IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION
APPELLATE SIDE

CRM (R) 13 OF 2026

ENFORCEMENT DIRECTORATE, GOVERNMENT OF INDIA,

KOLKATA ZONAL OFFICE-I

-VS-

JITENDRA PRASAD VERMA ALIAS J. P. VERMA

BEFORE:

THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
AND
THE HON'BLE JUSTICE UDAY KUMAR

For the Petitioner	: Mr. Arijit Chakrabarti, Ld. Adv. Ms. Swati Kumari Singh, Ld. Adv.
For the Opposite Party	: Mr. Vikram Chaudhury, Ld. Sr. Adv. Mr. Sajjal Yadav, Ld. Adv. Ms. N Ahmed, Ld. Adv. Ms. P. Banerjee, Ld. Adv.
Reserved on	: 10.07.2026
Pronounced on	: 24.07.2026

Uday Kumar, J:-

1. The rule of law cannot be reduced to an empty incantation or a procedural platitude when this Court, sitting as a Division Bench specially assigned to adjudicate systemic financial mischiefs and Ponzi matters, is called upon to address deep-rooted white-collar depredations. Such crimes systematically hollow out the financial foundations of the common wealth, derail the state's economic stability, and breach public trust.

2. This application, preferred by the Directorate of Enforcement under Section 439(2) of the Code of Criminal Procedure, 1973 (now corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023), seeks the cancellation of an order of regular bail dated 14th November, 2025. The order was passed by the learned Chief Judge, City Sessions Court, Calcutta, acting as the Designated Special Court under the Prevention of Money Laundering Act, 2002 (hereinafter referred to as the 'PMLA'), in connection with ML Case No. 11 of 2025.

3. The underlying prosecution arises out of a formal complaint alleging an offense under Section 3, punishable under Section 4 of the PMLA. By the impugned order, the learned Special Judge enlarged the opposite party/accused, Jitendra Prasad Verma, on regular bail. In doing so, the court completely bypassed the mandatory statutory boundaries and explicit commands embedded in Section 45(1) of the Act.

4. This case requires us to re-examine the structural boundaries of judicial discretion in anti-money laundering bail proceedings. Specifically, we must evaluate the standard for resetting a citizen's liberty when a special Court ignores vital material evidence and bypasses statutory bars.

5. To fully grasp the structural and anatomical perversity attributed to the impugned order, it is necessary to lay out the factual landscape. The genesis of the present money laundering probe lies in the multi-city systemic collapse of the Sahara Group of Companies. The scheduled or predicate offenses involve a deep-rooted criminal conspiracy. Hundreds of Crores of rupees were collected from everyday retail depositors under the false pretence of real estate development, housing projects, and high-yield money circulation ventures. Instead of being deployed in legitimate investments, these public funds were systematically layered, integrated, and siphoned off through an underground network of shadow companies, artificial real estate agents, and cash couriers.

6. The specific allegations brought against the opposite party, Jitendra Prasad Verma (designated as Accused No. 1), in the formal Prosecution Complaint are neither thin nor peripheral. Far from being a detached, independent freelance "land broker" as painted by the defence, the investigation carried out by the Enforcement Directorate reveals that the opposite party operated as the chief financial conductor for the illicit cash operations of this criminal enterprise within this jurisdiction.

7. During searches conducted under Section 17 of the PMLA at the residential premises of the opposite party, the investigating agency recovered extensive, multi-city physical and digital cash ledgers. These ledgers provide a detailed, un-booked record of parallel cash transactions amounting to a staggering ₹214.66 Crores. Further analysis of the seized materials and bank channels established that the opposite party actively coordinated illicit cash movements across 28 cities, totalling ₹76.29 Crores. Most damagingly, the agency recovered a localized transaction slip from the Faizabad sector, which explicitly documents a personal illicit commission or "cut" of ₹5.75 Crores paid directly to the opposite party for facilitating these secret transfers.

8. Despite this clear paper and digital trail, the learned Chief Judge, City Sessions Court, Calcutta, chose to release the opposite party on regular bail. A perusal of the inner logic of the impugned order dated 14th November, 2025 reveals that the learned Special Judge was swayed by three entirely unsustainable and extraneous considerations:

> First, the Special Court observed that because the opposite party was not an official employee or a director listed on the formal corporate payroll of the Sahara Group, he could not be held responsible for the core corporate default.
>
> Second, the court laid heavy emphasis on the fact that no individual depositor or public witness had given an oral statement naming the opposite party directly, concluding that there was a lack of direct ocular evidence connecting him to the fraud.
>
> Third, the learned Special Judge noted that because the primary investigations into the predicate and scheduled offenses were stalled, and because the opposite party had spent 124 days in pre-trial detention, his continued custody would violate his personal liberty under Article 21 of the Constitution.

9. Mr. Arijit Chakrabarty, learned Counsel appearing on behalf of the Enforcement Directorate, has mounted an exhaustive attack against the impugned order. He submits that the order of the learned Special Court is not merely an erroneous exercise of judicial discretion, but a structural nullity. It is patently perverse, demonstrably capricious, and passed in open defiance of the mandatory statutory boundaries drawn by Section 45 of the PMLA.

10. He further submitted that the learned Special Court completely failed to appreciate the legal landscape within which the present offense germinated. The entire exercise of liquidating the real estate assets of the Sahara Group was not an ordinary commercial venture, but a strictly conditioned, judicially monitored restitution process mandated by the Hon'ble Supreme Court by its order dated 11th July 2016 passed in *SEBI VS. SAHARA INDIA REAL ESTATE CORPN. LTD. & ORS.* The Apex Court, while permitting the sale of these properties to satisfy the compelling demands of thousands of systemic fraud victims, erected unyielding statutory guards, that the sales could not fall below 90% of the stipulated circle rates, and the entirety of the proceeds, clear of bare tax liabilities, had to be faithfully secured in the designated SEBI-Sahara Account. This judicial framework was designed as a remedial mechanism to protect public savings; it was never intended to be weaponized as a conduit for generating parallel, unrecorded liquid wealth.

11. Learned Counsel indicated that far from respecting this holy command, the opposite party systematically subverted the Apex Court's mandate by transforming a court-sanctioned liquidation into an active, multi-layered money laundering enterprise. Masquerading under the benign description of a mere "land broker," the opposite party acted as the vital operational gear in a shadow economy, deliberately generating under-the-table cash components and diverting them away from the SEBI-

Sahara Account. By actively assisting the principal offenders in siphoning off and concealing these parallel cash flows, the opposite party directly facilitated the generation of fresh, undocumented black money under the very nose of the administration, thereby committing a blatant fraud upon the court and the thousands of helpless investors awaiting restitution.

12. The learned Counsel submitted that the criminal footprint of this subversion is not a matter of speculative inference but stands starkly quantified by overwhelming documentary evidence recovered from the exclusive possession of the opposite party. The recovery of a multi-city cash ledger detailing illicit transactions to the tune of ₹214.66 Crores, alongside concrete evidence of parallel cash components totalling₹76.29 Crores across 28 cities and a specific personal "cut" of ₹5.75 Crores in the Faizabad sector, demonstrates a deep-rooted, calculated involvement in the handling of the proceeds of crime. By entering the market to liquidate these assets through parallel cash channels, the opposite party committed a distinct, fresh infraction under Section 3 of the PMLA. This generation and circulation of unrecorded cash post-2016 constitutes a continuing offense that persists as long as these illicit gains remain in active circulation, completely stripping the opposite party of any claim to casual visual innocence or structural detachment.

13. In this backdrop, Mr. Chakrabarti, has emphasized that the impugned order of the learned Special Court suffers from a profound and manifest perversity, having proceeded on an impermissible, microscopic dissection of verbal statements while turning a blind eye to this undeniable documentary trail. The court fundamentally misdirected itself in law by treating the PMLA offense as a mere tail of the predicate crime, erroneously concluding that a delay in the primary FIR or the opposite party's omission therein diluted the rigors of the special statute. Under the settled matrix of the law, an independent money laundering investigation stands on its own legs, completely insulated from the status of the predicate offense. By ignoring the statutory inversion of the burden of proof under Section 24 and bypassing the mandatory twin conditions of Section 45(1) of the PMLA, the Special Court flipped settled legal commands on their head, delivering a casual and cryptic order that shocks the judicial conscience. Individual liberty under Article 21 cannot be viewed in total isolation from the collective financial ruin of thousands of defrauded citizens, and an order so thoroughly steeped in legal perversity cannot be permitted to stand.

14. The learned Counsel referred the authoritative pronouncement of the Apex Court in *Vijay Madanlal Choudhary & Ors. v. Union of India & Ors. [(2023) 12 SCC 1], in which it has been held that* the twin conditions in Section 45(1) of PMLA, following the legislative amendment of 2018, stand as an unyielding, mandatory, and constitutionally valid statutory command. The Special Court at the stage of hearing bail application is required to maintain a delicate balance, not weighing the evidence meticulously as if conducting a mini-trial, but assessing whether the accused has discharged the heavy burden of showing a lack of *mens rea* on broad probabilities. The learned Special Court flipped this principle on its head. By observing that *"not a single witness has ventured to link the petitioner,"* the Special Court engaged in a meticulous dissection of verbal statements while completely ignoring the overwhelming documentary trail of the ₹214.66 Crores cash ledger found in the exclusive possession of the accused.

15. Furthermore, Contradicting the reasoning of the Special Court that the status of the predicate offense mitigates the need for custody, the learned Counsel relied on the view of the supreme court that the investigation for the predicate offense and the investigation by the Enforcement Directorate for offenses under the PMLA are distinct and independent as held in *Directorate of Enforcement v. Aditya Tripathi [(2024) 20 SCC 545].* Mere filing of a closure report or delay in the investigation of the predicate crime cannot be a ground to release an accused on bail in the PMLA case if the independent money laundering investigation is still actively continuing.

16. Referring *Tarun Kumar v. Assistant Director, ED [(2024) 13 SCC 788]* and *Union of India through the Assistant Director v. Kanhaiya Prasad [2025 SCC OnLine SC 306],* Mr. Chakrabarti submitted that economic offenses involving public money constitute a "class apart" and must be viewed through a completely different judicial prism as the white-collar crimes are committed with cool calculation and deliberate design and any casual, cursory, or cryptic order granting bail in such matters, without entering the thicket of Section 45, causes immense damage to the collective financial health of the nation. The 124 days spent in custody by the opposite party fall far short of the thresholds set by Section 436A of the Cr.P.C. (now Section 479 of the BNSS, 2023),and individual liberty under Article 21 cannot be viewed in isolation from the collective interests of thousands of defrauded investors. For money-launderers, jail is the rule and bail is an exception.

17. As reiterated in *Tarun Kumar (supra)*, once the possession of proceeds of crime is shown, the court must presume the involvement of the accused in money laundering unless the contrary is proved, the learned counsel has stated that by looking for direct ocular evidence from individual depositors, the Special Court not only turned a blind eye to the inverted burden of proof set out in Section 24 of the Act but also engaged in an impermissible mini-trial at the stage of consideration of bail in a PMLA offence.

18. Mr. Chakrabarti further submitted that to assess whether the requirement for cancellation of bail is satisfied in this case, a clear distinction must be maintained between the two pathways recognized by law. The first pathway concerns traditional post-release misconduct, which looks for supervening factors such as witness tampering, threatening vectors, active evasion of the due process of law, or an immediate flight risk. The second independent pathway addresses inherent perversity in the order itself, which is triggered when the court below has ignored material evidence, ignored statutory bars, or relied on arbitrary and capricious logic. As per Learned Counsel, the case at hand falls squarely within the realm of inherent perversity as the learned Special Court has erroneously held that the accused was a mere land broker outside the formal corporate structure of Sahara, ignoring the wide statutory sweep of Section 3 which uses the expression *"whosoever directly or indirectly attempts to indulge."*When a subordinate court grants bail by ignoring vital material on record, taking into account completely irrelevant factors, and bypassing mandatory statutory bars, a superior court is not only empowered but constitutionally obligated to set aside such an unjustified and illegal order.

19. As settled in *Pradeep Nirankarnath Sharma v. ED & Anr. [2025 SCC OnLine SC 560]* and *Basudeb Bagchi & Anr. v. ED [2026 SCC OnLine Cal 375]*, money laundering is a persistent process that continues as long as the illicit gains remain in circulation or are actively utilized. The generating of unrecorded parallel cash components post-2016 constitutes a distinct and continuing offense that cannot be shielded by claims of cooperation or brief historical detention. The opposite party's ongoing handling of these funds means he remains actively engaged in the process of money laundering.

20. Learned Counsel further brings to our notice the administrative orders passed by the Hon'ble the Chief Justice and the coordination directives of the Vacation Division Bench dated 05.06.2026. It is pointed out that this application for cancellation (CRM(R)-13/2026) has been aligned with the regular bail petition (CRM(R)-16/2026) before the Regular Division Bench taking up Ponzi matters to avoid any conflict of views. This administrative consolidation underscores the structural continuity of the investigation and the danger of allowing a perverse order of bail to stand.

21. In conclusion, Mr. Chakrabarti submitted that individual liberty under Article 21 cannot be viewed in total isolation from the collective interests of thousands of defrauded investors whose life savings have been siphoned off through deep-rooted financial conspiracies. The opposite party has totally failed to overcome the twin conditions of Section 45. The order of the learned Special Judge is unsustainable in law, shocks the judicial conscience, and if allowed to stand, would derail a highly sensitive and ongoing investigation.

22. Therefore, it is prayed that the order dated 14.11.2025 be quashed and set aside, and the opposite party be directed to surrender immediately to custodial custody.

23. Conversely, Mr. Vikram Chaudhury, learned Senior counsel for the O.P. submitted that the entire factual matrix surrounding the disposal of the Sahara Group's properties must be viewed through the precise legal prism of the Hon'ble Supreme Court's order dated 11th July 2016 passed in *SEBI VS. SAHARA INDIA REAL ESTATE CORPN. LTD. & ORS.* The opposite party did not independently engineer or illicitly execute the sale of these real estate assets; rather, every transaction facilitated by him was initiated and carried out directly under the protective structural framework and explicit mandates established by the Apex Court to satisfy depositors' demands. Acting strictly within the boundaries of this judicially sanctioned liquidation exercise, the opposite party committed no wrong whatsoever, performing the legitimate commercial role of a freelance facilitator in the ordinary course of business.

24. Resisting the prayer for cancellation, the learned Senior Counsel appearing on behalf of the opposite party/accused person has argued that the present revisional application seeking the cancellation of regular bail is fundamentally misconceived and legally untenable. As settled by the Apex Court in *Dolat Ram v. State of Haryana [(1995) 1 SCC 349]* and *Himanshu Sharma v. State of Madhya Pradesh [(2024) 4 SCC 222]*, there exists a well-defined jurisprudential chasm between the rejection of a bail application at inception and the cancellation of a liberty already judicially secured. An order of regular bail, once validly granted, cannot be interfered with in a routine or mechanical manner. He contended that the investigating agency has failed to demonstrate any supervening circumstances born post-release, such as tampering with evidence, subversion of the judicial process, or intimidation of witnesses, or any *ex-facie* perversity in the impugned order that would shock the conscience of this Court to warrant a recall of the bail.

25. Navigating through the factual matrix, the learned Senior Counsel argued that the opposite party is but a mere external, freelance land broker who stood completely outside the corporate and administrative hierarchy of the Sahara Group. He wielded no corporate control, possessed no administrative dominion, nor played any part in the strategic decision-making processes orchestrated by the management from Lucknow. While dealing with the sweeping nomenclature of the word *"whosoever"* in Section 3 of the PMLA, the learned senior counsel submits that mere legislative breadth does not absolve the prosecution of its primary burden to establish a direct, proximate nexus between the accused and the alleged proceeds of crime and a living scheduled offense. He merely facilitated the disposal of lands under the protective umbrella and explicit structural framework permitted by the directions issued by the Hon'ble Supreme Court of India, earning legitimate brokerage commissions in the ordinary course of business.

26. He vehemently contradicted the Petitioner-Directorate's attempt to colourably transmute these transactions into an offense of money laundering is fundamentally flawed in law. The monies received from third-party purchasers constituted valuable commercial consideration for the lands sold under the Supreme Court's directives, not the tainted fruits of a scheduled offense. At highest, an undeclared cash component in a real estate transaction constitutes an infraction of fiscal statutes under the Income Tax Act, 1961, which cannot be colourably transmuted into an offense of money laundering under the principles of *Arnab Manoranjan Goswami v. State of Maharashtra [(2021) 2 SCC 427].* Ld. Counsel pointed out that out of the ₹50 Croress deposited in the designated account of the Supreme Court, only ₹30 Crores were disbursed, while ₹20 Croress remain fully secured, thereby dispelling the agency's narrative of an unmitigated and complete siphoning of capital.

27. Crucially, he submitted that even if it is assumed for the sake of argument that the conditions governing the sale price or the deposit of funds were breached, such actions would exclusively attract liability for civil or criminal contempt before the Hon'ble Supreme Court for violating its specific order. Such deviations cannot legally generate "proceeds of crime" or form the basis for independent criminal proceedings under the PMLA. The Directorate cannot arrogate to itself the jurisdiction to police the execution of the Apex Court's decrees, especially when it has chosen not to array a single third-party purchaser as an accused in the Prosecution Complaint, thereby treating the source transactions as legally sound.

28. Addressing the evidentiary contours of the case, the learned counsel has underscored the Directorate's heavy reliance upon statements recorded under Section 50 of the PMLA to argue that the opposite party was evasive and failed to make a "full disclosure" regarding an additional ₹76 Crores appearing in digital data seized from a co-accused, labelling the same as "non-cooperation" is a manifest attempt to validate testimonial compulsion and extract a forced confession. To counter this contention, the learned counsel reminds this Court that the statutory power of investigation cannot be weaponized to extract a forced confession or validate testimonial compulsion. Relying heavily on the recent exposition of law in *Arvind Kejriwal v. Central Bureau of Investigation [2024 SCC OnLine SC 2370]*, he argued that the constitutional right against self-incrimination under Article 20(3) occupies an exalted status. An investigating agency cannot justify the continued or renewed incarceration of an individual by merely branding his refusal to confess or echo the prosecution's narrative as "non-cooperation" or "evasiveness." He submitted that such statements (Section 50) may only be looked into to form a *prima facie* opinion at the stage of bail, whereas their ultimate admissibility, reliability, and weight remain matters for full-dress adjudication at the trial, and cannot be used as a lever to disrupt an existing liberty.

29. The learned Senior Counsel next raised a structural challenge regarding the survivability of the PMLA prosecution, as it cannot float in a legal vacuum detached from an active, living scheduled offence. Relying on *V. Senthil Balaji v. State [(2024) 3 SCC 51]*, he underlined that the existence of an active scheduled offense is a *sine qua non* for the generation of "Proceeds of Crime." In the instant case, the structural base of the Kolkata ECIR was FIR No. 142 of 2020 registered at Bhubaneshwar, involving a disputed amount of a mere ₹52,187. The local police filed a Closure Report in the said predicate offense on 27.08.2020, on the ground of a "mistake of fact," which was formally accepted by the Jurisdictional Magistrate vide an order dated 14th September, 2024.The learned counsel forcefully argued that with the absolute judicial dissolution and closure of this primary predicate offense and given the admitted fact that the opposite party is not an arrayed accused in any of the other 300 regional FIRs, the derivative PMLA proceedings against the opposite party must suffer a natural legal eclipse, as recognized by the Telangana High Court in its order dated 8th September 2022 passed in *M/s Bharti Cement Corp. Pvt. Ltd. v. ED [CRLRC 84/2021]*.

30. On the anvil of Article 21 of the Constitution of India, the learned counsel has forcefully submitted that the right to a speedy trial is an inalienable facet of personal liberty that must be protected when the trial process itself becomes the punishment. Relying on the constitutional imperatives laid down in *Manish Sisodia v. Directorate of Enforcement (2024) 12 SCC 660]* he emphasized that the massive procedural labyrinth of this case encompassing (over 300 clubbed FIRs, 16 co-accused persons, 33 primary witnesses, and over a thousand underlying complaints), renders the prospect of an early trial wholly illusory, thereby justifying the lower court's protection of his liberty. Keeping an aged individual incarcerated indefinitely in such a complex matrix would constitutes an unmerited, advance punishment, thereby doing violence to the constitutional mandate.

31. Finally, touching upon the post-bail conduct of the opposite party, it is submitted that his actions remain entirely unimpeachable and exemplary. Assuaging any apprehensions of a flight risk, the learned counsel highlighted that the opposite party, despite being a resident of New Delhi, has meticulously adhered to the geographical embargo imposed by the Special Court by residing continuously in transient accommodations in Kolkata to satisfy local residency restrictions. It is pointed out that even when faced with the acute medical emergency of his ailing mother, a terminal patient of plasma cell myeloma (blood cancer), he sought the leave of the Court, travelled to New Delhi under the strict constraints of a seven-day relaxation (from 03.04.2026 to 09.04.2026), and returned to the jurisdiction with clockwork precision to report before the investigating officer on 09.04.2026 and appearing before the Court on 10.04.2026. There is absolutely no ground to interfere with the well-reasoned order of the learned Special Judge.

32. On this conspectus of facts, the learned senior counsel submitted that the prayer for cancellation is devoid of any merit and ought to be dismissed *in-limine*.

33. We have heard the learned counsel for both sides at length, analysed the rival submissions, and examined the record with anxious care. The primary issue before us is whether the strict, legally demarcated parameters for the cancellation of bail under Section 439(2) of the Cr.P.C. (now Section 483 of the BNSS, 2023) have been satisfied.

34. To arrive at a lawful and logically consistent finding, it is necessary to first delineate the structural topography of the law governing the cancellation of bail. Our criminal jurisprudence draws a sharp, qualitative distinction between two independent and mutually exclusive judicial pathways for taking away an accused person's liberty after regular bail has been granted: firstly, the occurrence of supervening circumstances born post-release, and secondly, the presence of inherent perversity and foundational illegality in the order granting bail itself.

35. The first pathway, governing "supervening circumstances," applies to situations where an order enlarging an accused on bail was legally unassailable and properly within jurisdiction at the time it was passed, but subsequent post-release developments demonstrate that the accused has abused his liberty. As established by the Supreme Court of India in landmark decisions such as *State of Delhi v. Sanjay Gandhi [(1978) 2 SCC 411], Dolat Ram (supra)*, and reinforced down to *State of Haryana v. Dharamraj [(2023) 17 SCC 510]*, this track requires the prosecution to prove definitive post-release misconduct. This includes actions such as active attempts to tamper with evidence, intimidation or coercion of prosecution witnesses, an immediate and demonstrable flight risk to evade trial, or the repetition of identical crimes.

36. In the present case, the opposite party has established that his post-release conduct has been cooperative; he has respected the geographical embargo imposed upon him, returned precisely from a medical relaxation to report before the investigating officer, and has not shown any overt supervening misconduct. If the challenge preferred by the Enforcement Directorate were grounded solely on this first track of post-bail supervening misconduct, the application would undoubtedly fail.

37. However, our jurisprudence recognizes a second, entirely distinct pathway for cancellation that does not rely on post-release developments. As established by the Apex Court in *Puran v. Rambilas [(2001) 6 SCC 338]*, *Narendra K. Amin v. State of Gujarat [(2008) 13 SCC 584]*, and consistently applied in *Neeru Yadav v. State of Uttar Pradesh [(2014) 16 SCC 508]* and *Deepak Yadav v. State of Uttar Pradesh [(2022) 8 SCC 559]*, if the underlying order granting bail is patently perverse, illegal, or operates in direct violation of mandatory statutory bars, the prosecution is not required to prove any post-bail misconduct or supervening circumstances. When a subordinate court grants bail by ignoring vital material on record or by bypassing absolute statutory limitations, the order is legally broken from its inception (*ab initio* void). In such instances, a superior court is constitutionally obligated to set aside the order immediately, as allowing an inherently flawed order to remain in force constitutes an independent and severe miscarriage of justice.

38. The case before us falls squarely within this second category of inherent perversity. A review of the inner logic of the impugned order dated 14th November, 2025 reveals that the learned Chief Judge, City Sessions Court, Calcutta, committed a grave legal error by completely bypassing and misinterpreting the strict statutory commands embedded in Section 45(1) and Section 24 of the PMLA. The learned Special Judge completely inverted these principles, creating an order that is structurally broken in the ways discussed below:

i. Firstly, the Special Court completely lost sight of the fact that the entire exercise of liquidating the real estate assets of the Sahara Group was not an ordinary commercial venture, but a strictly conditioned, judicially monitored restitution process mandated by the Hon'ble Supreme Court by its order dated 11th July 2016 passed in *SEBI VS. SAHARA INDIA REAL ESTATE CORPN. LTD. & ORS.* The Apex Court, while permitting the sale of these properties to satisfy the compelling demands of thousands of systemic fraud victims, erected unyielding statutory guards: the sales could not fall below 90% of the stipulated circle rates, and the entirety of the proceeds, clear of bare tax liabilities, had to be faithfully secured in the designated SEBI-Sahara Account. This judicial framework was designed as a remedial mechanism to protect public savings; it was never intended to be weaponized as a conduit for generating parallel, unrecorded liquid wealth.

Far from respecting this holy command, the opposite party systematically subverted the Apex Court's mandate by transforming a court-sanctioned liquidation into an active, multi-layered money laundering enterprise. The defense's contention that a violation of the Apex Court's order merely attracts the penalty of contempt is a flawed argument that misconstrues the intersection of civil obedience and criminal culpability. Armed with the knowledge of this directive, the opposite party actively chose to operate under its shadow, utilizing the protective cover of a Supreme Court-sanctioned sale as an unprecedented opportunity to generate, launder, and conceal massive quantities of undocumented cash components. This is not a mere technical flouting of regulatory conditions; it represents a deliberate, fraudulent deception practiced upon the highest Court of the land. The opposite party colourably used the judicial machinery as a structural shield to siphon off capital that belonged to defrauded investors, transmuting a process meant for restitution into a fresh, distinct offense under the PMLA.

ii. Secondly, the Special Court's finding is that the opposite party was insulated from the crime because he was an independent "land broker" outside the formal corporate payroll or directorate of the Sahara Group represents a significant misdirection in law. Section 3 of the PMLA is intentionally broad, explicitly targeting any person who *"whosoever directly or indirectly attempts to indulge"* in any process connected with the proceeds of crime. One does not need to be a salaried executive or a registered director to launder the proceeds of a corporate fraud. By treating the opposite party's freelance status as a legal shield, the Special Court ignored the wide statutory scope of the offense. Freelance brokers and external financial conductors are fully integrated into the statutory net the moment they knowingly facilitate the generation, circulation, or layering of the proceeds of crime.

iii. Thirdly, the Special Court's insistence on direct oral evidence from individual retail depositors demonstrates a fundamental misunderstanding of financial crime prosecutions. Money laundering schemes are driven by paper trails, ledger balances, and digital footprints, not by oral agreements with everyday investors. During searches conducted under Section 17 of the PMLA at the residence of the opposite party, the investigating agency recovered an extensive, multi-city physical and digital cash ledger detailing un-booked transactions worth a staggering ₹214.66 Crores, alongside localized transaction slips showing a parallel cash layout of ₹76.29 Crores and a personal illicit "cut" of ₹5.75 Crores made to the Opposite party. Faced with such substantial physical and digital evidence, the statutory presumption under Section

24 was fully triggered. The opposite party offered no credible explanation to account for these exclusive ledgers, and the defence's argument that these transactions merely constitute an infraction under the Income Tax Act, 1961 is legally untenable. Generating vast parallel cash components out of a collapsed public deposit scheme cannot be colourably excused as simple tax evasion. By ignoring this unexplained documentary trail and focusing instead on the lack of direct oral statements from individual depositors, the Special Court engaged in an impermissible, microscopic dissection of verbal evidence, arriving at a conclusion on facts that no reasonable court could have reached.

iv. Fourthly, the Special Court committed a grave error by treating the status or delay in the investigation of the predicate offense as a reason to dilute the PMLA case. The defence's reliance on the closure of the Bhubaneshwar FIR involving a minor sum cannot rescue the opposite party. As ruled in *Aditya Tripathi (supra)*, a PMLA prosecution is standalone and distinct from the scheduled offense. The fact that the predicate investigation is delayed or that the accused was not named in the initial FIR does not affect the independent statutory requirements of Section 45. Furthermore, the opposite party's ongoing orchestration and handling of multi-city cash components constitutes a persistent process that continues as long as the illicit gains remain in circulation, as settled in

Pradeep Nirankarnath Sharma (supra) and *Basudeb Bagchi (supra)*. Generating unrecorded parallel cash components on top of judicially managed asset sales constitutes a fresh, continuing offense under the PMLA that is entirely separated from the structural timeline of the primary scheduled FIR.

v. Fifthly, the Special Court's reliance on 124 days of custody of the opposite party to satisfy Article 21 represents a clear statutory bypass of the legislative framework. While prolonged pre-trial detention can become a factor under Section 436A of the Cr.P.C. (now Section 479 of the BNSS, 2023), it only applies when the accused has served at least half of the maximum sentence prescribed for the offense. A period of 124 days falls far short of this threshold. As emphasized in *Kanhaiya Prasad (supra)* and *Basudeb Bagchi (supra)*, economic offenses and white-collar crimes affecting public funds must be treated as a "class apart," and personal liberty under Article 21 cannot be used to override the clear statutory bars enacted by Parliament when the accused has failed to show innocence on broad probabilities.

vi. Finally, this Court must note the administrative background of this matter. By order of the Hon'ble the Chief Justice, and as directed by the Vacation Division Bench on 5th June, 2026, this cancellation application (CRM(R)-13/2026) was properly aligned and consolidated with the main bail application (CRM(R)-16/2026) before this Bench to avoid any conflict of views. Having considered both matters through a single, comprehensive lens, it is clear that the lower court's casual approach fails to safeguard the collective interests of thousands of defrauded investors. The opposite party has totally failed to overcome the twin conditions of Section 45 PMLA, and allowing a perverse order of bail to stand would derail a highly sensitive and ongoing investigation into the parallel cash networks of this scheme.

39. On a comprehensive synthesis of the statutory framework of the PMLA and the binding precedents of the Supreme Court analysed above, we arrive at the following foundational legal principles:

i. The offense of money laundering under Section 3 of the PMLA is a standalone, independent crime. Its statutory vitality is not dependent on the continuous survival, speed, or structural outcome of the predicate/scheduled offense. The delay, stay, or formal closure of a primary FIR by a local investigative agency does not automatically dissolve or dilute the independent statutory requirements for bail under Section 45 of the PMLA.

ii. In the prosecution of complex financial frauds and white-collar crimes, the existence of unrecorded parallel cash ledgers and digital transaction footprints found in the exclusive possession of an accused carries primary evidentiary weight at the stage of bail. A court cannot bypass the statutory presumption inverted by Section 24 of the

PMLA by demanding direct oral statements from retail depositors implicating the opposite party, as money laundering is essentially an offense documented by paper and digital trails rather than oral pacts.

iii. The legislative use of the expression *"whosoever directly or indirectly attempts to indulge"* in Section 3 PMLA strips away any formal corporate shield. Freelance brokers, independent contractors, and external financial conductors are fully integrated into the statutory net if they knowingly facilitate the circulation, layering, or integration of the proceeds of crime. Commercial nomenclatures cannot be used to bypass the rigors of Section 3.

iv. Section 45 of the PMLA imposes an absolute constitutional and statutory limitation on judicial discretion. General considerations of pre-trial custody periods or standard discretionary parameters under Section 439 of the Cr.P.C. must bend before the mandatory command of the twin conditions under Section 45. Liberty under Article 21 is structurally balanced by the legislature; hence, a court has no jurisdiction to grant bail unless it explicitly records a finding on broad probabilities that the accused is not guilty of such offence and that he is unlikely to commit any offence while on bail.

40. For the reasons we discussed above, the challenge brought by the Enforcement Directorate must succeed. The order dated 14th November, 2025 passed by the learned Chief Judge, City Sessions Court, Calcutta, acting as the Designated Special Court under the PMLA in ML Case No. 11 of 2025, suffers from inherent and patent perversity, ignores substantial documentary and digital evidence, and operates in direct violation of the mandatory provisions of Section 45 and Section 24 of the PMLA.

41. Because the underlying bail order was legally broken from its inception, the prosecution is not required to establish any post-bail supervening misconduct or witness tampering to justify its cancellation. The opposite party has failed to discharge the heavy statutory burden required to justify the grant of bail, rendering the Special Court's exercise of discretion a structural nullity.

42. Accordingly, C.R.M. (R) No. 13 of 2026 is allowed.

43. No order as costs.

44. The impugned order of bail dated 14th November, 2025 is hereby quashed and set aside.

45. The opposite party, Jitendra Prasad Verma, is directed to surrender before the learned Designated Special Court within a period of 72 hours from the delivery of this judgment. Should the opposite party fail to surrender within the stipulated time, the petitioner/Enforcement Directorate is directed to take him into custody immediately in accordance with the law.

46. The application is disposed of.

47. Urgent certified copies of this judgment, if applied for, be supplied to the parties upon compliance with all necessary legal formalities.

I AGREE

(RAJARSHI BHARADWAJ, J.) **(UDAY KUMAR, J.)**

<u>Later:</u>

1. After pronouncement of the judgment, the Advocate appearing for the petitioner prays stay of operation of the judgment.

2. The prayer for stay is considered and rejected.

(RAJARSHI BHARADWAJ, J.) **(UDAY KUMAR, J.)**