



2025:DHC:8693



**IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 26.09.2025

+ **BAIL APPLN. 1763/2025**

**VIPIN YADAV** ..... Applicant

versus

**DIRECTORATE OF ENFORCEMENT** ..... Respondent

+ **BAIL APPLN. 1780/2025**

**AJAY** ..... Applicant

versus

**DIRECTORATE OF ENFORCEMENT** ..... Respondent

+ **BAIL APPLN. 2257/2025 & CRL.M.(BAIL) 1306/2025**

**RAKESH KARWA** ..... Applicant

versus

**DIRECTORATE OF ENFORCEMENT** ..... Respondent

**Advocates who appeared in this case:**

For the Applicant : Mr. Manu Sharma, Senior Advocate with  
Mr. Abhir Datt, Mr. Arjun Kakkar, Mr. Vijay  
Singh, Mr. Debayan Gangopadhyay and Mr.  
Suryaketu Tomar, Advocates in BAIL



2025:DHC:8693



APPLN. 1763/2025 & BAIL APPLN.  
1780/2025

Ms. Bani Dikshit, Advocate in BAIL  
APPLN. 2257/2025

For the Respondent : Mr. Anurag Jain, Advocate

**CORAM**  
**HON'BLE MR JUSTICE AMIT MAHAJAN**

**JUDGMENT**

1. The present applications are filed by the applicants seeking regular bail in ECIR/HIU-1/7/2024 dated 28.03.2024 registered by the Directorate of Enforcement. The ECIR finds its genesis from the two cases registered by the Central Bureau of Investigation in respect of predicate offences being RC No. 2212022E0041 dated 26.08.2022 registered under Sections 420/120B of the Indian Penal Code, 1860 ('IPC') and Sections 66C/66D of the Information Technology Act, 2000 ('IT Act') and RC No. 2212023E0036 dated 27.12.2023 registered under Sections 403/420/120B of the IPC and Section 66D of the IT Act.

2. It is alleged that on examination of RC No. 2212023E0036 registered by CBI, it was found that 937 bank accounts maintained with HDFC bank were used for topping up *Pyypl Wallet*/Virtual Card *etcetera*. '*Pyypl wallet*', is a Dubai based platform, that provides



facility of uploading money directly with the help of debit cards, and can be withdrawn through its Point of Sale.

3. On investigation, it was found that out of the 937 bank accounts, 12 bank accounts were managed, operated and controlled by a group of individuals including the applicants – Ajay and Vipin Yadav and other persons being Bhaskar Yadav, Ashok Kumar Sharma, Lalit Goel, Rahul Ujjainwal against whom 16 cyber fraud related complaints were received on National Cyber Crime Reporting Portal.

4. Based on the complaints made to the National Cyber Crime Reporting Portal in respect of the aforesaid 12 bank accounts, it was noticed that the money was initially collected from the complainants/victims in the name of fake investment schemes, false jobs, and the illicit money so generated were received in mule accounts. Thereafter, the funds received in mule accounts were rotated through a web of entities. Subsequently, it is alleged that in order to obliterate the chain and the origin of the proceeds of crime, the proceeds were further layered through said bank accounts managed and controlled by the applicants – Ajay and Vipin Yadav and their associates who formed part of '*bijwasan group*.' Thereafter, the *bijwsasan group* knowingly withdrew the tainted money in Dubai or uploaded on *Pyypl Wallet* for the purchase of crypto currency.

5. On further investigation, it was revealed that the group of the applicants – Ajay and Vipin Yadav and their associates were operating



from Bijwasan area of New Delhi and the said group of individuals collectively created web of entities which were managed, operated and controlled by them for carrying out various transactions regarding uploading the money on *Pyypl Wallet*.

6. On further analysis regarding the source of fund in the bank account of entities managed, operated and controlled by the applicants - Ajay and Vipin Yadav and their associates, it was noticed that the said group of individuals received funds from accused Rohit Aggarwal (main accused) and other individuals namely Chhotu Singh, Jitendra Kaswan and applicant Rakesh Karwa.

7. It is alleged that the accused persons duped and cheated the Indian citizens for a sum of ₹641 crores, in the name of fake investment schemes false jobs and other similar activities.

8. The scrutiny of the of the bank accounts revealed that out of the proceeds of crime of ₹248.48 crore, an amount of around ₹50.91 crore was transferred to the bank accounts of co-accused namely – Rohit Aggarwal, who further transferred money in the bank accounts of entities managed and controlled by the applicants Vipin Yadav and Ajay. It is alleged that multiple bank accounts were opened by them in the name of fictitious business entities. It was found that the same mobile numbers and email addresses were linked to multiple bank accounts.



9. During investigation, it was found that the applicants Vipin Yadav and Ajay were active partners in seven business entities which were sued for money laundering activity. Applicant Vipin controlled and managed M/S Guttak Enterprises, M/s Shiv Shakti Services, Index Funds, M/s A.P. Enterprises, M/s AK Enterprises, M/s AB Enterprises and M/s VK Enterprises. Applicant Ajay was in control of and managed M/S Guttak Enterprises, M/s Shiv Shakti Services, Index Funds, M/s A.P. Enterprises, M/s AK Enterprises, M/s Royal Estate Investment and M/s VK Enterprises. These entities were used for laundering proceeds of crime to the tune of approximately ₹21 crore. The applicant Ajay is stated to have also received proceeds of crime to the tune of ₹50 lacs directly in his bank accounts.

10. The applicants Vipin and Ajay were interrogated by the respondent department and were arrested on 29.11.2024. On completion of investigation, a complaint under Section 44 read with Section 45 of the PMLA was filed. During search of the premises of applicant Vipin, two mobile phones were recovered from his possession. The data in the said phones shows chats between the applicant and co-accused Rohit Aggarwal, which reveal that the applicant had knowledge that the money received in the bank accounts of various business entities was proceeds of crime.

11. A mobile phone was recovered from the possession of applicant Ajay, pursuant to the search of his residence. The data contained copies of fake invoices to give a genuine colour to the illegal



transactions. It was found in the investigation that after receiving the proceeds of crime, applicant Ajay rotated the same in his business entities and made cash withdrawals at Dubai. It was also found that applicant Ajay made frequent trips to Dubai.

12. The allegations against applicant Rakesh Karwa involve arrangement of 186 mule accounts which helped in acquisition of proceeds of crime to the tune of ₹170.31 crores. It is alleged that he received proceeds of crime in his accounts from the mule accounts, and transferred the same to the account of co-accused persons Rohit Aggarwal and Alladi Raja Sai. It is alleged that the proceeds of crime were also transferred to the accounts of the shell entities created by a group of Chartered Accountants referred to as Bijwasan Group.

13. During investigation it was found that crypto currency equivalent to ₹32 crore was transferred by applicant Rakesh Karwa, to the accounts of various members of the organized syndicate during the period from 20.09.2023 to 15.01.2024. Certain implicating chats of the applicant on various groups on 'Telegram' application were also seized by the respondent department. The applicant Rakesh Marwa was arrested on 29.01.2025.

14. The bail applications filed by applicants Vipin and Ajay, on an earlier occasion, were dismissed by the learned Special Judge, PMLA/CBI, Rouse Avenue Courts, New Delhi (hereafter 'Trial Court') on 19.04.2025. The bail application preferred by applicant Rakesh Karwa



was also dismissed by the learned Trial Court *vide* order dated 02.06.2025.

15. The learned Senior Counsel for the applicants – Vipin Yadav and Ajay submitted that the applicants are innocent and have been falsely implicated in the present case. He submitted that the applicants have not been named in the FIRs for the predicate offences and that the applicants had no nexus with the alleged predicate offences and did not play any role in the generation of the proceeds of crime. He submitted that the only allegations against the applicant were that they were laundering the money illegally earned by certain unknown individuals.

16. He submitted that the trading of cryptocurrencies in India is legal and that the applicants have done the same in compliance with the applicable laws in India. He submitted that the applicants are legitimate traders of crypto currency. He submitted that there is nothing on record to demonstrate that the applicants were knowingly indulging in the activity of money laundering. He submitted that since the total money laundered is less than 1 crore, the applicants are exempted in view of the proviso to Section 45 of the PMLA. He submitted that the prosecuting agency is solely relying on the statement of the co-accused Rohit Aggarwal to assert that the applicants knew that the money received by the applicants from the said co-accused Rohit Aggarwal was tainted money.



17. He submitted that the prosecuting agency is erroneously relying on the chats of accused Rohit Aggarwal with the applicants and his partners to substantiate that they were arranging mule accounts for transfer of tainted funds. He submitted that the alleged accounts were never used as mule accounts as the account holders either knew the applicants and his partners directly or through their associates and that the alleged accounts were being used for learning the trade of cryptocurrency. He submitted that the alleged accounts had no connection with the total 310 mule accounts being used by the alleged organised criminal syndicate for the purpose of generating the alleged proceeds of crime.

18. He submitted that the investigating agency cannot be allowed to cherry-pick which accused persons to arrest and investigate. He submitted that the investigating agency has till date neither arrested the main accused Rohit Aggarwal nor any of the accused persons in the scheduled offence who are alleged to be the direct beneficiaries of the proceeds of crime derived out of the scheduled offences. He submitted that as per the case of the respondent agency, out of the proceeds of crime of ₹248.48 crore, an amount of around ₹50.91 crore was transferred to the bank account of co-accused namely – Rohit Aggarwal who thereafter allegedly transferred around ₹25 crores in the bank accounts of entities managed and controlled by the applicants– Vipin Yadav and Ajay. He submitted that the accused Rohit Aggarwal has been involved at all stages of the conspiracy. He submitted that the non-arrest of the accused Rohit Aggarwal



consequently entitles the applicants - Vipin Yadav and Ajay to be released on the ground of parity.

19. He submitted that the applicants are in custody since 29.11.2024 and the investigation *qua* the applicants stands concluded. He submitted that in the present case, there are more than 1000 documents and 111 witnesses and the matter is still at the stage of cognizance. He submitted that the trial is not likely to conclude in the near future. He consequently submitted that the applicants - Vipin Yadav and Ajay be enlarged on bail on the ground of delay in trial.

20. The learned counsel for the applicant Rakesh Karwa submitted that the applicant is innocent and has been falsely implicated in the present case. She submitted that the applicant has been in custody for a considerable number of months and there is no likelihood of the conclusion of trial in the near future.

21. She submitted that the role of the accused Rohit Aggarwal, who is the mastermind of the said syndicate, is graver than the applicant Rakesh Marwa and yet accused Rohit Aggarwal has not been arrested by the respondent department. She submitted that the accused Rohit Aggarwal knew the source of the funds, and out of the proceeds of crime of ₹248.48 crore, an amount of around ₹50.91 crore was transferred to the bank account of accused Rohit Aggarwal despite which he was not arrested. She further submitted that the prosecution has not taken any action against Mr. Vikas Singh, who has been



named in the prosecution complaint and alleged to have facilitated in securing mule accounts.

22. She submitted that the applicant Rakesh Karwa was arrested on 29.01.2025 and the matter is still at the stage of cognizance. She submitted that the chargesheet has also not been filed in the predicate offence. She consequently submitted that the applicant Rakesh Marwa be enlarged on bail on the ground of delay in trial.

23. *Per contra*, the learned counsel for the respondent vehemently opposed the grant of any relief to the applicants. He submitted that the accused Rohit Aggarwal extended full cooperation in the investigation by voluntarily disclosing his bank accounts, cryptocurrency wallets, mule entities, *modus operandi* of laundering, KYCs and other transaction proofs thereby extending full cooperation to the respondent authority to conduct the investigation and trace the flow of proceeds.

24. He submitted that as opposed to this applicant Ajay deliberately evaded queries withheld documents and failed to explain the source of funds uploaded on *Pyypl*. He submitted that applicant Vipin, despite admitting crypto dealings, concealed agreements and records. He submitted that the applicant Rakesh Karwa showed extreme defiance by fleeing during search, destroying digital evidence and ignoring summons. He submitted that the deliberate non-cooperation of the applicants has severely obstructed investigation whereas the disclosures of the accused Rohit Aggarwala have been instrumental in unearthing the organized laundering network.



25. He submitted that the allegations against the applicants are serious in nature. He submitted that the investigation *qua* the applicants is still underway and the claimed delay cannot be the sole ground to enlarge the applicants on bail.

26. He submitted that the cheated amount in the present case is to the extent of ₹641 crores. He submitted that the applicants were actively involved in the layering of fraudulent funds. He submitted that the applicants – Ajay and Vipin Yadav laundered the proceeds of crime to the tune of ₹21 crore. He submitted that the applicant Rakesh Karwa was involved in the arrangement of 186 mule accounts which helped in acquisition of proceeds of crime to the tune of ₹170.31 crores.

### **Analysis**

27. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; circumstances which are peculiar to the accused; likelihood of the offence being repeated; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc. However, at the same time, period of incarceration is also a relevant factor that cannot be overlooked.



28. It is unequivocally established that to be granted bail for offences under PMLA, the conditions stipulated in Section 45 (1) of PMLA are to be satisfied. The relevant portion of the aforesaid Section reads as under:

**“45. Offences to be cognizable and non-bailable.—**  
(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no person accused of an offence under this Act] shall be released on bail or on his own bond unless—  
(i) the Public Prosecutor has been given an opportunity to oppose the application for such release; and  
(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail”

29. It is settled law that even in offences under PMLA, bail is rule and jail is the exception and Section 45 of PMLA does not rewrite the norm and merely stipulates that bail is to be granted subject to satisfaction of the twin conditions [Ref. ***Prem Prakash v. Union of India through the Directorate of Enforcement : 2024 INSC 637***]. In the case of ***Vijay Madanlal Choudhary v. Union of India : 2022 SCC OnLine SC 929***, the Hon’ble Apex Court had found that although the aforesaid twin conditions restrict the right of the accused to be granted bail, however, the same is reasonable as the bar has direct nexus with the objective of PMLA to combat the menace of money laundering. The Hon’ble Apex Court had also appreciated the gravity of such an offence necessitating stringent provisions under the PMLA. The relevant portion of the judgment is as under:



**“286...This is not an ordinary offence. To deal with such serious offence, stringent measures are provided in the 2002 Act for prevention of money laundering and combating menace of money laundering, including for attachment and confiscation of proceeds of crime and to prosecute persons involved in the process or activity connected with the proceeds of crime. In view of the gravity of the fallout of money laundering activities having transnational impact, a special procedural law for prevention and regulation, including to prosecute the person involved, has been enacted, grouping the offenders involved in the process or activity connected with the proceeds of crime as a separate class from ordinary criminals. The offence of money laundering has been regarded as an aggravated form of crime “world over”. It is, therefore, a separate class of offence requiring effective and stringent measures to combat the menace of money laundering.**

XXX

303. We are in agreement with the observation made by the Court in **Ranjitsing Brahmajeetsing Sharma [Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra, (2005) 5 SCC 294 : 2005 SCC (Cri) 1057]**. The Court while dealing with the application for grant of bail need not delve deep into the merits of the case and only a view of the court based on available material on record is required. The court will not weigh the evidence to find the guilt of the accused which is, of course, the work of the trial court. **The court is only required to place its view based on probability on the basis of reasonable material collected during investigation** and the said view will not be taken into consideration by the trial court in recording its finding of the guilt or acquittal during trial which is based on the evidence adduced during the trial. As explained by this Court in **Nimmagadda Prasad [Nimmagadda Prasad v. CBI, (2013) 7 SCC 466 : (2013) 3 SCC (Cri) 575]**, the words used in Section 45 of the 2002 Act are “reasonable grounds for believing” which means the court has to see only if there is a genuine case against the accused and the prosecution is not required to prove the charge beyond reasonable doubt.

XXX

305...Thus, while considering the application for bail under Section 45 of the 2002 Act, the court should keep in mind the abovementioned principles governing the grant of bail. **The limitations on granting bail as prescribed under Section 45 of the 2002 Act are in addition to the limitations under the 1973 Code.”**

(emphasis supplied)



30. It is the case of the prosecution that a large number of innocent victims had been duped into investing huge amounts on different pretexts by using a complex *modus operandi* involving multiple layers of technology. After a sufficient corpus was collected, the funds were routed through mule accounts and withdrawn at overseas locations. Investigation into the mule accounts led to the applicants. The role attributed to the applicants is summarised as under:

**30.1. Applicant Vipin and Ajay:** It is alleged that the said applicants knowingly assisted in the concealment of proceeds of crime of ₹21.02 crores by routing the same through his own bank account and the bank accounts of various entitles, and further converting the proceeds into cryptocurrency or through overseas cash transactions. It is further alleged that the said applicants are associates and they assisted the accused Rohit Aggarwal and other members of the syndicate in acquisition of proceeds of crime by providing mule bank accounts for collection of illicit funds related to cyber fraud. Certain incriminating chats between the applicant Vipin and accused Rohit are alleged to have been found. Certain bills were found during the search of the applicant Ajay's house and it is alleged that the said bills were prepared for the purpose of laundering the money, although no such services have been provided.

**30.2. Applicant Rakesh:** It is alleged that the said applicant was involved in arranging around 186 mule accounts for members of the organised criminal syndicate who are operating through telegram



groups in exchange of a fixed percentage of the total credit amount as commission. After retaining his commission, the remaining funds were transferred to the account of Rohit Aggarwal and one Bijwasan Group. It is alleged that the applicant thus knowingly assisted in the acquisition of proceeds of crime to the tune of ₹170.31 crores. It is further alleged that the said applicant used to conceal the proceeds of crime by facilitating the transfer of crypto currency in exchange of commission of 10 p to 15 p/ USDT (a form of crypto currency). In order to arrange crypto currency in exchange of the illicit funds, the said applicant was in continuous touch with individuals like accused Rohit Agarwal. During investigation, it was found that total credits of ₹19.07 crores and ₹15.28 crores respectively were found in the two bank accounts maintained by the said applicant in ICICI Bank.

31. The applicants have essentially pressed their respective applications of bail on the ground that the respondent department has adopted a pick and choose strategy by not arresting the accused Rohit Aggarwal, who is purportedly the real mastermind behind the entire conspiracy and is alleged to have known about the source of funds and arranged mule accounts as well. It is argued that the accused Rohit was instrumental on all levels of the alleged conspiracy, despite which, he has not been arrested. It is argued that the accused Rohit has been projected as the mastermind of the conspiracy in the prosecution complaint and his role is similar, if not graver, than the applicants.

32. The accused Rohit was arraigned as Accused No. 4 in the



prosecution complaint and it is alleged that he had received ₹50.91 crores in his bank account out of the total proceeds of crime amounting to ₹248.48 crores. It is alleged that out of the amount so received, the said accused had transferred a sum of ₹25.19 crores to the bank accounts of various entities, which were managed and controlled by Bhaskar Yadav, Ashok Kumar Sharma and the applicants—Ajay and Vipin, along with their associates. It is alleged that the accused Rohit was assisting the syndicate by arranging mule accounts and exchanging the said funds into crypto currency. Like the applicant Rakesh, the accused Rohit is alleged to be actively involved in the Telegram groups used by members of the syndicate.

33. *Prima facie*, from the allegations and the material on record, it appears that the applicants Ajay and Vipin are at the penultimate rung of the transaction while the accused Rohit is also alleged to be privy to the collection of proceeds of crime by the organised crime syndicate. Their role cannot be said to be graver than that of the said accused. Insofar as the applicant Rakesh is concerned, it is pertinent to note that as per the case of the respondent department that is borne out from the complaints, the funds received by the applicant Rakesh were transferred to various individuals/ entities, including the accused Rohit, and the crypto currency received from the said individuals used to be further transferred by the applicant Rakesh into private wallets. At best, the role of the applicant Rakesh can be stated to be similar to that of the accused Rohit. Despite the same, while the applicants have been arrested, the prosecution complaint (wherein the co-accused



Rohit was arraigned as an accused) was filed on 25.01.2025 without arresting the said accused.

34. It is contended on behalf of the respondent department that the applicants cannot claim parity with accused Rohit Aggarwal as he had extended full cooperation by voluntarily disclosing his bank accounts, crypto wallets, mule entities and *modus operandi* of laundering while the applicants had evaded queries and concealed records. It is argued that the applicant Rakesh had evaded summons as well.

35. The said assertions have been convincingly controverted by the applicants and it has been pointed out that the alleged disclosures that merited the accused Rohit not being arrested were made *after* the arrest of the applicants Ajay and Vipin and 29.11.2024. It has been pointed out that the applicants made significant disclosures in relation to the crypto trade and also provided details of crypto wallets amongst other things.

36. Although the issue of whether the applicants rendered necessary cooperation prior to their arrest is a largely subjective one, it cannot be ignored that the applicant Rakesh has made similar disclosures akin to the ones made by the accused Rohit and the applicants Ajay and Vipin were arrested *before* the relevant disclosures, as pointed out by the prosecution to show the said accused person's cooperation, were made by the accused Rohit.

37. Reliance has also been placed by the respondent department on



the judgment in the case of ***CBI v. V. Vijay Sai Reddy : (2013) 7 SCC 452*** to contend that the circumstance of not arresting the other accused itself cannot be a ground to grant bail. In the said case, the Hon'ble Apex Court was considering a challenge to the dismissal by the High Court of Andhra Pradesh for cancellation of bail granted to the respondent therein. In this context, the Hon'ble Apex Court noted that that the learned Special Judge while granting bail to the respondent therein seemed to have been weighed by certain irrelevant factors such as another accused not being arrested. The Hon'ble Apex Court, while cancelling the bail of the respondent therein, took note of the role ascribed to him, which had been asserted to be that of the "*brain behind the alleged offence of huge magnitude*" and consequently observed that such an assertion could not be taken lightly in view of the materials relied upon by the investigating agency. It is however pertinent to note that the Hon'ble Apex Court in the said case had not propounded that the circumstance of another accused not being arrested cannot be considered while considering the question of bail. It appears that in the facts of that particular case, the Hon'ble Apex Court had simply found that the other accused not being arrested was an irrelevant consideration considering the gravity of role of the respondent therein.

38. The said decision cannot be read into the facts of the instant case as, *prima facie*, the role attributed to the applicants cannot be stated to be graver than that of the accused Rohit Aggarwal as it is the prosecution's case that majority of the funds came from him.



Furthermore, as pointed out, even Mr. Vikas Saini, who is extensively referred in the complaint as having assisted the applicant Rakesh in arranging the mule accounts, has neither been made an accused and nor arrested in the present case, which further weighs in favour of the applicants.

39. Recently, in the case of ***Himansh alias Himanshu Verma v. Directorate of Enforcement : 2024 SCC OnLine SC 4697***, the Hon'ble Apex Court had enlarged the accused therein on bail on the sole ground that the mastermind of the alleged offence had never been arrested in the case. Non-arrest of similarly placed co-accused persons has been considered to be a significant factor by Coordinate Benches of this Court to grant concession of bail to an accused as well [Ref. ***Bindu Rana v. Serious Fraud Investigation Office : BAIL APPLN. 3643/2022***; ***Ramesh Manglani v. ED : (2023) 7 HCC (Del) 134***; ***Sanjay Kansal v. Enforcement Directorate : 2024 SCC OnLine Del 9569***; etc]. The said precedents clearly reflect that the relevance of selective prosecution by the investigating agency, which is manifestly arbitrary, cannot be discounted while considering the question of grant of bail.

40. Having not arrested an accused who appears to have a graver role than the applicants and not even arraigned a person named to have facilitated in arranging the mule accounts, the approach adopted by the respondent department *prima facie* appears to be manifestly arbitrary and the benefit of parity cannot be denied to the applicants.



41. It is also relevant to note that the investigation in the predicate offence has not yet concluded and the present matter is still at the stage of cognizance, even though the applicants Ajay and Vipin were arrested way back on 29.11.2024 and the applicant Rakesh was arrested on 29.01.2025. It is argued that there are 76 witnesses in the first prosecution complaint and 35 witnesses in the supplementary prosecution complaint, whereby, it is highly unlikely that the trial will conclude in an expeditious manner.

42. It is pointed out that over 1000 documents have been made part of the case record, which will require a lot of time for examination. Even as per the respondent department, the investigation is still continuing and the same is likely going to take a long time to conclude.

43. The Hon'ble Apex Court in the case of ***Union of India v. K.A. Najeeb* : AIR 2021 SC 712**, while dealing with an application for bail under Unlawful Activities (Prevention) Act, 1967, has held that once it is obvious that a timely trial would not be possible, and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail.

44. In the cases of ***Mohd. Muslim v. State (NCT of Delhi)*: (2023) 18 SCC 166** and ***Rabi Prakash v. State of Odisha* : 2023 SCC OnLine SC 1109**, while dealing with the bar under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 which is analogous to Section 45 of the PMLA, the Hon'ble Apex Court had



observed that prolonged incarceration overrides the twin conditions as it mutilates against the fundamental right of an individual under Article 21 of the Constitution of India.

45. Although it is argued that the *modus* employed by the accused persons is complex which requires time for investigation, however, the prosecution cannot be allowed to endlessly detain the accused persons. In the case of **V. Senthil Balaji v. State : 2024 SCC OnLine SC 2626**, the Hon'ble Apex Court had observed as under:

***“25. Considering the gravity of the offences in such statutes, expeditious disposal of trials for the crimes under these statutes is contemplated. Moreover, such statutes contain provisions laying down higher threshold for the grant of bail. The expeditious disposal of the trial is also warranted considering the higher threshold set for the grant of bail. Hence, the requirement of expeditious disposal of cases must be read into these statutes. Inordinate delay in the conclusion of the trial and the higher threshold for the grant of bail cannot go together. It is a well-settled principle of our criminal jurisprudence that “bail is the rule, and jail is the exception.” These stringent provisions regarding the grant of bail, such as Section 45(1)(iii) of the PMLA, cannot become a tool which can be used to incarcerate the accused without trial for an unreasonably long time.***

26. There are a series of decisions of this Court starting from the decision in the case of K.A. Najeeb, which hold that such stringent provisions for the grant of bail do not take away the power of Constitutional Courts to grant bail on the grounds of violation of Part III of the Constitution of India. We have already referred to paragraph 17 of the said decision, which lays down that the rigours of such provisions will melt down where there is no likelihood of trial being completed in a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence. One of the reasons is that if, because of such provisions, incarceration of an undertrial accused is continued for an unreasonably long time, the provisions



may be exposed to the vice of being violative of Article 21 of the Constitution of India.

**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. Najeeb, 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.”*

(emphasis supplied)

46. Placing reliance on the aforesaid judgment, in the case of **Anwar Dhebar v. Directorate of Enforcement : S.L.P. (CRIMINAL) NO(S). 3592/2025**, where the investigation was in process and cognizance had not been taken, the Hon’ble Apex Court had granted bail to the accused therein after nine months of custody on account of there being no possibility that the trial will commence in the near future. The relevant portion of the order is as under:

*“In connection with the earlier ECIR concerning the same subject-matter, the appellant has been in custody for 80 days. As far as the present ECIR and complaints are concerned, the appellant was arrested on 8th August, 2024. So far 03 supplementary complaints have been filed in addition to the original complaint. 40 witnesses have been cited. **The investigation is in progress.** In the predicate offence, there are 450 witnesses and the investigation is in progress. **Cognizance has not been taken.***

***Therefore, there is no possibility of the trial commencing in near future.** The maximum sentence is of 07 years. Following the law laid down by this Court in the case of V. Senthil Balaji vs. The Deputy Director, Directorate of Enforcement [2024 INSC 739], the appellant is entitled to be enlarged on bail pending the trial on appropriate stringent terms and conditions especially when, except for the predicate offence, there are no antecedents of the appellant brought on record.”*

(emphasis supplied)

47. From the foregoing, it is evident that despite the stringent requirements imposed on the accused under Section 45 of PMLA for the grant of bail, it has been established that these requirements do not



preclude the grant of bail on the grounds of undue delay in the completion of the trial. Various courts have recognized that prolonged incarceration undermines the right to life and liberty, as has been guaranteed under Article 21 of the Constitution of India, and therefore, conditional liberty must take precedence over the statutory restrictions under Section 45 of PMLA and override the bar therein.

48. It is not just the period spent in incarceration but also the possibility of delayed trial that is to be seen by the Court. As the trial is yet to commence in the predicate/ scheduled offence and the matters are at a preliminary stage with the investigation still being in process, speedy trial in the present case does not seem to be a possibility. The applicants are stated to have no previous criminal involvements, and they are unlikely to commit any offence whilst on bail.

49. Considering the aforesaid discussion, in the opinion of this Court, the applicants have made out a *prima facie* case for grant of bail on account of the ground of parity as well as due to there being no possibility of the trial concluding in the near future.

50. However, appropriate conditions ought to be imposed to allay any apprehension of the applicants evading trial or influencing the witnesses.

51. The applicants are therefore directed to be released upon his furnishing a personal bond in the sum of ₹1 lakh with two sureties of



the like amount each to the satisfaction of learned trial court/Duty Magistrate, subject to following terms and conditions:

- a. The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The applicants shall under no circumstance leave the country without the permission of the learned Trial Court;
- c. The applicants shall co-operate in further investigation, if any;
- d. The applicants shall appear before the learned Trial Court on every date of hearing, unless their appearance is exempted;
- e. The applicants shall provide the addresses where they would be residing after their release and shall not change the address without informing the concerned IO;
- f. The applicants shall, upon their release, give their mobile number to the concerned IO and shall keep their mobile phone switched on at all times;

52. In the event of there being any FIR/DD entry / complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.



2025:DHC:8693



53. It is clarified that any observations made in the present order are for the purpose of deciding the present bail applications and should not influence the outcome of the trial and not be taken as an expression of opinion on the merits of the case.

54. The present bail application is allowed in the aforementioned terms. Pending application also stands disposed of.

**AMIT MAHAJAN, J**

**SEPTEMBER 26, 2025**

*sam/ssh*