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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO.5435 OF 2024

Vijay Sopan Machinder : Applicant
(Org.Accused No.1)

Versus.

Directorate of Enforcement : Respondent

Mr. Sundeep Karnik for the Applicant.

Mr. Prashant Mishra (Special Counsel for ED) a/w Mr. Bharat Jadhav, Ms. Ishita Bhaiya, Mr. Krish Kariya and Ms. Chahat Modi and Ms. Purva Birla for the Respondent No.1 ED.

Mr.Prashant Pandey a/w Mr. Dinesh Jadhvani, Ms. Ridhima Mangaonkar and Ms. Sunati Gupta i/by W3Legal for the Intervenor.

CORAM : ASHWIN D. BHOBE, J.

DATED : 06 APRIL 2026

PC:-

1. Heard Mr. Sundeep Karnik, learned Advocate for the Applicant, Mr. Prashant Mishra learned Special Counsel for Respondent- Directorate of Enforcement and Mr. Prashant Pandey, learned Advocate for the Intervenor.

2. This Application under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), is filed by the

Applicant seeking bail in connection with ECIR No. ECIR/MBZO-I/17/2023 registered by the Respondent, for offences punishable under Sections 3 and 4 of the Prevention of Money Laundering Act, 2002 (PML Act 2002).

3. Material facts for the consideration of this bail application are that Crime No. 837 of 2021 was registered against the Applicant on 14.12.2021 at Oshiwara Police Station under Sections 406, 409, 420, and 34 of the Indian Penal Code, 1860 ("IPC"), and Sections 3, 4, 5, 6, 8, and 13 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 ("MOFA"). It was subsequently transferred to EOW Mumbai and renumbered as C.R. No. 105 of 2021, with Sections 465, 467, 468, and 471 of the IPC, along with Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 ("MPID"), being added.

4. The case of the prosecution is that the Applicant, in his capacity as a Director of Ornate Spaces Private Limited, executed a Tripartite Agreement on 18.05.2010 with MHADA and the UTI Employees Society for the construction of 152 flats for UTI employees, to be completed within 54 months of obtaining the completion certificate. Applicant, despite collecting amounts, failed and neglected to fulfil this obligation. Applicant has deceived the intended buyers of the flats, unlawfully sold flats to others, and forged

documents. Applicant has used the proceeds of crime for personal expenses, vehicle purchases, cash withdrawals, investment in a gym business, and other project-related costs.

5. Respondent registered an ECIR bearing No. ECIR/MBZO-I/17/2023 based on the predicate offence, i.e. C.R. No. 105 of 2021, registered with EOW, Mumbai, to investigate the role of the Applicant in the money laundering offence. Said ECIR is registered as Special Case No. 422 of 2024 and is pending before the Additional Sessions Judge, designated as a Special Court under the PML Act 2002, City Civil & Sessions Court, Mumbai (hereafter “Special Court”). There are three accused persons in the present case. Applicant is Accused No. 1. Wife of the Applicant is Accused No.2, whereas their son is Accused No.

6. The Applicant was arrested on 03.01.2024 and remains incarcerated.

7. Accused Nos. 2 and 3 were not arrested in ECIR bearing No. ECIR/MBZO-I/17/2023.

8. Bail Application at Exhibit-5 in PMLA SPL Case No.422 of 2024 filed by the Applicant was rejected by the Special Court on 05.12.2024.

9. Mr. Sundeep Karnik, learned Advocate for the Applicant, submits that the Applicant seeks bail in PMLA Special Case No. 422 of 2024 on the sole ground of prolonged incarceration. He submits that the Applicant has been in jail

since 03.01.2024. He submits that, to date, the charge has not been framed in PMLA Special Case No. 422 of 2024. He submits that, as of now, there is no compliance with Section 44 (1)(c) of the PML Act 2002. He mentions that the charge sheet spans 38 volumes with 14253 pages, and that there are 14 prosecution witnesses in the case. He submits that the maximum punishment for the crime in PMLA Special Case No. 422 of 2024 is 7 years.

10. Mr. Prashant Mishra, learned Special Counsel for the Respondent-ED, in addition to oral submissions, has tendered brief written submissions dated 02.04.2026. He, by referring to the chart in para no. 12 of the written submissions, submits that the delay in the commencement of the trial is not attributable to the prosecution. He submits that the delay in the present proceedings would be attributable to Accused No.2 and Accused No.3. He submits that the maximum period of punishment for the economic offence against the Applicant in PMLA Special Case No. 422 of 2024 is 7 years. He submits that the computation of the period of release under Section 479 (1) of the BNSS should be one-third of 7 years, approximately 2 years and 4 months. Therefore, he submits that the long incarceration period claimed by the Applicant would only be relevant after 2 years and 4 months of imprisonment. He submits that the Applicant has served 2 years and 3 months in jail and therefore does not qualify for bail on the grounds of prolonged incarceration.

11. Mr. Prashant Pandey, the learned Advocate for the Intervenor, submits that the Applicant has other cases pending against him. He submits that the material on record indicates the Applicant's guilt in the crime. He argues that the delay in proceedings is caused by the Applicant. He explains that the Intervenor is the affected party and the original complainant. He submits that the Intervenor has a reasonable apprehension that the Applicant will flee the country if released on bail. Therefore, he opposes bail.

12. Mr. Sundeep Karnik, learned Advocate for the Applicant in the rejoinder, submits that the Applicant has roots in this country and that his family is also based here. He submits that if this Court grants bail, the Applicant will comply with and abide by any conditions the Court considers appropriate to impose.

13. Heard arguments and perused the records.

14. Mr. Sundeep Karnik, learned Advocate for the Applicant, has limited the ground for bail due to the prolonged incarceration.

15. Though Mr. Prashant Mishra, the learned Special Counsel for the Respondent-ED, referring to the chart in paragraph 12 of his written submissions dated 02.04.2026, argued that the delay in commencing the trial is not attributable to the Respondent, he was unable to point out any material from the record of PMLA Special Case No. 422 of

2024 indicating that the delay in starting the trial is due to the Applicant. Even otherwise, the Applicant would not have gained from causing delay, especially since he is in jail.

16. The Hon'ble Supreme Court in the case of Arvind Dham v. Enforcement Directorate¹, where the offence was an economic offence with a maximum punishment of 7 years, and the accused had been jailed for 16 months and 20 days, observed in paragraph Nos. 15, 16, 17, 18, and 19 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 committed⁵. 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 basis⁶. 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 crime⁷. 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 that case has been deprived of his right to speedy trial.

16. A two-Judge Bench of this Court in V. Senthil Balaji's case⁹ has held that under the statutes such as

¹ 2026 SCC OnLine SC 30

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.

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.*

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.*

19. *In the backdrop of aforesaid well settled parameters with regard to exercise of jurisdiction for grant of bail in economic offences, we now advert to the facts of the case in hand. The appellant has joined the investigation even prior to his arrest i.e., 19.06.2024 and 02.07.2024 as well as on 09.07.2024. Thus, he has cooperated with the investigation. Out of 28 individuals, only the appellant has been arrested. The order dated 20.08.2025 of the Special Court records the submission of ED that investigation qua the appellant has concluded. The maximum sentence which can be imposed on the appellant is seven years. The appellant is in custody for past around 16 months and 20 days. It is pertinent to note that various Benches of this Court, while taking into account the period of incarceration which ranges from 3 months to 17 months in several cases have granted bail to the appellants therein¹⁰. In the instant case, no cognizance has been taken on the prosecution complaint and the proceeding is at the stage of scrutiny of documents. No material has been placed on record to show the fate of the application filed by the ED on 27.09.2025 seeking day-to-day hearing even after period of approximately three months has expired. There are 210 witnesses to be examined in the proceeding. There is no likelihood of trial commencing in the near future. The continued incarceration in such circumstances, particularly where the evidence which is primarily documentary in nature, is already in custody of the prosecution, violates*

the right of the appellant to speedy trial under Article 21 of the Constitution of India.”

17. The charge in Special Case No. 422 of 2024 has not yet been framed. There is no likelihood that the trial will commence soon. The Applicant has been in jail for nearly 27 months since his arrest. The maximum punishment in PMLA Special Case No. 422 of 2024 is 7 years. As Mr. Sundeep Karnik stated, the charge sheet is voluminous, and the prosecution has listed 14 witnesses. Therefore, the trial is expected to take a substantial amount of time to conclude.

18. The Hon’ble Supreme Court in *Pradeep Kumar @ Bhanu Vs. State of Punjab*² regarding an accused charged with offences under the Indian Penal Code and the Arms Act, 1959, made the following observations:-

“5. Prosecution proposes to examine 23 witnesses to drive home the charges against the appellant, but none has been examined. Thus, the trial is likely to take some time to conclude.

6. Almost two years have passed since the appellant was arrested without trial having commenced and conclusion thereof nowhere being in sight. Incarceration without trial amounts to punishment.”

19. Mr. Prashant Mishra, learned Special Counsel for the Respondent, has not raised any concern about the Applicant influencing witnesses or tampering with evidence or failing to appear for trial in PMLA Special Case No. 422 of 2024, either in his oral or written submission dated 02.04.2026.

² Order dated 13 March 2026 in Petition Special Leave to Appeal (Cri) 18775/2025.

20. Considering the facts of the case at hand and the pronouncement of the Hon'ble Supreme Court in Arvind Dham (supra) and Pradeep Kumar @ Bhanu (supra), the Applicant is entitled to bail on the sole ground of his long incarceration and the delay in the commencement of trial in Special Case No.422 of 2024. Further detention of the Applicant pending trial is not necessary.

21. The apprehension expressed by Mr. Prashant Pandey, learned Advocate for the Intervener, can be allayed by imposing conditions on the Applicant's travel.

22. This Application is therefore allowed on the following conditions:-

- (a)** Applicant is directed to be released on bail in connection with Crime ECIR No. ECIR/MBZO-I/17/2023 (Special Case No.422 of 2024) upon furnishing P.R. Bond in the sum of Rs. 5,00,000/- (Rupees Five lakhs only) with one or two local sureties in the like amount of Rs. 5,00,000/- (Rupees Five lakhs only), to the satisfaction of the Additional Sessions Judge Designated as Special Court under the PML Act, 2002, City Civil & Sessions Court, Mumbai.
- (b)** Applicant shall report to the Investigation Officer, Directorate of Enforcement, Mumbai, once a month, i.e. on the first Saturday of each month

from 10.00 a.m. to 12.00 p.m., till the conclusion of the trial in PMLA Special Case No. 422 of 2024.

- (c) Applicant shall not directly or indirectly make any inducement, threat or promise to any person/s acquainted with the facts of the case to dissuade such person/s from disclosing the facts to the Court or any police officer.
- (d) Applicant shall not tamper with evidence in any manner.
- (e) The Applicant shall deposit his passport with the Court of the Additional Sessions Judge designated as the Special Court under the PML Act, 2002, at the City Civil & Sessions Court, Mumbai, in Special Case No. 422 of 2024, within three (3) days of his release from jail.
- (f) Applicant shall, within three (3) days of release from jail, provide the Investigation Officer, Directorate of Enforcement, Mumbai, with his residential address along with proof, his contact numbers, and email, and must inform the Investigating Officer of any changes to this information from time to time.
- (g) The Applicant shall not travel outside the State of

Maharashtra without obtaining prior written permission from the Investigation Officer, Directorate of Enforcement, Mumbai.

- (h) The Applicant shall appear before the Additional Sessions Judge designated as the Special Court under the PML Act, 2002, at the City Civil & Sessions Court, Mumbai, on each and every date fixed in Special Case No. 422 of 2024, unless specifically exempted by the Court. If the Applicant abstains from attending the proceedings without justifiable cause, that could also be seen as a breach of the bail condition and the Special Court under the PML Act, 2002, at the City Civil & Sessions Court, Mumbai, will be free to pass appropriate orders.

23. Mr. Sundeep Karnik, learned Advocate for the Applicant, submits that the Applicant may be permitted to furnish a cash surety of Rs. 5,00,000/- instead of the solvent surety for a period of two weeks. Mr. Sundeep Karnik undertakes that the solvent surety will be furnished within two weeks from today. Permission is granted. The statement made by Mr. Sundeep Karnik is treated as an undertaking to the court. A cash surety of Rs. 5,00,000/- shall be accepted in lieu of the solvent surety for two weeks. No extension will be granted. Failure to furnish a solvent surety within two weeks from today will be deemed

a breach of bail conditions, and the Special Court under the PML Act, 2002, at the City Civil & Sessions Court, Mumbai, will be free to pass appropriate orders.

24. Criminal Application No.5435 of 2024 is disposed of.

(ASHWIN D. BHOBE, J.)