally to his subordinates, but since 2019 SP Sinha started giving instructions

through the mail via a man named Pradip Singh @ Chhotu who used to work for Shri Prasanna Kumar Roy; the main middleman who used to collect money from the candidates directly/indirectly and distribute the same to various officials and Pradeep Singh, the employee of Shri Prasanna Kumar Roy, used to send details of candidates through mail and Whatsapp and accordingly recommendation letters of the said candidates were issued based on which appointment letters were issued by WBBSE. During his statement recorded under section 50 of the PMLA, SP Sinha stated that he knew Shri Prasanna Kumar Roy by his other name i.e., Rakesh and he met him first time when he was Secretary in WBBSE in the year 2011. Further, SP Sinha was a close associate of the then MIC Shri Partha Chatterjee he was the main person involved in issuance of recommendation letters of the undeserving candidates based on which appointment letters were issued by WBBSE and subsequently undeserving candidates were appointed to the post of Assistant Teachers. The fraudulent scheme had been initiated from the very outset, when a five-member Special Committee was constituted and he was inexplicably appointed as its Convenor. His appointment was made without any prior interview, selection process, or adherence to established procedural formalities. It is evident that he was placed in this position solely at the discretion of the then MIC, with the mala fide intention of facilitating the commission of fraud. He was one of the starting points from where the fraud started. He was the topmost boss of the said

organisation and fraud would not have been possible without him. Furthermore, there exist numerous documented instances in which recommendation letters were issued to candidates who were clearly undeserving, despite the fact that these individuals neither appeared for nor qualified in the OMR-based written examination, the first phase of the selection process. These actions represent a blatant circumvention of the established rules. Importantly, the issuance of all such recommendation letters was done on his instructions, indicating a deliberate manipulation of the selection mechanism. This pattern of conduct not only undermined the integrity of the recruitment process but also facilitated the inclusion of unqualified candidates in subsequent phases, thereby compromising the credibility and fairness of the entire selection procedure. Furthermore, the Hon'ble Supreme Court has vide its judgement dated 03.04.2025 in SLP (Civil) No. 9586 of 2024 in the matter of State of West Bengal Vs. Baishakhi Bhattacharyya (Chatterjee) and others cancelled the appointments of more than 25,000 candidates as teachers and staff recruited by West Bengal SSC due to irregularities found in the recruitment process citing remarks that the manipulations, frauds and subsequent cover-up were on a large scale, such that the credibility and legitimacy of the selection process were "denuded." and this scale and depth of irregularity meant that "the entire selection process has been vitiated and tainted beyond resolution." During his statement recorded under Section 50 of the PMLA, SP Sinha himself stated that he knew Shri Prasanna

Kumar Roy by his other name i.e., Rakesh and he met him first time when he was Secretary in WBBSE in the year 2011. Furthermore, SP Sinha also stated that he had purchased land parcels from Shri Amit Mondal registered in his name and in the name of his wife Smt. Debasri Sinha and the funds were sourced from his personal savings and the payments were done through banking channels for the said purchase of land parcels. Upon enquiry of cash deposits done in the said bank accounts maintained in his name and in the name of his wife he falsely claimed it to be sourced from agricultural income, however upon enquiry he did not show the said income in his Income Tax Returns. Furthermore, statement of Shri Amit Mondal @ Amit Kumar Mondal was recorded under section 50 of the PMLA, wherein it is revealed that he sold land parcels vide two deeds to Shri Santi Prasad Sinha; and he had received consideration amount mostly in cash and rest of the amount through banking channels. It is further submitted that he had also acquired benami property in the name of Ms. Aparupa Mitra. In this view statement of Ms. Aparupa Mitra was recorded under section 50 of PMLA, wherein it is revealed that she is close friend of Mrs. Debasri Sinha, who is wife of Santi Prasad Sinha and in the year 2019, Shri S.P. Sinha bought a flat apartment in her name and had paid her Rs. 23 Lakhs in cash and asked her to deposit in her account to purchase the same; that an advance payment of Rs. 1 Lakhs was already paid by Shri SP Sinha to the seller; that she was further given Rs. 3.20 lakhs in cash which were utilized

towards paying stamp duty, registration charges, etc; although the said flat is in her name, the real owner is Shri S.P. Sinha. She also stated that the CBI authorities had seized cash amount of Rs. 50 lakhs from the said flat which belongs to Shri S.P. Sinha. Furthermore. Statement of Md. Meezanuddin was recorded under section 50 of the PMLA. wherein it is revealed that he was/is partner with Mrs. Debasri Sinha in a beauty Parlour/Saloon and works as hairdresser; that he started running a salon in partnership with Mrs. Debasri Sinha in her flat and during the same period, Mrs. Debasri Sinha gave him a locked bag to keep it; that during the search proceedings by CBI, they seized the said bag which contained jewellery worth Rs. 60 lakhs Upon asking about the jewellery and cash seized by CBI authorities from his associates Md. Meezanuddin and Aparupa Mitra, SP Sinha denied having any knowledge of cash kept with Aparupa Mitra whereas he claimed the jewellery to be purchased from his personal savings however, he couldn't produce any documentary evidence for the same. Furthermore, the proceeds of crime acquired by SP Sinha in the form of land parcels and flat were attached by ED vide PAO No. 06/2024 dated 10.04.2024, and the same was confirmed by learned Adjudicating Authority vide its order dated 18.09.2024. Under PMLA, 2002 there was no specific provision for requesting sanction of Public servants akin to Prevention of Corruption Act. PMLA, being a special statute does not require sanction, as Section 71 of PMLA, 2002 gives an overriding effect. Furthermore, prosecution complaint in the

instant matter was filed on 18.04.2024. However, on 06.11.2024 the Hon'ble Supreme Court in Criminal Appeal No. 4314-4316 of 2024 in the case of ED vs. Bibhu Prasad Acharya and Others held that Section 197(1) of the CrPC is applicable to a prosecution complaint filed under Section 44(1) (b) of PMLA. In view of the said judgement, out of abundant caution, without prejudice to the fact that even though sanction may have been obtained in the scheduled offence by Central Bureau of Investigation which is broad enough to subsume the PMLA proceedings, a fresh sanction is sought from the competent authority for prosecuting the public servant (s) for the commission of offence of money laundering. Santi Prasad Sinha was the main conspirator of this recruitment scam as he was the convenor of the Special five member committee formulated to expedite various recruitment processes conducted by WBCSSC. Shri SP Sinha enjoyed the power of the chairman of WBCSSC as he was a close associate of the then MIC Shri Partha Chatterjee; and SP Sinha used to control every aspect of the recruitment process and also used to get the list of candidates recommended by the MIC through Shri Prasanna Kumar Roy, who used to visit SP Sinha regularly even in the office of WBCSSC. Furthermore, SP Sinha used to increase or decrease the vacancy as per his discretion and used to instruct Shri Kalyanmoy Ganguly, the then President of West Bengal Board of Secondary Education (WBBSE) to give the appointment letters against the recommendation letters provided by the WBCSSC. Initially, Shri SP Sinha gave instructions

verbally to his subordinates, but from 2019 he began giving instructions through e-mail via Pradip Singh @ Chhotu, an employee of Shri Prasanna Kumar Roy. Prasanna Kumar Roy acted as the main middleman who collected money from candidates directly or indirectly and distributed it to various officials. Pradip Singh sent candidate details through e-mail and WhatsApp. Based on these details, recommendation letters were issued, on the strength of which appointment letters were issued by WBBSE. SP Sinha exercised his influence on WBSSC and WBSSE officials while he was on power. The ED prosecution complaint also relies on statements of various individuals amongst other evidence, who have given testimonies against SP Sinha and other influential persons. Given his clout and influence, there is a highly likely chance that he will influence the witnesses which have helped ED in unearthing his properties and admitted the cash transactions. SP Sinha has been arraigned and accused in various cases of CBI and ED. The major allegations against him are that he has given forged recommendation letters, thus it will not be wrong to state that he may create records which are advantageous in trial for him and other accused. Under PMLA, 2002 there was no specific provision for requesting sanction of Public servants akin to Prevention of Corruption Act. PMLA, being a special statute does not require sanction, as Section 71 of PMLA, 2002 gives an overriding effect. Furthermore, Prosecution complaint in the instant matter was filed on 18.04.2024. However, on 06.11.2024 the Hon'ble Supreme Court in

Criminal Appeal No. 4314-4316 of 2024 in the case of ED vs. Bibhu Prasad Acharya and Others held that Section 197(1) of the CrPC is applicable to a prosecution complaint filed under Section 44(1) (b) of PMLA. In view of the said judgement, out of abundant caution, without prejudice to the fact that even though sanction may have been obtained in the scheduled offence by Central Bureau of Investigation which is broad enough to subsume the PMLA proceedings, a fresh sanction is sought from the competent authority for prosecuting the public servant (s) for the commission of offence of money laundering. It can be seen from the above paras that SP Sinha was not co-operating with the investigation and he was evasive in his answers during his statements. Thus, his further interrogation under Section 50 of PMLA, 2002 would not have yielded any positive investigative leads. Reliance is placed on the following judicial pronouncements: i) Mohd. Enamul Haque v. Directorate of Enforcement, Bail Application 1869/2022, CrI. M. (Bail) 421/2024, CrI. M.A. 18435/2023 and 5877/2024, decided on 29.07.2024 by the Hon'ble High Court of Delhi; ii) Tarun Kumar v. Assistant Director, Directorate of Enforcement, SLP (CrI.) No. 9431 of 2023, decided by the Hon'ble Supreme Court; iii) Union of India through the Assistant Director v. Kanhaiya Prasad, Criminal Appeal No. 728 of 2025 @ SLP (CrI.) No. 7140 of 2024, decided by the Hon'ble Supreme Court; iv) Gautam Kundu v. Manoj Kumar and Ors., decided on 16.12.2015 by the Hon'ble Supreme Court, MANU/SC/1453/2015. Upon inquiry, learned Counsel has

submitted that the former Minister was not yet made an accused in this case, but he was still under the scanner. On 24.02.2026, it was submitted on behalf of the ED that the said Minister would be added as an accused in the instant PML Act case by 31.03.2026.

4. Earlier, it was submitted on behalf of the State that the application dated 18.11.2025 seeking sanction was received by the concerned authorities on 22.11.2025. It contained 257 pages and the 4 GB pendrive containing 96 folders. On 11.12.2025, it was further submitted on behalf of the State that the State would require at least three months' time to go through the documents and to decide upon the question of sanction.

5. Adjournments were sought on behalf of the State on several occasions for giving further response even on the question of how much more time would be required to decide on the question of sanction. The issue of how much time the State would need to decide the question of sanction has become relevant in this matter for two reasons. First, in such cases where the Hon'ble Apex Court had granted bail to the accused, it had taken into consideration whether the trial was going to proceed smoothly or not. Moreover, the ED had alleged that some instrumentalities of the State were hand in glove with accused.

6. On 23.02.2026 when the learned Advocate General asked about it, he instead pointed to the limits of the jurisdiction of this Court while deciding an

application for anticipatory bail and submitted that he would rely on some decisions. When this Court referred to *Nathu Singh vs. State of UP & Ors.*, (2021) 6 SCC 64, he sought an adjournment for responding to it. On 24.02.2026 when the matter was heard again, this Court twice asked a specific question to the Learned Advocate General about whether the State was going to decide the question of sanction for prosecution against the accused within a reasonable time or not. Each time the Learned Advocate General, effectively refused to answer the Court's query and submitted that in an application under Section 439 of the Cr.PC, the Court was to confine its jurisdiction within the parameters of Section 439 of the Cr.PC and in case, the Court felt some other essential issues were required to be gone into, the High Court being a Constitutional Court had to frame the question and refer it to the other jurisdiction of the High Court. He relied on *Sanjay Dubey vs State of MP*, (2023) 17 SCC 187 and tried to distinguish *Nathu Singh* (supra) as merely accused – centric.

7. This Court had merely asked a question about a related fact and had not decided anything by then. The answer could have fairly been in the negative. Yet, effectively no direct answer was offered in respect of the question asked by the Court.

8. I heard the learned counsels for the parties, perused the petitions, the affidavits, the written notes of submissions and the documents placed before this Court in the form of pendrive.

9. The allegations as are leveled against the present petitioner are far too serious, whether it be in the case of the predicate offence or in the instant case under the PML Act. In these cases, huge sums of money were illegally procured from intending job seekers on the promise of granting Government jobs of Assistant Teachers and then such money were siphoned off. Several jobs had to be cancelled. Lakhs were denied proper opportunity. The allegations are perhaps even more heinous than commission of offences by chit fund operators. In those cases, the offences are committed by private individuals having no official role in the Government. Here, the allegation is that by abusing their position as public servants, such serious offences were committed, which led to untold misery for so many.

10. On the facts of the case, after hearing the parties this Court is not at all in a position to satisfy itself either that there are reasonable grounds for believing that the petitioner is not guilty of such offence or that he is not likely to commit any offence while on bail. Thus, the hurdle of the Section 45 of the PML Act cannot be surmounted in the present case. As regards old age, the offences were allegedly committed after the petitioner had become a senior citizen. However,

unduly long incarceration without trial may, in appropriate cases, outweigh the requirement to fulfil the rigors of Section 45 of the PML Act when tested on the anvil of Article 21 of the Constitution of India. Therefore, it has to be seen whether the present case satisfies such scrutiny.

11. That jail is an exception and bail is the rule is indubitably a jurisprudential mandate. It is much more than a mere statement of intent or a normative proposition. This principle has to be followed, albeit, after taking into account the facts of each case and the ratios regarding grounds for grant of bail as have been laid down by the Hon'ble Apex Court over the years.

12. It is true that one of the principal accused in the predicate offence case being the Minister-in-charge was granted bail by the Hon'ble Apex Court on 18.08.2025, but the same was after the accused had remained in custody for about 3 years. The petitioner too was granted bail by the same order. However, the Hon'ble Court directed that before the bail bonds could be executed, the charges would have to be framed by the trial Court with respect to the concerned appellant against whom sanction had already been granted for the offences under the Penal Code and the PC Act and for the others under the IPC alone. The material witnesses were directed to be examined within a stipulated period. Thus, bail was granted to the accused after ensuring that trial would proceed.

13. On the other hand, in the instant case, sanction has not yet been granted by the State without which the trial apparently cannot be commenced. It is, however, germane to point out here that the ED has also caused some delay in praying for sanction.

14. Therefore, the aggravating circumstances appearing against the petitioner as regards the question of grant of bail can briefly be enumerated as under:-

- a. The allegations levelled of collecting money for procuring government jobs for intending job seekers are very serious indeed and are of humongous proportion.
- b. On merits, it is quite impossible to surmount the hurdle of Section 45 of the PML Act.
- c. It is alleged that the petitioner was hand in gloves with important instrumentalities of the State including a former Minister and therefore, such allegedly friendly instrumentalities of the State may try to stall the proceeding by not having sanction granted.
- d. Sanction has not been granted by the State as yet. Finally, the State has, in effect, even refused to answer whether they would grant sanction any time soon.

15. On the other hand, the mitigating circumstances appearing in favour of the petitioner are as under:-

- i. The petitioner is a 74 years old man of frail health suffering from Parkinson's Disease. Consequently, he may even be termed as an infirm for overcoming the restrictions of Section 45 of the PML Act.
- ii. Although, the Enforcement Directorate could have taken the petitioner in custody soon after investigation of the predicate offences' case, they waited for a long time in taking him into custody in the PML Act case, resulting in undue additional period of incarceration in this case.
- iii. For the offences in the CBI case that involves greater imprisonment, the petitioner had already been granted bail. In the PML Act case for the present offences, the maximum sentence is of 7 years.
- iv. The petitioner is already in custody for about 1 year and 8 months in connection with this case.
- v. The principal accused in this case being the former Minister in question was granted bail by the Hon'ble Supreme Court along with the petitioner in the predicate offences' case. Surprisingly, the said former Minister has not yet formally been made an accused in the present PML Act case.

vi. Although the ED had come to know about the requirement of obtaining sanction in a PML Act case at least by November, 2024 when the judgement in Bibhu Prasad Acharya (supra) was passed, they made a prayer for obtaining sanction only on 18.11.2025, that too after the issue had come up for discussions before this Court.

vii. It is difficult to directly connect the delay in granting sanction by the State to the present petitioner or to him alone.

16. Considering the above, the other materials available from the investigation and the aggravating and the mitigating circumstances as mentioned above and the fact that the petitioner has been granted bail after a long incarceration in the predicate offences' case and is in custody in connection with the instant case for about 1 year and 8 months, I am inclined to grant bail to the present petitioner.

17. The petitioner shall be released on bail upon furnishing a bond of Rs.1,00,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned trial Court/Special Court/jurisdictional Court and on further condition that -

(i) The petitioner shall surrender his passport with the learned Special Court at once;

(ii) He shall not leave the territorial jurisdiction of the learned Special Court without its leave;

- (iii) He shall appear before the learned Special Court on every date of hearing fixed by the learned Court;
- (iv) He shall not tamper with evidence or intimidate witnesses in any manner whatsoever;
- (v) He shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses;
- (vi) He shall provide his mobile phone number/s before the learned Special Court and the investigating agency and shall not change the same without prior intimation to them;
- (vii) He shall meet the investigating officer once a fortnight until further orders and cooperate with the investigation;
- (viii) He shall not be appointed to any public office during pendency of investigation and trial.

18. While deciding this application, this Court cannot but refer to the intrinsically connected issue of sanction for prosecution. It would indeed be antithetic to the cause of justice if all the accused gradually get bail due to prolonged custody, but the trial/proceeding gets stalled for want of sanction to be given by the State.

19. Unfortunately, the submissions finally advanced on behalf of the State in this regard have been rather evasive and nonchalant, especially when one

considers the unfathomable misery of the multitude of hapless victims of the alleged crimes.

20. The decision in Sanjay Dubey (supra) is set on completely different facts involving a starkly distinct issue of directing action/inquiry for dereliction of duty and insubordination vis-à-vis an application for bail. However, the decision of a Special Bench of Three Judges in Nathu Singh (supra) has recognized the authority to invoke inherent powers under Section 482 of the Code in passing an order to secure the ends of justice, even while deciding an application for anticipatory bail, provided that there are adequate reasons for doing so.

21. In fact, in some such similar cases where the Hon'ble Apex Court had granted bail to the accused, it had also taken into consideration whether the trial was going to proceed smoothly or not. One needs to imbibe the same principle.

22. In view of the above and in the interest of justice, it is expected that the State would decide the question of grant of sanction for the prosecution of the accused in accordance with law and at the earliest, by keeping in mind the time it had already taken to peruse the supplied documents.

23. The Learned Trial Court/Special Court shall also make all endeavour to proceed expeditiously without granting any unnecessary adjournment to any of the parties.

24. The application is, accordingly, disposed of.

25. Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon completion of requisite formalities.

(Jay Sengupta, J.)