**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL BAIL APPLICATION NO. 4795 OF 2024**

Rajesh Shantaram Shetty. … Applicant.

V/s.

The Directorate of Enforcement and Ors. … Respondents.

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Mr. Sudeep Pasbola, Senior Advocate a/w. Dr. Ujjwalkumar Chavhan, Mr. Bhushan Yadav, Mr. Chinmay Godse, Advocate for Applicant.
Ms. Pallavi Dabholkar, APP for Respondent/State.
Mrs. Manisha Jagtap, Special Public Prosecutor for Respondent No. 1.

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**CORAM : ASHWIN D. BHOBE, J.**

**DATE : 12th JANUARY, 2026.**

**P.C. :**

1. Heard Mr. Sudeep Pasbola, learned Senior Advocate for the Applicant, Mrs. Manisha Jagtap, learned Special Public Prosecutor for the Respondent No. 1 and Ms. Pallavi Dabholkar, learned APP for State.

2. By the present Application filed under section 439 of the Criminal Procedure Code, 1973, the Applicant is before this

seeking Regular Bail in ECIR bearing No.ECIR/MBZO-I/40/2022 dated 23.01.2022, registered by the CBI for the offence punishable under section 120-B, 409, 420, 467, 468 & 471 of the Indian Penal Code alongwith Section 7, 13(2) r/w. 13(1)(a) of the Prevention of Corruption Act, 1988 (as amended in 2018) and under section 66 of the Information Technology Act, 2000. There are in all 17 Accused in the said crime.

3. Said ECIR bearing No.ECIR/MBZO-I/40/2022 is registered as PMLA Special Case No. 1378 of 2023 and is pending before the Court of Additional Sessions Judge Designated as Special Court under the PML Act, 2002, City Civil & Sessions Court, Mumbai.

4. The prosecution case in brief is that Tanaji Adhikari (Accused No. 1), then Senior Tax Assistant, who was promoted as the Inspector of Income Tax, fraudulently generated 12 TDS Orders for a total refund of Rs.2,63,95,31,870.00. Tanaji Adhikari had access to the RSA Token and login credentials of his seniors and he orchestrated the said fraud in connivance with Bhusan Patil (Accused No. 2). Said proceeds of the crime was credited in the

bank account of M/s. SB Enterprises, owned by the Bhushan Patil, which money was transferred in the personal bank accounts of Bhushan Patil, Rajesh Shetty (Applicant), Sarika Shetty, M/s. Hotel Velvet Treat Garden & Bar, M/s. Raaj Viraaj Global Corporation and other related persons and entities. Said amount was utilized to purchase various immovable and movable properties in their names. An amount of Rs.55.50 crores, being proceeds of the crime, was transferred to three shell companies.

5. Applicant is Accused No.3 in the present Crime. Applicant was arrested on 13th July, 2023. Bail Application at Exh. 50 filed by the Applicant in PMLA Special Case No. 1378 of 2023 was dismissed by the Additional Sessions Judge Designated as Special Court under the PML Act, 2002, City Civil & Sessions Court, Mumbai on 11th October, 2024.

6. Mr. Sudeep Pasbola, learned Senior Advocate appearing for the Applicant submits that the Applicant is seeking bail on the two counts: *Firstly,* on the ground that other co-accused viz., Bhushan Anant Patil (Accused No. 2), Tanaji Mandal Adhikari, (Accused No. 1), Purshottam Chavan (Accused No. 13)

and Rajesh Brijlal Batreja, (Accused No. 12) against whom the allegations in the present crime are similar and identical to the allegations of the Applicant, have been enlarged on bail by this Court vide order dated 23.12.2025 passed in Bail Application No. 1122 of 2025, Bail Application No. 1003 of 2025, Bail Application No. 1723 of 2025 and Bail Application No. 2265 of 2025. He tenders a photostat copy of the said order dated 23.12.2025, which is taken on record and marked “**X**” for identification. He submits that allegations against the Applicant are less serious compared to the allegations against the co-accused, who are released on bail; and *Secondly*, on the ground of Applicant’s long incarceration. To clarify, he submits that the Applicant is in jail for almost 29 months from his date of arrest. He submits that the maximum punishment that can be considered for the present crime would be 7 years. He submits that the period of incarceration undergone by the Applicant as on date is one third of the maximum punishment. He submits that charge in PMLA Special Case No. 1378 of 2023 is not framed as on date.

7. Ms. Manisha Jagtap, learned Special Public Prosecutor

for the Respondent No. 1 does not dispute that the allegations against the Accused No. 1, 2, 12 and 13 in the said crime, who have been released on bail by this Court vide order dated 23.12.2025 (Order marked as "X") are similar and identical to the allegations made against the Applicant. She states that the charge in the said crime is not framed.

8. Perused the records and the order dated 23.12.2025 (marked "**X**") with the assistance of the learned Advocates for the parties.

9. Records reveal that the involvement and the role assigned to the Applicant in the present crime is similar and identical to the role as assigned to co-accused Nos. 1, 2, 12 and 13. Applicant stands on identical footing with the co-accused Nos. 1, 2, 12 and 13. Mr. Pasbola, learned Senior Advocate for Applicant would be justified in his submission that the involvement of the Applicant in the present crime is less serious compared to the involvement of the the co-accused, who are released on bail. Considering the involvement of the Applicant in the crime is similar and identical to the co-accused, who have been released on

bail by this Court (order marked as “X”), principle of parity would apply to the case of the Applicant.

***10.*** The Hon’ble Supreme Court in the case of *Arvind Dham v. Enforcement Directorate*,[1] in paragraphs 15 to 18 has observed as follows :

> ***“15.*** *We have given our thoughtful consideration to the rival submissions and have carefully perused the record. The court while dealing with the prayer for grant of bail has to consider gravity of offence, which has to be ascertained in the facts and circumstances of each case. One of the circumstances to consider the gravity of offences is also the term of sentence i.e., prescribed for the offence, the accused is alleged to have committed. The court has also to take into account the object of the special Act, the gravity of offence and the attending circumstances along with period of sentence. All economic offences cannot be classified into one group as it may involve various activities and may differ from one case to another. Therefore, it is not advisable on the part of the Court to categorize all the offences into one group and deny bail on that basis. It is well settled that if the State or any prosecuting agency including, the court, concerned has no wherewithal to provide or protect the fundamental right of an accused, to have a speedy trial as enshrined under Article 21 of the Constitution, then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime. The aforesaid proposition was quoted with approval by another two-Judge Bench of this Court and it was held that long period of incarceration for around 17 months and the trial not even having commenced, the appellant in*

1 2026 SCC OnLine SC 30

> *that case has been deprived of his right to speedy trial.*
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> ***16.*** *A two-Judge Bench of this Court in V. Senthil Balaji's case has held that under the statutes such as PMLA, where maximum sentence is seven years, prolonged incarceration pending trial may warrant grant of bail by Constitutional Courts, if there is no likelihood of the trial concluding within a reasonable time. Statutory restrictions cannot be permitted to result in indefinite pretrial detention in violation of Article 21.*
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> ***17.*** *A three Judge Bench of this Court in Padam Chand Jain (supra), reiterated that prolonged incarceration cannot be allowed to convert pretrial detention into punishment and that documentary evidence already seized by the prosecution eliminates the possibility of tampering with the same.*
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> ***18.*** *The right to speedy trial, enshrined under Article 21 of the Constitution, is not eclipsed by the nature of the offence. Prolonged incarceration of an undertrial, without commencement or reasonable progress of trial, cannot be countenanced, as it has the effect of converting pretrial detention into form of punishment. Economic offences, by their very nature, may differ in degree and fact, and therefore cannot be treated as homogeneous class warranting a blanket denial of bail."*

11. In view of the aforesaid factual background, continued incarceration of the Applicant over a prolonged period of 29 months, coupled with the fact of the charge not being framed in PMLA Special Case No. 1378 of 2023 and in the absence of any

realistic prospects of early conclusion of trial, continuation of the Applicant in custody in the present crime pending trial is not warranted. Bail Application of the Applicant is allowed on the following conditions :

(a) Applicant be released on bail in ECIR bearing No. ECIR/MBZO-I/40/2022, registered at the instance of Respondent No.1, on executing a personal bond in the sum of Rs.3,00,000/-, with one or more local sureties in the like amount.

(b) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing the facts to Court or any Police Officer. The Applicant shall not tamper with evidence and any such attempt by him shall be taken as a misuse of concession of this bail order.

(c) Applicant upon release within 3 days shall furnish his residential addresses with proof and contact details to the Respondent No.1.

(d) Applicant shall attend the office of Respondent No.1 on 3rd day of each English Calendar month from 10 a.m. to 12 p.m., till further directions.

(e) Applicant shall surrender his passport with the Respondent No.1, within 7 days of his release.

(f) Applicant shall not leave India without prior permission of the Trial Court.

(g) Applicant shall furnish a fresh list of immovable assets owned by him and his family within three weeks from date of their release from the jail.

The Directorate of Enforcement shall be at liberty to attach all such assets in accordance with law. The bank account of the Applicant shall also remain seized.

(h) Applicant shall appear before the Trial Court regularly and in the event of his absence, the Respondent No.1 shall be at liberty to seek cancellation of bail granted to him today by this Court.

12. Criminal Bail Application No. 4795 of 2024 is allowed in the above terms.

**(ASHWIN D. BHOBE, J.)**