

2025 LiveLaw (SC) 1166

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

***DIPANKAR DATTA; J., AUGUSTINE GEORGE MASIH; J.*
S.L.P. (CRL.) NO.13737 OF 2025; DECEMBER 03, 2025
MAHESH JOSHI *versus* DIRECTORATE OF ENFORCEMENT**

Prevention of Money-Laundering Act, 2002 (PMLA) – Section 45(1)(ii) – Regular Bail – Prolonged Incarceration – Article 21 of the Constitution of India - Supreme Court allowed the appeal for regular bail to the Appellant, Mahesh Joshi, former Minister of Public Health and Engineering Department (PHED), Government of Rajasthan, in a case registered by the Directorate of Enforcement under the PMLA – Held, Constitutional Courts must intervene to safeguard the right to personal liberty under Article 21 where a trial cannot be reasonably concluded and incarceration becomes prolonged - Section 45(1)(ii) of the PMLA cannot be interpreted to justify indefinite detention, especially in cases with voluminous, document-heavy material where the trial is unlikely to begin promptly - The extraordinary powers to grant bail on the grounds of violation of Part III of the Constitution, notwithstanding statutory provisions like Section, can be exercised by the Constitutional Courts (under Article 32 or Article 226) if they conclude there is no possibility of a trial concluding in a reasonable time - Appellant had remained in custody for over seven months - Noted that case record is entirely documentary, involving 66 witnesses, 184 documents, and more than 14,600 pages, and the proceedings are still at the stage of supply of copy of the police report and other documents under Section 207, CrPC - These circumstances indicate that the commencement of the trial is not imminent and the trial itself is not likely to conclude in the near future, requiring closer scrutiny in light of constitutional considerations - Directed the appellant to be released on bail - **Appeal allowed. [*Relied on V. Senthil Balaji v. Deputy Director, Directorate of Enforcement 2024 SCC OnLine SC 2626; Paras 13-18*]**

For Petitioner(s): Mr. Siddharth Luthra, Sr. Adv. Mr. Vivek Jain, AOR Ms. Suchitra Kumbhat, Adv. Mr. Sadiq Noor, Adv. Mr. Rohit H. Nair, Adv. Ms. Benila Bm, Adv.

For Respondent(s): Mr. Suryaprakash V. Raju, A.S.G. Mr. Zoheb Hussain, Adv. Mr. Annam Venkatesh, Adv. Mr. Hitarth Raja, Adv. Mr. Samrat Goswami, Adv. Mr. Arvind Kumar Sharma, AOR Ms. Anushka Gupta, Adv. Ms. Aakriti Mishra, Adv. Ms. Sweetie Chauhan, Adv.

ORDER

AUGUSTINE GEORGE MASIH, J.

Leave granted.

2. The present appeal seeks the grant of regular bail to the Appellant in connection with ECIR No. JPZO/29/2023 dated 21.08.2023, registered by the Directorate of Enforcement under the Prevention of Money-Laundering Act, 2002 (for short, “PMLA”).

3. The Appellant, Mahesh Joshi, served as Minister, Public Health and Engineering Department (PHED), Government of Rajasthan. He was arrested on 24.04.2025. His bail applications were rejected by the Trial Court and subsequently by the High Court on 26.08.2025. The Appellant has therefore approached this Court seeking relief.

4. We have heard Mr. Sidharth Luthra, learned senior counsel appearing on behalf of the Appellant, and Mr. Suryaprakash V. Raju, learned Additional Solicitor General appearing on behalf of the Respondent - Directorate of Enforcement.

5. The proceedings arise from allegations concerning forged IRCON certificates used in PHED tenders in 2022–2023. This led to multiple FIRs by the Anti-Corruption Bureau, departmental inquiries, suspension of officials, and blacklisting of firms during the Appellant's tenure as Minister. The Appellant was not named in the original FIRs or the initial ECIR and was arrayed as an accused only upon filing of a later supplementary complaint. Since this order is confined to bail, we do not comment on the correctness of the allegations or the material.

6. Learned senior counsel for the Appellant submits that four co-accused, namely, Peeyush Jain, Sanjay Badaya, Padam Chand Jain, and Mahesh Mittal, have already been granted bail either by this Court or the High Court and that the Appellant stands on at least the same footing, thereby attracting parity.

7. It is submitted that even proceeding on the allegations as they stand, the amount directly attributed to the Appellant does not exceed ₹50 lakh, attracting the proviso to Section 45(1) of the PMLA. The High Court, while declining bail, did not assign any reasons for the nonapplication of the proviso.

8. Learned senior counsel further submits that during his tenure as Minister, the Appellant himself took departmental action by suspending officials, blacklisting firms and causing registration of FIRs relating to forged certificates. These steps negate any inference of personal benefit.

9. The Appellant is 71 years old, has deep roots in society, and has cooperated throughout the investigation. He availed interim bail on two occasions and surrendered punctually, without any allegation of misuse.

10. Furthermore, attention is drawn to the documentary nature of the case, wherein large number of pages, witnesses and documents are cited by the prosecution, and that the matter remains at the stage of supply of copy of the police report and other documents under Section 207, Code of Criminal Procedure (for short, "CrPC"). It is urged that the trial is unlikely to commence in the near future, and prolonged incarceration would be inconsistent with Article 21 of the Constitution of India.

11. On the contrary, the learned ASG submits that the allegations relate to serious economic offences. He refers to what the agency describes as a financial trail involving movement of funds through M/s Mugdog Packaging India LLP, M/s Maxclenz Retail Pvt. Ltd., and M/s Jay The Victory, before reaching the firm of the Appellant's son, M/s Sumangalam LLP. According to the respondent, the layering of transactions is consistent with moneylaundering methods.

12. Reliance is placed on statements of certain coaccused recorded during the investigation, with the submission that the later retractions are belated. It is contended that the ₹50 lakh entry is not isolated and forms part of a larger financial pattern which, according to the agency, totals ₹2.01 crore. The learned ASG submits that the Appellant, being a senior political figure, may influence witnesses who were departmental officials or contractors. Continued custody is therefore sought.

13. In **V. Senthil Balaji v. Deputy Director, Directorate of Enforcement**¹, of which, one of us was a member (Augustine George Masih, J.), this Court, particularly in para 27, held that where a trial cannot be reasonably concluded and incarceration becomes prolonged, constitutional courts must intervene to safeguard the right to personal liberty under Article 21. The Court further emphasised that Section 45(1)(ii) of the PMLA cannot

¹ 2024 SCC OnLine SC 2626

be interpreted to justify indefinite detention in cases involving voluminous, document-heavy material where trial is unlikely to begin promptly. The present case, in our view, stands on a similar footing. Para 27 of **V. Senthil Balaji (supra)** reads as follows:

“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. Najeer [(2021) 3 SCC 713], 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.”

14. Upon considering the material placed before us, we find that several co-accused, whose alleged roles will ultimately be evaluated at trial, have already been granted bail. The Appellant has remained in custody for over seven months. The record is entirely documentary, as of now there are 66 witnesses, 184 documents, and more than 14,600 pages are involved, and the proceedings are still at the stage of supply of copy of the police report and other documents under Section 207, CrPC. In our view, these circumstances indicate that the commencement of trial is not imminent and that the trial itself is not likely to conclude once started in the near future. The continued detention of the Appellant requires closer scrutiny in light of constitutional considerations.

15. Having regard to the Appellant’s age, his earlier conduct while he availed the benefit of the interim bail, and the nature of the material, which is entirely documentary and already in the possession of the investigating agency, we are of the view that the concerns expressed by the respondent can be addressed through imposition of appropriate conditions. At this stage, continued detention does not appear necessary for the purpose of investigation or the conduct of the trial, as no further recovery is expected.

16. We clarify that nothing in this order shall be construed as an expression on the merits of the case. All observations herein are confined solely to the question of bail. The Trial Court shall consider the material independently and uninfluenced by this order.

17. In view of the above, we are of the opinion that the Appellant deserves to be released on bail.

18. The Appellant shall be released on bail in connection with ECIR No. JPZO/29/2023 dated 21.08.2023, upon such terms and conditions as may be imposed by the Special Court including the conditions that the Appellant shall: (a) Surrender his passport to the Special Court under the PMLA; (b) Not leave India without prior permission of the Special Court under the PMLA; (c) Regularly and punctually remain present before the Special Court and shall cooperate with the Court for early disposal of case.

19. The appeal is allowed on the above terms.

20. Pending applications, if any, stand disposed of.

© All Rights Reserved @LiveLaw Media Pvt. Ltd.

*Disclaimer: Always check with the original copy of judgment from the Court website. Access it [here](#)