$~

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

% *Judgment reserved on: 26.05.2026*
Judgment pronounced on: 30.05.2026
Judgment uploaded on: 30.05.2026

\+ **BAIL APPLN. 4709/2025**

DINESH GUPTA .....Petitioner

Through: Mr. N. Hariharan and Mr. Madhav Khurana, Senior Advocates with Mr. Yash Varma, Ms. Vani Gupta, Mr. Raghav Bakshi, Mr. Arjan Mandla, Mr. Teeksh Singhal, Ms. Deeparghya Datta, Mr. Aman Akhthar, Ms. Vasundhara N., Ms. Vasundhara Raj Tyagi, Ms. Punya Rekha Angara and Ms. Sana Singh, Advocates

versus

DIRECTORATE OF ENFORCEMENT .....Respondent

Through: Mr. Vivek Gurnani, Panel Counsel for ED with Mr. Kanishk Maurya, Advocate

CORAM:
HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

DR. SWARANA KANTA SHARMA, J

1. By way of this application, the applicant seeks grant of regular bail in case arising out of CT Case No. 40/2025, titled '*Directorate of*

Enforcement vs. Dinesh Gupta & Ors.', arising out of ECIR/HIU-1/15/2025, for offence under Sections 3/4 of the Prevention of Money Laundering Act, 2002 [hereafter '***PMLA***'].

FACTUAL BACKGROUND

2. Briefly stated, the facts of the present case are that one FIR bearing no. RC2232020A0008 dated 02.11.2020 was registered by the Central Bureau of Investigation [hereafter '***CBI***'], Anti-Corruption Branch-V, New Delhi, for commission of offence under Sections 403, 420, 467, 468, 471 read with Section 120B of the Indian Penal Code, 1860 [hereafter '***IPC***'] and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 [hereafter '***PC Act***'] against M/s Best Foods Ltd., its Chairman Sh. Mohinder Pal Jindal (since deceased), Managing Director Sh. Dinesh Gupta (the applicant herein), and other unknown persons. The FIR arose from a complaint lodged by State Bank of India alleging fraudulent diversion and siphoning of bank funds, submission of forged and fabricated documents, criminal breach of trust and misuse of loan facilities obtained from a consortium of banks led by State Bank of India.

3. As per the prosecution case, M/s Best Foods Ltd., engaged in the business of processing and export of Basmati rice, had availed substantial credit facilities including working capital limits, term loans and export-related facilities from the consortium banks on the

basis of project reports, financial statements and stock records which were allegedly false and misleading. It is alleged that instead of utilizing the loan amounts for legitimate business purposes, the accused persons diverted and routed the funds through shell and related entities, created fictitious purchase and sale transactions, manipulated stock statements and inflated turnover in order to siphon off the loan proceeds. The loan account was ultimately declared as Non-Performing Asset (NPA), with an outstanding liability of about ₹1,740.30 crore towards the consortium banks. The prosecution further alleges that forged invoices and false stock valuation reports were periodically submitted to the lending banks to obtain drawing power against non-existent stock, and that the diverted funds were layered and rotated through multiple entities and banking channels so as to conceal their origin and nature. It is also alleged that certain unknown bank officials had facilitated the continuation of such transactions by failing to exercise due diligence.

4. Since the offences alleged in the aforesaid FIR constitute scheduled offences under the PMLA, the Directorate of Enforcement [hereafter '***DoE***'] recorded the present ECIR bearing no. ECIR/HIU-1/15/2025, dated 07.07.2025, to investigate the laundering of proceeds of crime arising out of the scheduled offences. However, during investigation, it was noticed that an earlier ECIR bearing no. ECIR/CDZO-II/07/2022 had also been recorded by the Chandigarh Zonal Office-II of the DoE on the basis of the same predicate FIR,

which was subsequently merged with the present ECIR in order to avoid overlapping investigations and multiplicity of proceedings.

5. As per the prosecution complaint filed by the DoE, in a nutshell, the investigation conducted under the PMLA revealed material indicating systematic siphoning and diversion of public funds, circular routing of loan amounts through associated and *benami* entities, fabrication of business records and laundering of proceeds of crime through banking channels and cash withdrawals. The DoE, in this regard, places reliance on analysis of bank accounts, forensic audit reports, seizure of documents and statements recorded under Section 50 of PMLA. Further, as alleged, substantial proceeds of crime have been identified and provisionally attached under Section 5 of PMLA. While investigation *qua* the role of the present applicant is stated to be complete, further investigation is stated to be continuing with regard to tracing additional beneficiaries and utilization of the diverted funds.

6. Insofar as the investigation with respect to the role of the present applicant is concerned, it is the case of the DoE that the applicant, being the Managing Director and key controlling person of M/s Best Foods Ltd., was in overall control of the affairs and financial operations of the company and had allegedly orchestrated the diversion and laundering of loan funds obtained from the consortium banks. As per the prosecution complaint, the applicant had fraudulently availed credit facilities by using inflated stock

statements, fabricated invoices, bogus debtors and fictitious trading transactions, and thereafter diverted and layered the funds through a network of shell and *benami* entities allegedly created in the names of employees, relatives and other persons acting under his instructions. It is further alleged that substantial amounts of the loan funds were diverted to entities such as M/s Homestead Infrastructure Development Pvt. Ltd. and M/s Golden Peacock Residence Pvt. Ltd., which were allegedly controlled by the applicant and were unrelated to the business activities of M/s Best Foods Ltd. The DoE further alleges that funds were routed through multiple dummy entities and large cash withdrawals amounting to about ₹72.76 crore were made in order to conceal the money trail. It is also alleged that even after commencement of liquidation proceedings against M/s Best Foods Ltd., the applicant continued to deal with and utilize proceeds of crime through front entities and benami transactions. Thus, as alleged, the investigation reveals the involvement of the applicant in the generation, diversion, concealment and projection of proceeds of crime as untainted property.

7. During the course of investigation, searches under Section 17 of the PMLA were conducted from 15.07.2025 to 17.07.2025 at various residential and official premises of the applicant and M/s Best Foods Ltd. Thereafter, summons were issued to the applicant for appearance before the DoE on 18.07.2025, 23.07.2025 and 28.07.2025, however, he did not appear and cited ill-health. The

applicant eventually appeared before the DoE on 08.08.2025 and his statement under Section 50 of the PMLA was recorded, following which he was arrested in the present case. Subsequently, on 04.10.2025, the prosecution complaint under Section 44 of the PMLA was filed before the learned Special Court (CBI)-20, Rouse Avenue Courts, Delhi [hereafter '***Special Court***'] arraying the applicant and six companies/entities as accused persons.

8. The regular bail application of the present applicant was dismissed by the learned Special Court *vide* impugned order dated 01.11.2025. The cognizance of the alleged offence of money laundering, as defined under Section 3 read with Section 70 of the PMLA, punishable under Section 4 of the PMLA, was taken by the learned Special Court *vide* order dated 29.11.2025.

THE APPLICANT'S CASE

9. On behalf of the applicant, it has been stated that M/s Best Foods Ltd. was a well-established company engaged in processing and export of Basmati rice under the brand name "BEST" and had substantial manufacturing and processing capacity with a pan-India presence. It is stated that in anticipation of expansion of business and expected increase in domestic and international demand, the company had undertaken significant capital expenditure towards enhancement of production capacity, automation and modernization of its facilities, for which credit facilities were availed from a

consortium of banks led by State Bank of India. It is the case of the applicant that the company had availed loans and credit facilities aggregating to about ₹1,740 crore over a period of time, which were secured against stocks, receivables and mortgaged properties. According to the applicant, the company subsequently faced severe financial stress on account of adverse market conditions, decline in exports, fall in international demand, liquidity constraints, high operational costs and debt servicing obligations, which ultimately affected its cash flow and business operations.

10. The applicant further states that the consortium lenders had constituted a Joint Lenders Forum (JLF), pursuant to which a forensic audit was conducted by Grant Thornton for the period from 01.04.2013 to 30.11.2016. According to the applicant, the said forensic audit did not find any direct or apparent evidence of diversion or misutilization of bank funds during the aforesaid review period. It is further stated that despite efforts for restructuring of the company's debt, recovery proceedings were initiated against the company and subsequently insolvency proceedings under the Insolvency and Bankruptcy Code, 2016 [hereafter '***IBC***'] were initiated before the learned National Company Law Tribunal (NCLT), Chandigarh, whereafter the company went into Corporate Insolvency Resolution Process.

11. It is also the case of the applicant that despite the bank accounts and affairs of the company no longer being under the

control of the erstwhile management after commencement of insolvency proceedings, State Bank of India proceeded to classify the account of the company as "wilful defaulter" and thereafter as "fraud" on the basis of another forensic audit report. The applicant contends that such declaration was made without supplying the relevant forensic audit report and in violation of principles of natural justice. It is stated that the said action was challenged before the High Court of Punjab and Haryana by way of a writ petition, by then Chairman of M/s Best Foods Ltd. Sh. Mohinder Pal Jindal, wherein interim protection against coercive action was granted.

12. It is further the case of the applicant that the predicate FIR came to be registered on the basis of a complaint dated 06.08.2020 lodged by the Deputy General Manager, State Bank of India, SAMB, Chandigarh alleging diversion and misappropriation of bank funds by M/s Best Foods Ltd., its Chairman Sh. Mohinder Pal Jindal and the present applicant during the period from 01.04.2015 to 31.03.2018, thereby causing wrongful loss to the consortium banks. According to the applicant, the FIR was primarily based on the forensic audit report prepared by M/s Haribhakti & Co. LLP alleging inflation of inventories, fudging of balance sheets and diversion of bank funds.

13. The applicant states that it was only after registration of the FIR that he came to know that several consortium banks had also classified the account of the company as "fraud". It is further stated that on the basis of the said predicate FIR, an ECIR was earlier

registered by the Chandigarh Zonal Office of the DoE, however no effective investigation was allegedly conducted therein.

14. It is further submitted that the issue regarding declaration of accounts as "fraud" by banks under the RBI Master Circular dated 01.07.2016, and consequential criminal proceedings initiated on the basis thereof, was under consideration before the High Court of Punjab and Haryana in a batch of matters led by *AGR Steel Strips Pvt. Ltd. v. Reserve Bank of India & Ors*., wherein the High Court, by judgment dated 27.05.2024, had set aside such declarations of fraud, on the ground of violation of principles of natural justice, and had also quashed FIRs which had been registered solely on the basis of such fraud declarations.

15. It is the case of the applicant that since the FIR registered by the CBI against the applicant and other accused persons was also based on the fraud declaration made by the consortium banks, an application for amendment was moved in the pending writ petition seeking challenge to the said FIR as well. It is stated that *vide* order dated 12.12.2024, the High Court disposed of the writ petition while permitting continuation of investigation by the CBI, however directing that no final report be filed without further orders. It is also stated that eventually, a batch of petitions pertaining to the issue in question, was decided by the Hon'ble Supreme Court in ***CBI v. Surender Patwa:*** *2025 SCC OnLine SC 934*, wherein the Supreme Court held that the High Courts had exceeded their jurisdiction by

quashing the FIRs and the subsequent criminal proceedings while quashing the declarations of 'fraud', and categorized cases arising out of such fraud declarations. It is contended that the present case falls within the category where investigation may continue, but no coercive steps are required to be taken against the accused persons during pendency of investigation.

16. It is further submitted on behalf of the applicant that on the basis of the predicate offence and the CBI's RC, the DoE recorded the second ECIR, i.e. the preset one, on 07.07.2025. According to the applicant, the DoE has treated the entire loan amount of about ₹1,740 crore availed by M/s Best Foods Ltd. as "proceeds of crime", despite the complaint lodged by State Bank of India alleging wrongful loss/outstanding liability to the extent of about ₹1,006 crore. It is further stated that the earlier ECIR recorded by the Chandigarh Zonal Office was subsequently merged with the present ECIR.

Arguments on behalf of the Applicant

17. In the above background, the learned senior counsel appearing for the applicant argues that the arrest of the applicant by the DoE was illegal, arbitrary and without any "need and necessity" as required in law. It is submitted that an earlier ECIR on the basis of the same predicate FIR had already been registered in the year 2022 by the Chandigarh Zonal Office of the DoE, however for more than three years no summons were issued to the applicant and no effective

investigation was carried out. It is contended that the present ECIR is based on the same set of allegations and material as the earlier ECIR and, therefore, there existed no fresh circumstance warranting arrest of the applicant. It is further argued that the applicant had appeared before the DoE and had joined investigation on 08.08.2025 for recording of his statement under Section 50 of the PMLA, and thus there was no justification for his arrest. Reliance in this regard has been placed upon the judgment of the Hon'ble Supreme Court in ***Arvind Kejriwal v. Directorate of Enforcement:*** *(2024) SCC Online SC 3581* to contend that the arresting authority must record objective satisfaction regarding the necessity of arrest. It is also argued that the "reasons to believe" and grounds of arrest reflect non-application of mind and are based on vague allegations that the applicant gave evasive replies.

18. The learned senior counsel further argues that the DoE has wrongly treated the entire credit facilities availed by M/s Best Foods Limited amounting to about ₹1,740 crore as "proceeds of crime", despite the fact that the complaint lodged by State Bank of India itself alleged diversion/misappropriation to the extent of about ₹1,006 crore only. It is submitted that the total outstanding liability includes interest, penalties and other charges and, therefore, the entire outstanding amount cannot be treated as proceeds of crime. It is also argued that the forensic audit conducted by M/s Haribhakti & Co. LLP pertained only to the review period from 01.04.2015 to

31.03.2018, whereas another forensic audit conducted earlier by Grant Thornton for the period from 01.04.2013 to 30.11.2016 had not found any direct or apparent evidence of diversion or misutilization of funds. It is further contended that the prosecution complaint filed by the DoE is incomplete and premature inasmuch as, despite alleging laundering of about ₹1,740 crore, the DoE has allegedly been able to identify only about ₹325 crore as proceeds of crime.

19. It is further argued that the DoE has failed to establish foundational facts necessary for invocation of the provisions of the PMLA and that there are material inconsistencies between the case of the CBI in the predicate offence and the case now sought to be projected by the DoE. The learned senior counsel submits that the review period identified in the forensic audit report of M/s Haribhakti & Co. LLP, on the basis of which the predicate FIR came to be registered, was from 01.04.2015 to 31.03.2018, whereas the DoE has arbitrarily treated the "period of offence" as commencing from 01.04.2011 onwards. It is argued that the DoE could not have enlarged the scope of allegations beyond the case set out in the predicate offence. It is also contended that while the CBI investigation is still continuing and no chargesheet has yet been filed in the predicate offence, the DoE has proceeded in haste to file the prosecution complaint, thereby pre-empting the investigation being conducted by the CBI. According to the applicant, since the declaration of the company's account as "fraud" already stands set

aside, on the ground of violation of principles of natural justice, the very foundation of the prosecution complaint stands weakened.

20. The learned senior counsel further submits that the allegation regarding transfer of about ₹105 crore from M/s Best Foods Limited to M/s Golden Peacock Residence Pvt. Ltd., which was allegedly utilized for acquisition of land through M/s Raheja Developers Pvt. Ltd., pertains to transactions undertaken in the year 2012. It is argued that the predicate offence (RC registered by the CBI) itself relates to the alleged period between 2015 and 2018 and, therefore, the said amount cannot be treated as proceeds of crime arising from the scheduled offence. It is also argued that the allegations regarding acquisition of properties through M/s Alnair Ventures Pvt. Ltd. are based merely on assumptions and conjectures. Even as per the case of the DoE, the properties in question were purchased in auction proceedings conducted by the liquidator after commencement of insolvency proceedings against M/s Best Foods Limited. It is contended that after initiation of Corporate Insolvency Resolution Process and liquidation proceedings, the management and control of the company and its bank accounts vested with the Interim Resolution Professional and thereafter the liquidator, and therefore there could not have been any diversion of funds from the company by the applicant during that period.

21. It is further argued that the entire case of the DoE substantially rests upon statements recorded under Section 50 of the PMLA of

various persons, who have allegedly shifted the entire responsibility upon the applicant while making exculpatory statements *qua* themselves. It is argued that such statements cannot by themselves form the sole basis either for arrest or for continued incarceration at the stage of consideration of bail. Reliance is this regard is placed on the decisions in ***Sanjay Jain v. Enforcement Directorate:*** *(2024) SCC Online Del 165* and ***Prem Prakash v. Directorate of Enforcement:*** *(2024) SCC Online SC 2270*.

22. Lastly, it is contended that the prosecution complaint was filed on 04.10.2025 and cognizance thereon was taken on 29.11.2025, however the matter is still at the stage of scrutiny of documents. It is pointed out that the predicate offence is still under investigation and there is no likelihood of commencement of trial in the near future. The learned senior counsel submits that the prosecution has cited 54 witnesses and relied upon voluminous documents running into about 20,000 pages. It is also submitted that as per the case of the DoE itself, investigation qua the present applicant already stands completed, and the applicant has remained in custody for more than nine months. Therefore, it is prayed that the present bail application be allowed.

SUBMISSIONS ON BEHALF OF THE RESPONDENT-DoE

23. The learned counsel appearing for the DoE opposes the present application and submits that the applicant was the Managing Director

and the controlling mind behind the affairs of M/s Best Foods Limited and had played a central role in generation and laundering of proceeds of crime arising out of fraudulent availing and diversion of consortium bank loans. It is argued that the investigation has revealed that the applicant had created and operated a network of shell and dummy entities in the names of employees, relatives and associates for the purpose of routing and layering bank funds obtained by M/s Best Foods Limited. According to the DoE, fictitious trading transactions, inflated stock statements, bogus receivables and fabricated invoices were used to secure and divert loan amounts, which were thereafter invested in real estate ventures and benami properties. It is submitted that the applicant had diverted substantial funds to entities namely M/s Homestead Infrastructure Development Pvt. Ltd. and M/s Golden Peacock Residence Pvt. Ltd. and had further concealed the money trail through cash withdrawals and circular transactions. It is further alleged that even after commencement of liquidation proceedings against M/s Best Foods Limited, the applicant continued to deal with proceeds of crime by acquiring properties of the company through front entities and proxy purchasers.

24. The learned counsel further submits that the conduct of the applicant throughout the investigation has been non-cooperative and obstructive. It is argued that despite repeated summons issued under Section 50 of the PMLA, the applicant avoided appearance on one

pretext or the other and ultimately appeared only on 08.08.2025. It is also submitted that during investigation, statements of witnesses revealed that the applicant had attempted to obstruct the liquidation and auction process of the assets of M/s Best Foods Limited by threatening prospective bidders and by initiating frivolous litigation through front persons and operational creditors. It is argued that after liquidation proceedings commenced, the applicant created proxy entities such as M/s Alnair Ventures Pvt. Ltd. and utilized associates and relatives for reacquiring properties of M/s Best Foods Limited in violation of the scheme of the IBC.

25. The learned counsel also contends that the allegations against the applicant are supported by substantial oral and documentary evidence collected during investigation. Reliance has been placed upon the forensic audit report of M/s Haribhakti & Co. LLP, which allegedly disclosed fictitious trading, bogus receivables, circular transactions and diversion of funds. It is also contended that statements recorded under Section 50 of the PMLA from employees, associates and other persons corroborate the prosecution case that several shell entities and bank accounts were created and operated under the directions of the applicant for diversion and laundering of bank funds. It is further argued that in his own statements recorded under Section 50 of the PMLA, the applicant admitted diversion of more than ₹200 crore through shell entities and use of employees and relatives as dummy directors/proprietors for routing funds into

various real estate ventures and benami acquisitions. According to the DoE, statements of multiple employees and associates further reveal that their documents and identities were misused for creation of dummy entities and accounts under the instructions of the applicant and his relatives.

26. It is further argued that investigation has revealed a clear money trail showing generation, placement, layering and concealment of proceeds of crime. According to the DoE, fraudulent consortium loans amounting to about ₹1,740.30 crore constituted proceeds of crime, out of which about ₹325.09 crore has so far been traced at the acquisition stage through diversion to Bharat Rice Mills and multiple shell entities floated in the names of employees and relatives. It is submitted that thereafter substantial amounts were layered through real estate entities including M/s Homestead Infrastructure Development Pvt. Ltd. and M/s Golden Peacock Residence Pvt. Ltd., while cash withdrawals of about ₹72.46 crore were also made from dummy firms in order to obliterate the money trail. The learned counsel also submits that the applicant subsequently utilized front entities such as M/s Benton Residence Pvt. Ltd. and M/s Alnair Ventures Pvt. Ltd. for reacquiring properties of M/s Best Foods Limited during liquidation proceedings, and thus, continued to enjoy and utilize proceeds of crime.

27. It is also argued by the learned counsel for the DoE that the contention of the applicant regarding illegality of proceedings on

account of absence of hearing prior to declaration of the company's account as "fraud" is misconceived. It is submitted that even the judgments relied upon by the applicant, such as ***CBI v. Surender Patwa*** *(supra)*, do not hold that criminal proceedings or proceedings under the PMLA would stand vitiated on account of violation of principles of natural justice in the process of fraud declaration by banks. Rather, the Hon'ble Supreme Court in ***CBI v. Surender Patwa*** *(supra)* has specifically observed that such issues relating to fraud declaration would not affect criminal proceedings arising from the underlying allegations. It is further argued that any interim protection or direction against coercive steps passed in the proceedings pertaining to predicate offence cannot give any benefit to the accused in proceedings under the PMLA, as the offence of money laundering is a separate and independent offence. In this regard, reliance has been placed upon the judgments of the Hon'ble Supreme Court in ***Dr. Manik Bhattacharaya v. Ramesh Malik:*** *2022 SCC OnLine SC 1465* and ***Vijay Madanlal Choudhary v. Union of India:*** *2022 SCC OnLine SC 929.*

28. With regard to the contention relating to existence of two ECIRs, the learned counsel submits that there is no duplication of proceedings inasmuch as the earlier ECIR recorded by the Chandigarh Zonal Office was subsequently merged with the present ECIR after approval of the Competent Authority in order to avoid multiplicity of proceedings and overlapping investigations. It is

submitted that thereafter, investigation was centrally conducted by the Headquarter Investigation Unit for effective tracing of proceeds of crime and identification of tainted assets. It is further argued that in any event, an ECIR is merely an internal administrative document of the DoE and is not equivalent to an FIR, as held by the Hon'ble Supreme Court in ***Vijay Madanlal Choudhary v. Union of India*** *(supra).*

29. As regards the challenge to the legality and necessity of arrest, the learned counsel contends that such challenge cannot be examined in the present bail proceedings and that the grounds of arrest clearly disclose the necessity for custodial interrogation and arrest of the applicant. Lastly, it is argued that mere filing of the prosecution complaint, taking of cognizance or period of custody undergone by the applicant cannot by themselves constitute grounds for grant of bail in absence of satisfaction of the twin conditions under Section 45 of the PMLA. Reliance has been placed upon the judgment of the Hon'ble Supreme Court in ***Union of India v. Kanhaiya Prasad:*** *2025 SCC OnLine SC 306* to contend that compliance with the mandatory twin conditions remains a *sine qua non* for grant of bail under the PMLA. Therefore, it is prayed that the present bail application be dismissed.

ANALYSIS & FINDINGS

30. Before adverting to the rival contentions of the parties, this Court notes that the present application is governed by the rigours of

Section 45 of the PMLA. It is well settled that while considering an application for bail under the PMLA, the Court is required to satisfy itself that there exist reasonable grounds for believing that the accused is not guilty of the offence alleged and that he is not likely to commit any offence while on bail. The satisfaction contemplated under Section 45 of the PMLA is in addition to the other considerations governing grant of bail. It is equally settled that at the stage of consideration of bail, a detailed appreciation of evidence or a mini trial is neither warranted nor permissible.

31. At the same time, it is also well settled that the rigours of Section 45 of the PMLA cannot be applied in isolation from the constitutional guarantee of personal liberty under Article 21 of the Constitution of India. The Hon'ble Supreme Court has repeatedly held that where an accused has undergone prolonged period of incarceration and there is no likelihood of the trial concluding within a reasonable period, the right to speedy trial becomes a relevant consideration while deciding an application for bail, in such case, the rigours of Section 45 of the PMLA do not operate with the same degree of severity and must be balanced against the fundamental right to personal liberty.

32. This Court has carefully gone through the material relied upon by the DoE. The case of the prosecution, in brief, is that while functioning as Managing Director of M/s Best Foods Limited, the applicant had fraudulently availed and thereafter diverted substantial

loan funds obtained from a consortium of banks through fictitious trading transactions, inflated stock statements, bogus invoices and a network of entities allegedly floated in the names of employees, relatives and associates. The prosecution has relied upon the forensic audit report, bank account analysis and statements recorded under Section 50 of the PMLA to contend that the applicant was controlling and operating such entities and that loan funds were routed through them without any genuine underlying business transactions. This Court also notes that the prosecution has further alleged that the diverted funds were thereafter layered and utilized through various entities, including real estate concerns, and substantial cash withdrawals were also made through accounts of the alleged dummy entities. It is further the case of the DoE that even after M/s Best Foods Limited entered liquidation proceedings, assets of the company were sought to be reacquired through other entities and persons allegedly acting on behalf of the applicant. The prosecution has, therefore, sought to establish a money trail showing generation, diversion, concealment, possession and use of the alleged proceeds of crime through multiple transactions and entities connected with the applicant.

33. Be that as it may, the investigation *qua* the present applicant stands concluded and the material sought to be relied upon by the DoE has already been placed before the learned Special Court by way of prosecution complaint. Cognizance thereof has already been taken

by the learned Special Court *vide* order dated 29.11.2025 and the matter is presently at the stage of scrutiny/supply of documents.

34. It is also a matter of record that the FIR for predicate offence was registered by the CBI in the year 2020, and the first ECIR came to be recorded by the DoE, Chandigarh Zonal Office, in the year 2022. Admittedly, despite registration of the said ECIR, no coercive action was taken against the applicant for the next about three years by DoE. Thereafter, the present ECIR came to be recorded in July, 2025 and the applicant was arrested on 08.08.2025. Thus, from the registration of the predicate FIR in 2020 till the arrest of the applicant in August, 2025, no steps were taken to apprehend him.

35. Most importantly, it is also not in dispute that the investigation in the predicate offence being conducted by the CBI, since the year 2020, i.e. for about six years, has not culminated into filing of a chargesheet till date.

36. The applicant has remained in judicial custody since 08.08.2025, and has thus undergone incarceration for almost ten months. As noted above, the case is presently at the stage of scrutiny/supply of documents, for the last more than five months. The DoE has cited about 54 witnesses in the prosecution complaint and has relied upon documents running into about 20,000 pages. Even arguments on charge have not yet commenced and, having regard to the volume of documentary evidence and the number of witnesses cited by the prosecution, there appears to be no likelihood of the trial

concluding within a reasonable period of time. Moreover, since in the predicate offence, even the chargesheet has not been filed till date, the fate of the present case will also largely depend on the final report being filed in the predicate offence.

37. In this background, this Court takes note of the following observations of the Hon'ble Supreme Court in case of ***V. Senthil Balaji v. Enforcement Directorate:*** *2024 SCC OnLine SC 2626*:

> "**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*[2], 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*[2], 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."

38. Further, in ***Arvind Dham v. Enforcement Directorate:*** *2026 SCC OnLine SC 30*, the Hon'ble Supreme Court while granting bail to the petitioner therein had observed as under:

"**16.** A two-Judge Bench of this Court in *V. Senthil Balaji's case*[9] 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.

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 therein[10]. 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."

39. Therefore, considering the overall facts and circumstances of the present case, though without expressing any opinion on the merits of the allegations levelled against the applicant, this Court is of the opinion that the applicant has remained in judicial custody since 08.08.2025 and has undergone incarceration for about ten months; the FIR for predicate offence was registered in the year 2020, followed by registration of the first ECIR in the year 2022, whereas the present ECIR came to be recorded only in the year 2025; *concededly*, no coercive action was taken against the applicant between 2020 and 2025; the investigation by the DoE *qua* the present applicant stands concluded and the prosecution complaint has already been filed; cognizance thereof was taken on 29.11.2025 and the matter continues to remain at the stage of scrutiny/supply of documents; the predicate offence investigation being conducted by the CBI has not culminated into filing of a chargesheet till date; the DoE has cited about 54 witnesses and relied upon documents running into about 20,000 pages in the present prosecution complaint; thus, having regard to the stage of the proceedings, the volume of documentary evidence and the number of witnesses cited, there appears to be no likelihood of the trial commencing and concluding within a reasonable period of time. Therefore, balancing the right of the applicant to personal liberty under Article 21 of the Constitution of India with the interest of the prosecution, and considering that the evidence sought to be relied upon by the prosecution is primarily

documentary in nature and already stands collected, this Court is of the view that the rigours of Section 45 of the PMLA stand sufficiently addressed for the limited purpose of consideration of the present bail application and that further incarceration of the applicant is not warranted at this stage.

40. Accordingly, the present bail application is allowed and the applicant is directed to be released on bail on his furnishing a personal bond in the sum of ₹2,00,000/- with two sureties of the like amount to the satisfaction of the learned Special Court/Duty Judge concerned, on the following terms and conditions:

i) The applicant shall not leave the country without prior permission of the learned Trial Court and shall surrender his passport with the concerned Court;

ii) The applicant shall share his contact details (mobile numbers and residential address) with the concerned I.O. of the DoE as well as the Trial Court; and in case of any change in the said details, the applicants shall promptly inform the same to the concerned Court and the concerned I.O.;

iii) The applicant shall appear before the Trial Court on every date of hearing unless exempted;

iv) The applicant shall make himself available for any further investigation by the DoE, as and when required;

iv) The applicant shall not communicate with, or come into contact with any of the prosecution witnesses, or tamper with the evidence of the case.

41. The present application is accordingly disposed of

42. Needless to state, nothing observed herein shall tantamount to an expression on the merits of the case and the observations made are only for the purpose of deciding the present bail application.

43. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

MAY 30, 2026/vc