IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Jay Sengupta

C.R.M. (R) 122 of 2025
Sonu Kumar Thakur
Vs.
Enforcement Directorate

For the petitioner	:	Mr. Manjit Singh, Sr. Adv. Mr. Arkaprabho Roy .....Advocates
For the ED	:	Mr. Adil Rashid Ms. Sneha Pramanick Ms. Aparna Sakar Ms. Snigdha Ghosh .....Advocates
Heard lastly on	:	14.08.2026
Judgment on	:	17.08.2026

Jay Sengupta, J:

1. This is an application for bail filed in connection with M.L. Case No. 08 of 2025 arising out of ECIR No. KLZO-II/03/2024 dated 01.02.2024 under Sections 3 and 4 read with Section 19 of the PMLA, presently pending before the Learned Chief Judge, City Sessions Court, Calcutta.

2. Earlier, the application was heard by this Court on a few occasions. The Investigating Officer had to be asked to appear to clarify certain facts. Adjournments also had to be granted to the parties. After change of determination, the matter was specifically assigned to this Court on 27.07.2026 and the same was heard again.

3. Learned senior counsel appearing on behalf of the petitioner has submitted and has relied on the written notes as follows. As per the case of the ED, the petitioner was arrested from his house at Nutan Para, Jalpai More, Siliguri (M Corp) at 07.15 pm on 03.06.2025. The nearest Magistrate was the Learned ACJM, Siliguri which is just approximately 3 kms away. Instead, he was produced before the Learned CJM, Jalpaiguri which was approximately 43 kms away at 9.00 pm on the same day. Memo of arrest does not indicate place of arrest [Directorate of Enforcement vs. Subhash Sharma, 2025 INSC 141]. It is pleaded by the learned counsel appearing for the ED that the same was done as no Magistrate was available at Siliguri. The document titled “Grounds of Arrest” is signed by the Mr. Sumit Rai, Assistant Director, KLZO-II, Directorate Enforcement and the petitioner himself - having no proof of intimation of grounds to friends, relatives or such other person as may be nominated by the petitioner. Hence, violation of Section 48 of the BNSS, 2023 read with Article 22 of the Constitution of India as such procedure is not a mere formality [Vihaan Kumar vs State of Haryana, (2025) 5 SCC 799]. In the instant case, such burden is not discharged and even in the Affidavit-in-Opposition, no pleading was made clarifying such contention. Instead, there is categorical admission-"Further, as the petitioner was arrested from the search premises of his residence, his family members were already aware and implicitly informed of his arrest". Such line of averment and submission, when there is specific case is made out and grievance is agitated that the arrest of the applicant is illegal due to violation of Article 22 of the Constitution of India, make it obvious that the investigating authority is trying to reduce the mandate of Article 22 to a mere formality. More importantly, the averments of the Affidavit-in-Opposition as well as the written notes of argument submitted by the Opposite Party only clarifies about intimation of the fact of arrest not intimation of the ground or reason thereof. When violation of Article 22 of the Constitution of India is pleaded by an arrestee, the burden of proof is upon the police officials to show that grounds of arrest were communicated to the arrestee and his relative or friend [Vihaan Kumar]. In the instant case, such burden is not discharged and even in the Affidavit-in-Opposition, no pleading was made clarifying such contention. It states: "The arrest memo itself specifies that intimation of arrest was duly made to the relative of the petitioner ....Details", which barely discharges the burden of proof upon the arresting authority as discussed above. In the event when arrest is made in violation of Article 22 of the Constitution of India, bail can be granted without going into the merits of the case. Herein bail becomes right, irrespective of the merits of the case. It is the allegation that the petitioner had 6 accounts by his name in which there were turnover of crores of Rupees; additionally, there were 519 mule accounts which were opened and controlled by him. However, the signature on the panchnama is not clear as to who became the witness of seizure. The panchnama does not indicate the identity of the seizure witnesses and as such the claim of arrest and seizure happening at the place of residence is dubious in nature. Hence, the seizure itself is ambiguous. If it is claimed by the ED that arrest was made in compliance of Article 22(2) of the Constitution of India, and as such the learned CJM, Jalpaiguri is indeed the nearest Magistrate, then the place of arrest is definitely not the residence of the petitioner, as being claimed by the ED. Following, the panchnama, dated 03.06.2025 also becomes nothing but a sham document. All allegedly incriminating material against the petitioner is documentary in nature and as such there is no scope for tampering with evidence. Offence under PMLA, even though serious in nature, yet may not be proper to equate these cases with those punishable with death, imprisonment for life, ten years or more like offences under the NDPS, murder, cases of rape, dacoity, kidnapping for ransom, mass violence, etc. The petitioner is in custody for more than 1 year and there is hardly any progress in trial and as such the petitioner’s prayer for bail can also be considered on the ground of delay in trial. Bail has been granted in the predicate offence by the Learned Jurisdictional Magistrate. Plea has been taken by the ED that the arrestee was taken to learned CJM, Jalpaiguri because nearest Magistrate as Siliguri was not available. However, Hon'ble Division of the Bombay High Court in Vachhalabai vs State of Maharashtra, [(2020) 1 Bom CR (Cri) 263] upon discussing the Constitutional Assembly Debates at length opined that the provision like that of Section 187(6) of BNSS, 2023 [corresponding to 167(2A) CrPC which is applicable in PMLA cases by virtue of the judgement of V. Senthil Balaji vs State [2023 SCC Online SC 934] are safeguards for protection of fundamental rights mentioned in Article 21 of the Constitution of India and that they need to be strictly followed by the officers effecting arrest. If there is a material to infer that there was actual arrest, but after the arrest the accused was not taken before the nearest Magistrate and he was taken far away from that place for production before the concerned Magistrate, the moment the accused is taken out of the jurisdiction of nearest Magistrate, his detention becomes unauthorized and illegal. Such detention will not become legal only because subsequently the accused is produced before the Magistrate having jurisdiction to try or inquire into the offence within 24 hours of the actual arrest. If that procedure is not followed and accused is picked up from a place over which the police station has no jurisdiction and he is taken to the place over which the police has jurisdiction and he is taken to the place over which the police has jurisdiction, inference become easy that the accused was taken away from the first place only by illegally detaining him. Argument has been made that the judgement of Mihir Rajesh

Shah vs State of Maharashtra [(2006) 1 SCC 500] distinguishes from Vihaan Kumar judgement (supra) on the point of requirement of furnishing written grounds of arrest to the family member of the arrestee. However, that it not case. In the said judgement, argument was specifically made of non-furnishing of ground of arrest to the arrestee and the Hon'ble Apex Court noted that it is mandatory to furnish written grounds of arrest to arrestee; interestingly, reliance was made on Vihaan Kumar judgement (supra) and heavily on Pankaj Bansal vs Union of India, (2004) 7 SCC 576. In para no. 26, while reproducing portions of the judgement of Pankaj Bansal (supra) the Hon'ble Court noted that in that case the situation was that though ED claimed that witnesses were present and certified that the grounds of arrest were read out and explained to him in Hindi, that is neither here nor there as he did not sign the document. It was held, upon placing reliance upon V. Senthil Balaji vs State [(2004) 3 SCC 51], that non-compliance in this regard would entail release of the arrested person straightaway. In the case in hand, the situation is similar, as though ED claims that written grounds of arrest were provided to the family member of the accused, is neither here nor there as no signature is there on the document. The judgement further discusses para no. 43 of Pankaj Bansal (supra). It states the purpose of the mandate. The Hon'ble Apex Court noted that the reason is the constitutional objective underlying such information being given to the arrested person. Conveyance of this information is not only to apprise the arrested person of why he/she is being arrested but also to enable such person to seek legal counsel and, thereafter, present a case before the Court under Section 45 to seek release on bail, if he/she so chooses. Similar reasoning is given in para no. 42 of the Vihaan Kumar judgement (supra) as well wherein it was stated that the arrested person, because of his detention, may not have immediate and easy access to the legal process for securing his release, which would otherwise be available to the friends, relatives and such nominated persons by way of engaging lawyers, briefing them to secure release of the detained person on bail at the earliest. Therefore, the purpose of communicating the grounds of arrest to the detenue, and in addition to his relatives as mentioned above is not merely a formality but to enable the detained person to know the reasons for his arrest but also to provide the necessary opportunity to him through his relatives, friends or nominated persons to secure his release at the earliest possible opportunity for actualizing the fundamental right to liberty and life as guaranteed under Article 21 of the Constitution. Interestingly, in the case in hand, the petitioner was produced before the Learned City Sessions Judge, Calcutta on 04.06.2025 but till 28.07.2025 the petitioner was represented by an advocate appointed by the LADCS, Kolkata as the family members of the petitioner was not aware of any fact which otherwise could have been informed through written grounds of arrest. On 28.07.2025, finally his choice of counsel was engaged by his family members, upon getting to know about the entire situation on their individual effort, and on the same day prayer for bail was made which was rejected on 13.08.2025, impugned order in this application for bail before this Hon'ble Court. This uncalled for situation is also frowned upon in the judgement of Mihir Rajesh Shah (supra), when Vihaan Kumar judgement (supra) was relied upon and not distinguished. Arguably, such action of the part of arresting authority also violates right of the petitioner to consult, and to be defended by, a legal practitioner of his choice as enshrined under Article 21 and 22(1) of the Constitution of India. On 27.05.2026, the Hon'ble Division Bench of Allahabad High Court delivered a judgement in Habeas Corpus Writ Petition No. – 218 of 2026. The Learned Additional Advocate General appearing on behalf of State-respondents therein referred to a few judgements (as can be seen in para no. 23) of the Apex Court including one Kanu Sanyal vs District Magistrate, Darjeeling, [(1973) 2 SCC 674, Constitutional Bench] by relying which he argued that in dealing with the petition for habeas corpus, the Court is to see whether the detention on the date the application is made to the Court is legal, if nothing more has intervened between the date of the application and the date of the return of the rule. In habeas corpus proceedings the Court is to have regard to the legality or otherwise of the detention at the time of return and not with reference to the initiation of proceedings. The legality of detention on the date of hearing of the habeas corpus petition is relevant and not the date of initial detention. He further argued that the subsequent judgements like that of Vihaan Kumar (supra), Pankaj Bansal (supra), and Mihir Rajesh Shah (supra) are hit by the doctrine of stare decisis since these judgements have been passed without considering the earlier binding precedents of the Hon'ble Supreme Court itself and are thereof per incuriam and have no binding effect. The Court relying upon such submission went on to hold the said judgments are not binding precedents because they are hit by doctrine of stare decisis, as the judgments have not considered earlier law laid down by the Apex Court in the case of earlier judgments in the cases of Kanu Sanyal (supra) and others. The earlier judgments of the Hon'ble Supreme Court have laid emphasis on considering the legality of detention order at the time of return of rule and have held that if the initial detention order was not in accordance with law, but at the time of consideration of the petition a new detention order was passed which was in accordance with law the earlier order of detention is not required to be considered since it has lost its relevance. However, the said judgement was wrongly cited as the discussed ratio was of a subsequent judgement passed by the Hon'ble Division Bench of the Apex Court With same parties, being Kanu Sanyal vs District Magistrate, Darjeeling, [(1974) 4 SCC 141], as not by the Constitutional Bench. In the referred constitutional bench judgement, the issue was whether at the time of hearing a Habeas Corpus Petition, production of the body person so detained necessary for its disposal after issue of rule nisi. Summarily, the Hon'ble Allahabad High Court declared multiple judgements passed by the Hon'ble Division Bench of the Apex Court, while relying upon another judgement passed by the Hon'ble Division Bench of the Apex Court perceiving it as a judgement of Constitutional Bench. Interestingly, in 1980, a 5-Judges Bench of Karnataka High Court [in Govindanaik G. Kalaghatigi vs West Patent Press Co. Ltd., AIR 1980 Kant 92] while answering a full Bench reference, decided that if two decisions of the Supreme Court on a question of law cannot be reconciled and one of them is by a larger Bench, the decision of the larger Bench, whether it is earlier or later in point of time, should be followed by High Court consist of equal number of Judges, the later of the two decisions should be followed by High Courts and other Courts. So, in this case, recent judgments liberalizing conditions of Article 22 should have been followed and not the earlier ones. Be that as it may, the above-mentioned judgements are in respect of legality of detention in the date when the petition of Habeas Corpus is heard by the Hon'ble Court which is the narrow scope of a Habeas Corpus Petition. However, the matter at hand relates to bail wherein the initial arrest can also called into question as the later has wider ambit. Upon inquiry, it was further submitted that the petitioner was shown arrested in the predicate offences case on 02.02.2026 and was produced virtually. Bail was granted on the same day as chargesheet had been filed.

4. Learned counsel appearing on behalf of the petitioner has submitted and has relied on the written notes as follows. The accused namely Sonu Kumar Thakur was arrested on 03.06.2025 at 7.15 pm from his premises. That the accused was arrested beyond Court hours henceforth the application under Section 187 of BNSS 2023 seeking transit remand was allowed by the then available Court of Chief Judicial Magistrate. Section 19 – "(3) Every person arrested under sub-section (1) shall, within twenty four hours, be taken to a Special Court or Judicial Magistrate or a Metropolitan Magistrate, as the case may be, having jurisdiction." The requirement of Section 19 was duly complied with the arrest memo is duly signed by the uncle of the accused namely Santosh Kumar Thakur. The accused Sonu Thakur is shown absconder in the charge sheet bearing No. 574/23 dated

26.07.2023 thereafter ED was directed to inform the predicate agency which was duly done by the letter dated 06.01.2026. The accused has admitted his abscondence in the bail petition, thereby reinforcing the gravity of his conduct and his criminal intent (mens rea). The proceeding under PMLA is standalone and is independent of predicate offence, various ruling with regard the same are of High Court and Apex Court. That none of the accused in the instant matter who have been arrested have got bail and various bail application filed by them were all rejected upon contest. In the instant case, the petitioner has miserably failed to discharge the burden placed upon him under Section 45(1)(ii) of PMLA. He has neither been able to prima facie demonstrate that he is not guilty of the alleged offence, nor has he shown that he is not likely to commit any offence while on bail. The rigors of Section 45 (1) of PMLA, thus, stand unmet. Furthermore, the petitioner's antecedents, the gravity and nature of the offence and the magnitude of the economic crime warrant that he is required to satisfy the "TRIPOD TEST" to adjudicate the bail petition, which includes - Gravity of the offence and its societal impact: Severity of punishment, if convicted: Likelihood of the accused tampering with evidence, influencing witnesses, or fleeing from justice. Applying this test, it is evident that the present case involves serious economic offences under the PMLA, which have a direct nexus with the generation and laundering of proceeds of crime. The gravity and societal impact are substantial, and the punishment prescribed under the PMLA is stringent. There is also a real and plausible apprehension that the petitioner, if enlarged on bail, may interfere with the ongoing investigation or influence material witnesses, given his resources and past conduct. In addition to bank accounts, the racket also procured SIM cards in the names of various individuals by offering them monetary incentives. Subsequently the credential of the bank accounts and SIM cards were transferred abroad particularly to Dubai where they are used to carry out various illegal activities including the collection and layering of proceeds generated through illegal online betting, gambling and other criminal activities. During the search, more than 200 bank account numbers were found from his possession. After the arrest of Sonu Thakur, his mobile phone was analysed and from his mobile phone a number of mule accounts (519 in number) were recovered which were directly involved with betting activities. Total 519 accounts were frozen between 10.06.2025 and 13.06.2025 having balances of approx. Rs. 8.20 crores frozen vide freezing orders dated 10.06.2025 to 13.06.2025. From the list of mule accounts, the 6 mule accounts were in the name of Sonu Thakur. The freezing orders of ED were confirmed by the Ld. Adjudicating Authority vide its order dated 07.11.2025. Thus, - a. Sonu Thakur was found to be actively involved in provisioning of mule accounts to various illegal online betting panels; b. He had a chain of sub-agents who were luring persons to open mule accounts on commission basis; c. He was also found to be running a betting panel; d. He was direct recipient of proceeds of crime given to him for provisioning of mule accounts. The Prosecution complaint details many mule accounts which have given entry to Sonu Thakur for his services; e. Despite being unemployed, his accounts were having a turnover of Rs 13 crores which is the money he has received for his services as a mule account provider; f. He has flight risk as he has a history of being absconder in the Police Chargesheet. ED by its rigorous efforts found him; g. Furthermore, if given bail, he will continue to provide mule accounts to various betting panels. He even has a flight risk; h. Upon his bail, he may try to influence other co-accused and witnesses to change their testimonies. On the contrary, his past conduct reveals a real and imminent risk of absconding, particularly since he has travelled abroad on multiple occasions and has active associates operating the betting racket from Dubai. If released on bail, there is every likelihood that he will abscond to Dubai and continue his involvement in such illegal activities. In the aforesaid matter cognizance was already taken on 25.08.2025 and all the relied upon documents has already been served upon all the accused person. Only inspection of the same has to be done and charges are to be framed. Henceforth, it is most humbly prayed that the accused kindly may not be released till the charges are framers as the entire proceeds of crime in the matter has not been traced out and there is a possibility of filing further supplementary complaint. During the course of investigation, 2 accounts were found. From 08.03.2022 to 01.11.2022, the account of M/s Wixeta International Private Limited had a turnover of Rs. 1,98,00,21,199 (Rs.198 crores approx). From 09.05.2022 to 01.11.2022, the account of M/s Duston Salt Refine Pvt. Ltd. has had a turnover of Rs. 97.68 crores. Thus, it can be termed that an amount of Rs.296 crores (approximately) was used for betting related activities by use of these 2 accounts. Thus, the accounts were used for hawala and entry transactions as well. Furthermore, there were certain accounts which have been unearthed during the investigation. The accounts were opened with the help of various associates of Sonu Thakur. All the directors hail from the same locality of Natun Para which is a hub of opening of mule accounts. Sonu Thakur is also from Natun Para and he recruited the below individuals in liaison with another accused named Abhishek Bansal. Further, it is revealed bank account of one trust namely Natun Para Kali Bari Charitable Trust having trustees namely viz. Ajit Kumar Mahato (cousin of Sonu Thakur), Souvik Poddar, Sujit Adhikary and Mantosh Mahato has been opened in RBL bank. Upon the scrutiny of the bank account bearing account number - 409001882859 with RBL Bank in the name of Natun Para Trust, it is revealed that the account has total turnover of Rs. 52.31 crores. Further, Investigation revealed that the said trust maintains bank accounts with Yes Bank also. Upon analysis of the bank account bearing account no. 121188700000088, it is revealed that the account has turnover of more than Rs. 651.93 crores. The huge turnover is betting proceeds. The bank accounts of the entities were scrutinized which have surfaced during the investigation. Given Sonu Thakur's direct/indirect association with the above mentioned accounts, it is highly likely that he may influence the testimonies of other individuals associated with these accounts. The main contention of the petitioner herein was that the judgement of Vihaan Kumar vs State of Haryana (2025 (5) SCC 799 it mentioned in paragraph 42. Hence, the requirement of communication of ground of arrest in writing is not only to the arrested person, but also to the friends, relatives or such person as may be disclosed or nominated by the arrested person, so as to make the mandate of Article 22(1) of the Constitution meaningful and effective failing which, such arrest may be rendered illegal". In reply to the same the opposite parties herein like to rely on the judgement of Hon'ble Apex Court in Mihir Rajesh Shah vs State of Maharashtra and Others (2026) 1 SCC 500 wherein not only the judgment of Vihaan Kumar has been considered but also other judgments such as Pankaj Bansal vs Union of India 2024 (7) SCC 576, Prabir Purkayastha Vs State 2024 (8) SCC 254 has also been considered and specially mentioned in paragraphs – "14***** This Court in Pankaj Bansal (Pankaj Bansal v. Union of India, (2024) 7 SCC 576: (2024) 3 SCC (Cri) 450] observed that ideally grounds of arrest should be informed in writing, however, in Vihaan Kumar [Vihaan Kumar v. State of Haryana, (2025) 5 SCC 799: (2025) 2 SCC (Cri) 762] it was acknowledged that it might not be practical to provide grounds of arrest to an accused in each and every case in writing and thus clarified that there is no mandate to communicate the grounds of arrest in writing. Nevertheless, for investigations under special statutes such as Prevention of Money Laundering Act, 2002 ("PMLA") or UAPA, this Court has specifically held that such grounds of arrest be communicated in writing. The decisions in Pankaj Bansal [Pankaj Bansal v. Union of India, (2024) 7 SCC 576: (2024) 3 SCC (Cri) 450] and Prabir Purkayastha (Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254: (2024) 3 SCC (Cr) 573] need to be read harmoniously with Vihaan Kumar [Vihaan Kumar v. State of Haryana, (2025) 5 SCC 799: (2025) 2 SCC (Cri) 762] which provides as a general rule that grounds of arrest are not mandated to be communicated in writing. Subsequently, in Vihaan Kumar [Vihaan Kumar v. State of Haryana, (2025) 5 SCC 799: (2025) 2 SCC (Cri) 762], this Court underscored that a failure to comply with the requirement of informing the grounds of arrest soon after the arrest would render the arrest illegal. The Court referred to the above-mentioned decisions of this Court and observed that although the ideal mode of communication of grounds of arrest is to provide such grounds in writing, there is no such statutory requirement to provide such grounds in writing. The Court noted that it may not be practical to communicate grounds of arrest in writing in every situation, but if such a course is followed, the controversy about non-compliance will not arise at all. The relevant portion of Vihaan Kumar [Vihaan Kumar vs State of Haryana, (2025) 5 SCC 799: (2025) 2 SCC (Cri) 762] is referred to herein. In conclusion, it is held that: The constitutional mandate of informing the arrestee the grounds of arrest is mandatory in all offences under all statutes including offences under IPC, 1860 (now BNS 2023); The grounds of arrest must be communicated in writing to the arrestee in the language he/she understands; In case(s) where, the arresting officer/person is unable to communicate the grounds of arrest in writing on or soon after arrest, it be so done orally. The said grounds be communicated in writing within a reasonable time and in any case at least two hours prior to production of the arrestee for remand proceedings before the Magistrate; In case of non-compliance of the above, the arrest and subsequent remand would be rendered illegal and the person will be at liberty to be set free. In addition to it as per the judgement main contention is the arrestee and/or as person should be informed so that appropriate steps can be taken by the accused. Herein its duly signed by him and the Search and seizure list clearly mentions that when the accused was taken into custody he had nothing with him on the other hand or the documents including grounds of arrest, reasons to believe and other documents bears the signature of the accused which clearly shows that the same was handed over to the relative by the accused person. Recently Allahabad, High Court on 27.05.2026 in (Neeraj And Another Versus State of U.P. and Another) distinguishing Vihaan Kumar v. State of Haryana in paragraph 19 onwards and specifically in paragraph 69 has stated that "********Therefore, in the absence of any fetters on the right of accused to approach this court challenging his initial arrest, a pandora's box has been opened and the petitions are being filed after cognizance on charge sheet, framing of charge and remand orders under Sections 209 and 309 Cr.P.C and also during recording of evidence in trial." Finally in paragraph 88 the Hon'ble Court observed- "88. On the basis of above considerations, our conclusions are as follows :- (i) A habeas corpus writ petition under Article 226 of the Constitution of India can be preferred by an accused before the court, at the earliest, if his initial remand is illegal and consequently his detention is illegal; (ii) The filing of habeas corpus petition shall not be affected by rejection of bail application of the accused by the trial court only. Rejection of bail application of accused by High Court or the Supreme Court, would be a bar to entertainment of habeas corpus writ petition before Hon'ble High Court or Hon'ble Supreme Court since the bail application has been considered by the Bench of Hon'ble High Court or the Hon'ble Supreme Court and it would not be proper for another coordinate Bench of the Hon'ble High Court or the Hon'ble Supreme Court, where the bail application was rejected, to entertain a habeas corpus writ petition by another Bench of the same court. It will amount to appeal/review of the judgment passed by the Bench deciding bail application of the accused; (iii) However, once the charge sheet is submitted against an accused under Section 173(2) Cr.P.C/154(2) B.N.S.S and judicial order of cognizance is passed thereon by the competent court, the right of the accused to prefer habeas corpus writ petition on the ground that the initial judicial order of remand under Section 167(2) Cr.P.C/187(2) B.N.S.S passed by the Magistrate was illegal would not be maintainable, since after the passing of the second judicial order of the cognizance of offence on the charge sheet by the court would become relevant and not the initial order of remand. The remedy of assailing such an order of cognizance is provided under the statute and filing of habeas corpus petition would not be permissible; (iv) After the cognizance is taken on the charge sheet submitted by the investigating officer, the challenge to arrest of accused can be made on the grounds of violation of Article 21 and 22(1) of the Constitution of India by resorting to statutory remedy of bail provided under the statute; (v) The remedy of filing habeas corpus petition will also not be available to an accused after the order of committal under Section 209 Cr.P.C./232 B.N.S.S or remand by the trial court under Section 309 Cr.P.C./346 B.N.S.S; (vi) Even after framing of charge as per Section 228 Cr.P.C./240 Cr.P.C by the court, which is also a judicial order amenable to statutory challenge, the remedy of habeas corpus cannot be availed by an accused. It was further contended by the accused person charged arrested around 7:15 PM on 03.06.2025, from Siliguri but he was not produced before the Siliguri bench but before the Jalpaiguri bench which was 45 km away. With regard to the same it is contended that the accused was arrested beyond the normal court hours and was produced before the bench available that time. In addition to it no prejudice was caused to the accused as the accused was presented before the Special Court within 24 hours that is on 04.06.2025. The order taken from Jalpaiguri Bench was a precautionary measure in case the prosecution fails to produce the accused before the PMLA Court within 24 hours. However, in the present case the accused were produced before the special Court within 24 hours. Hence, the contention taken by the differences was frivolous. It was further submitted on behalf of the ED that the petitioner was the kingpin of the scam. Till now, Rs. 8.2 crores has been attached from the petitioner. About 1000 more bank accounts and a sum of about Rs. 2000 crores are still to be assessed. Although complaint has been filed, further investigation is going on. A co-accused has absconded and fled to Dubai. The petitioner too has a residence in Dubai and is at flight risk. Reliance is further placed on decisions reported at (2024) 13 SCC 788 and (2024) 20 SCC 545. Charges are to be framed soon.

5. I heard the learned counsels for the parties, perused the application, the affidavits, the materials collected during investigation and the written notes of submissions.

6. It appears from the records that on 23.10.2022 Bhaktinagar Police Station Case No. 1146 of 2022 was started under Sections 417, 419, 420, 467, 468, 471 of the Indian Penal Code and Sections 3 and 4 of the West Bengal Gambling and Prize Competitions Act, 1957. The crux of the allegation was the accused were indulging in illegal betting and gambling. Afterwards, the proceeds of crime were allegedly laundered by creating different layers of mule bank accounts and even siphoned off abroad through hawala. On 01.02.2024, ECIR No. KLZO-II/03/2024 was registered. On 03.06.2025, a freezing order was issued for freezing the bank balance laying in 107 bank accounts and 6 debit/credit cards vide authorization no. 69 of 2025 dated 02.06.2025. Searches were conducted. The petitioner was arrested from his house on 03.06.2025 purportedly at 7.15 pm.

7. The first contention raised by the petitioner was that although the nearest Magistrate was the Learned ACJM, Siliguri, which was approximately 3 kms away from the place of arrest. The petitioner was not produced before him, but was produced before Learned CJM, Jalpaguri, which was approximately 43 kms away and that too at 9 o'clock at night. According to the petitioner, this is a violation of the principles of law.

8. On the other hand, it was argued on behalf of the Enforcement Directorate that there was no violation of law as the petitioner was produced before the Special Court within 24 hours of arrest.

9. It is quite understandable that after Court hours one particular Court may not be available for production of an accused. Even if instead of before the Learned ACJM, Siliguri, the petitioner was produced before the Learned CJM, Jalpaiguri, who was evidently available at 9.00 pm., the same would not necessarily be a violation of the statutory requirement. Apparently, the ED did so as a matter of abundant caution. More importantly, it did not cause any prejudice to the accused as he was produced before the Special Court within 24 hours of arrest.

10. The next most vital point raised by the petitioner was that according to them, the records did not show that a copy of the grounds of arrest was served upon a relative of the petitioner, as mandated by the Hon'ble Apex Court in the case of Vihaan Kumar (supra).

11. The contention of the Enforcement Directorate in this regard was that the statutory requirement was to serve the grounds of arrest upon the accused petitioner, which was admittedly done. Reference was made to the relevant documents in this regard. After service of such grounds of arrest, the same was actually handed over by the petitioner to his relatives who were present there. However, there is no written record of the same. But, contemporaneous documents would evince that the same was indeed handed over to the said relatives. Sometime after the petitioner's arrest and supply of the grounds of the arrest to him, he was searched. The search memo would reveal that he was not having any document like the grounds of arrest that was earlier supplied to him. Therefore, even the principles laid down in Vihaan Kumar (supra) as regards supply of grounds of arrest to the relatives of the accused had been complied with. The next contention of the Enforcement Directorate was that the rigors of Vihaan Kumar (supra) had been watered down by the Hon'ble Apex Court in its latest Judgement in Mihir Rajesh Shah (supra). Mihir Rajesh Shah (supra) indeed emphasized on supply of grounds of arrest to the accused petitioner and the said requirement was fully complied with in the instant case.

12. The contention of the Enforcement Directorate that the petitioner had himself handed over the grounds of arrest to his relatives, as supported by their documents regarding supply of the grounds of arrest to the petitioner at some point and non-availability of the same upon search in the presence of the petitioner after a point, is indeed quite capable of thwarting the petitioner's claim of non-supply of grounds of arrest to the relatives of the victim as required in Vihaan Kumar (supra), at this stage.

13. One has to read with these facts the further fact that sometime after the arrest of the petitioner, steps were taken on behalf of the petitioner in respect of the criminal proceeding. In fact, a bail application was moved after a few days. Therefore, it cannot be established even prima facie that the petitioner's relatives were unaware of the case or for that matter, the grounds of arrest of the petitioner. Thus, even on facts, it does not appear that there was a violation of the requirement to make the petitioner or his relatives aware of the grounds of arrest or that any prejudice was caused thereby.

14. Long incarceration without much progress in a proceeding can indeed outweigh the rigors of the Section 45 of the PML Act, when read in the light of the right of speedy trial as enshrined in Article 21 of the Constitution of

India. In fact, in a catena of decisions, the Hon'ble Apex Court has considered very long incarcerations like for more that a year or one and a half year as a reasonable period that would warrant necessary intervention.

15. It is true that in the present case, the petitioner is in custody for about one year and two months. However, there are certain other aggravating factors that are also to be taken into account while considering the question of bail.

16. First, coming to the merits of the case, there are prima facie serious incriminating materials, quite in abundance, available against the present petitioner. After the arrest of the petitioner, his phone was analysed and from his mobile phone, a number of mule accounts (519 in number) were allegedly recovered, which were directly involved with betting activities. These accounts were frozen between 10.06.2025 to 13.06.2025 having balance of approximately Rs. 8.20 crores. 6 mule accounts were in the name of the present petitioner. The freezing orders of the Enforcement Directorate were issued by the Learned Adjudicating Authority vide its order dated 07.11.2025. Therefore, the petitioner was prima facie found to be actively involved in provisioning mule accounts to various illegal online betting panels. He allegedly had a chain of sub-agents who were luring persons to open mule accounts on commission basis. As per the Enforcement Directorate, he was also found to be running betting panels and was a direct recipient of proceeds of crime given to him for provisioning of mule accounts. Despite being unemployed, his accounts were having a turnover of Rs. 13 crore. Therefore, it cannot be demonstrated even, prima facie, that the petitioner was not guilty of the alleged offences or that he would not commit such offences while on bail. Therefore, the rigors of Section 45(1) of the PML Act cannot be surmounted for the purpose of grant of bail to the petitioner.

17. According to the ED, the present petitioner is the mastermind of the scam. Rs. 8.2 crores was attached from him and connected accounts. As per the ED, the petitioner is also at flight risk. The predicate offences case was started in October 2022 and the PML Act case in February 2024. So, the petitioner had remained an absconder in the predicate offences case since October 2022 and in the PML Act case since February 2024 till he could be arrested by the ED in this case in June 2025 after much effort. Incidentally, one of his accomplices had allegedly fled to Dubai. In State of UP through CBI vs Amarmani Tripathi, (2005) 8 SCC 21 the Hon'ble Supreme Court held that danger of the accused absconding or fleeing, if released on bail, is a matter, among others, to be taken into consideration at the time of deciding a bail application. Similar view was taken by the Hon'ble Apex Court in The State of Bihar vs Rajballav Prasad @ Rajballav Pd. Prasad, (2017) 2 SCC 178 and by a Three Judge's Bench of the Hon'ble Apex Court in Deepak Yadav vs The State of UP, (2022) 8 SCC 559 after referring to Prasanta Kumar Sarkar vs Ashish Chatterjee & Anr, (2010) 14 SCC 496.

18. Moreover, the present case is not one where no progress has taken place before the Special Court. Although further investigation is going on, ED claimed that charges are about to be framed after the petitions of some other co-accused are disposed of. A charge sheet has also been submitted in the predicate offences case.

19. Therefore, besides the restrictions contained in section 45 of the PML Act, the gravity and the nature of the offence and its societal impact, the quality of the incriminating materials collected thus far, the alleged prime role of being a mastermind of the multi-crore betting scam as ascribed to the petitioner, the possibility of tampering with the evidence or influencing the witnesses and most importantly, the chance of fleeing from justice are the factors that come in the way of granting bail to the present petitioner at this stage.

20. Considering the above and the other incriminating materials collected during investigation, I do not consider this to be a fit case for granting bail to the petitioner. Accordingly, the application for bail stands rejected at this stage.

21. Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon completion of requisite formalities.

(Jay Sengupta, J.)