



2026:DHC:5431



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Decided on: 07.07.2026*+ **BAIL APPLN. 1855/2024**

ARUN MUTHU

.....Petitioner

versus

STATE OF NCT DELHI

.....Respondent

***Appearance:-***

Mr. Naveen Malhotra, Mr. Ritvik Malhotra, Advocates for petitioner.

Mr. Sanjay Jain, Sr. Advocate with Mr. Akhand Pratap Singh, SPP, Mr. Nishank Tripathi, Ms. Harshita Sukhija, Ms. Rishika Agarwal, Mr. Shreyan Srivastav, Ms. Samridhi Dobhal, Ms. Krishna Mohan Chandel, Mr. Hritwik Maurya, Ms. Lisa Pagwal, Ms. Apoorv Paliya, Mr. Utkarsh Singh, Advocates for State with ACP Virender Kadyan, Insp. Pradeep Rai.

**CORAM:****HON'BLE MR. JUSTICE PRATEEK JALAN****J U D G M E N T****PRATEEK JALAN, J. (ORAL)**

1. By way of the present application under Section 439 of the Code of Criminal Procedure, 1973 ["CrPC"] (corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ["BNSS"]), the petitioner seeks regular bail in connection with FIR No. 208/2021, dated 07.08.2021, registered at Police Station Special Cell, Delhi, under Sections 170/384/385/388/419/420/506/120B of the Indian Penal Code, 1860 ["IPC"], and Section 66D of the Information Technology Act, 2000 ["IT Act"]. At the time of filing of the chargesheet, Sections 3 and 4 of

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the Maharashtra Control of Organised Crime Act, 1999 [“MCOCA”], were also invoked.

2. This is the first bail application filed by the petitioner before this Court. He had earlier applied for bail before the Special Court, which was dismissed *vide* order dated 14.11.2022.

3. I have heard Mr. Naveen Malhotra, learned counsel for the petitioner, and Mr. Sanjay Jain, learned Senior Counsel for the State. The State has also filed a status report, which is on record.

4. At the outset, it may be mentioned that I have recently decided three bail applications arising out of the same proceedings, filed by co-accused Leena Paulose [hereinafter, “Leena”], Deepak Ramnani [hereinafter, “Deepak”], and Pradeep Ramdanee [hereinafter, “Pradeep”]. The application filed by Leena<sup>1</sup> was dismissed, whereas the applications filed by Deepak<sup>2</sup> and Pradeep<sup>3</sup> were allowed.

**I. PROSECUTION CASE:**

5. The prosecution case, as it appears from the material on record, is as follows:

- a. FIR No. 208/2021, dated 07.08.2021, lodged at Police Station Special Cell, Delhi, under Sections 170/384/385/388/419/420/506/120B of the IPC and Section 66D of the IT Act, was registered at the instance of one Ms. Aditi Singh.
- b. According to the complaint, on 15.06.2020, the complainant received a call on her mobile phone from a landline number. The

<sup>1</sup> BAIL APPLN. 1802/2024, decided on 05.05.2026, [hereinafter, “Leena Paulose”]. An earlier application for bail filed by Leena in the State proceedings [BAIL APPLN. 3706/2022] was also rejected by judgment dated 11.07.2023.

<sup>2</sup> BAIL APPLN. 4286/2024, decided on 05.06.2026 [hereinafter, “Deepak Ramnani”].



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caller introduced himself as a senior officer in the Ministry of Law and offered assistance in securing bail for her husband, who was in judicial custody in cases related to M/s Religare Enterprises Limited.

- c. It is alleged that the caller demanded Rs. 50 crores in exchange for facilitating the bail and explained the method of delivering the money.
- d. Subsequently, through his associates, the caller allegedly extorted money from the complainant on multiple occasions between June 2020 and August 2021, amounting to a total of Rs. 217 crores. There are further allegations with regard to impersonation of senior officials, including the Home Secretary, Government of India, and misrepresenting the involvement of other government functionaries, including the Home Minister.
- e. Acting on the said information, on 07.08.2021, the police laid a trap and apprehended Pradeep, while he was receiving the extorted amount. He was arrested on the same day. During interrogation, he disclosed that he was acting on the instructions of his brother, Deepak, who was subsequently arrested on 08.08.2021.
- f. Using technical surveillance of the mobile phone used for making the calls, and the statements of co-accused, the caller was identified as one Sukesh Chandra Shekhar @ Sukash Chandra Shekhar [hereinafter, "Sukesh"].
- g. At this time, Sukesh was already lodged in Tihar Jail as an undertrial prisoner in a separate case, involving allegations of

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<sup>3</sup> BAIL APPLN. 4441/2024, decided on 05.06.2026.



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collecting money from a political leader on the pretext of helping him retain a particular election symbol. He was later shifted to Rohini Jail.

- h. A raid was conducted on the intervening night of 07/08.08.2021 by the Special Cell, during which two mobile phones were recovered from Sukesh, while he was in custody, and he was formally arrested in connection with the present FIR. His interrogation led to the identification and arrest of other associates and co-conspirators. The petitioner was arrested on 05.09.2021.
- i. During investigation, it was found that Sukesh was involved in multiple cases, including attempt to murder, criminal intimidation, cheating, and extortion, often by impersonating high-ranking officials.
- j. Part of the extorted amount was allegedly transmitted by Sukesh, through *hawala* channels, to his wife, Leena, in Chennai.
- k. As far as the present petitioner is concerned, his role in the aforesaid offences is summarised in the chargesheet as follows:

“6. *Accused Arun Muthu:*

- *He and Dolby Samuel are the directors of M/s Stash wear Pvt. Ltd.*
- *He met Leena in Sept-2018 through its partner Dolby Samuel. From Sept-2018 to Aug 2021, he used to provide help to Leena and Sukash in buying properties and car. He helped Leena in financial transactions for procuring high end cars and failed to justify the source of payment.*
- *He helped Leena and Sukash by opening proprietorship firm namely LS film Corp in 2018.*
- *From July 2020-Aug 2021, he facilitated Leena by providing banks entries of approx. Rs three Crores from his associates i.e. Sarvana, Muthaiya Entertainment and Goodtime Retail & Marketing Pvt. Ltd.*



- Directed and produced web series namely “The Instagramam” along with Leena. The said series was allegedly sold to Neestream for total consideration of Rs. three Crores. Out of which Rs. 90 lakh was received from Nee Stream in bank account of LS Film Corp maintained by him. He had transferred Rs. 75 lakh in the account of Super car Artistry (owned by Leena Paul) and rest Rs. 15 Lakh were retained by him as commission. Bank account of Super car Artistry shows inward remittance of Rs. 22.83 Lakh on 18.05.2021. Rest details of bank are being verified.
- On 11.08.2021, he received WhatsApp call from Leena and he acted upon the same and helped Leena and parked her 7-8 Luxury cars at different locations and same were seized by ED.
- He obtained commission of 2.5% on entire transactions.”

## **II. STATEMENTS UNDER SECTION 18 OF MCOCA:**

6. In support of the above allegations, the State relied upon confessional statements under Section 18 of MCOCA made by co-accused Sukesh, B. Mohanraj [hereinafter, “Mohanraj”] and Sudheer.

7. In the status report filed on behalf of the State, the statements of Sukesh and Mohanraj, insofar as they are relevant in respect of the present petitioner, have been summarised as follows:

### **“Confessional statements u/s 18 MCOC Act of accused Sukash:**

*He told Leena to brief each of their aid. The said cash was received at Sow carpet, Chennai and collected by Sudheer and Joel. Cash was delivered to Mohan Raj and he further delivered to Kamlesh Kothari and Arun Muthu. Arun deals in providing bank entries and Kamlesh deals in purchasing high ends cars and house.*

### **Confessional Statement U/s 18 MCOC Act of accused B. Mohanraj:**

*He was introduced to Arun Muthu, who is a friend of Sukash and Leena. He came to know that Arun Muthu was running a Garment business in the name of Stash Wear, in Chennai. In January, 2020, a case was registered against Sukash while he was in Tihar Jail, Delhi by the C.B.I, Hyderabad wherein he came to know that Sukash impersonated himself as a senior CBI officer and extorted money from the victim. CBI raided the house of Leena in Boat Club, Chennai which was taken on rent in the name of Arun Muthu for Leena. He has facilitated the rent deal in which Arun Muthu used to receive cash with huge commission.”*



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8. Additionally, Mr. Jain relied upon Sudheer's Section 18 statement, which is not referred to in the State's status report. Sudheer *inter alia* stated therein, that the petitioner used to visit Leena in Chennai, and was also called by Sukesh, whenever he was on parole. He further stated that the money derived by Leena and Sukesh from criminal activities was adjusted through "Saloon Nail Artistry" and "Super Car company" by Arun Muthu [the petitioner herein] and Mohanraj. Sudheer also stated that he or co-accused Joel Daniel [hereinafter, "Joel"] used to collect cash transmitted through *hawala* transactions, using token numbers provided by Leena and Sukesh, and would deliver the cash to the petitioner and Mohanraj. The amounts ranged from Rs. 50 lakhs to Rs. 5 crores, which they would count and hand over either to Leena or, on her directions, to the petitioner and Mohanraj. In August/September 2020, Leena had purchased a new house on ECR Road, Sneha Garden, Chennai. The petitioner, Mohanraj, and Kamlesh Kothari [hereinafter, "Kamlesh"] helped her in purchasing the house. At the time of the purchase, on Sukesh's instructions, Sudheer collected more than Rs. 7 cores in cash against a token, and delivered it to Kamlesh at his office in T-Nagar, Chennai, in the presence of Mohanraj. The petitioner, Mohanraj, and Kamlesh assisted Sukesh and Leena in purchasing the house and cars. Leena and Sukesh used to assign different tasks to different members of the group and pay them separately. Sukesh was released on parole often, during which the petitioner, Mohanraj, Kamlesh, and Joel met him, alongwith Leena, and discuss ways of adjusting the *hawala* money.



### **III. SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES:**

9. Mr. Malhotra's principal submission relates to the prolonged custody of the petitioner as an undertrial. The petitioner was arrested on 05.09.2021, and has thus remained in custody for a period of almost 4 years and 10 months. Charges have recently been framed, by an order of the Special Court dated 03.06.2026. However, the State has cited 403 witnesses, and the chargesheets collectively exceed 10,000 pages. Further, one of the co-accused, Navas KI, has been arrested recently, and it is likely that a supplementary chargesheet will have to be filed in relation to his case. Considering the aforesaid factors, Mr. Malhotra submitted that the petitioner's right to a speedy trial, guaranteed under Article 21 of the Constitution, has been defeated, and his continued custody pending trial is constitutionally unjustifiable.

10. With regard to the statutory restrictions on grant of bail, under Section 21(4) of MCOCA, Mr. Malhotra referred to several judgments and orders of Supreme Court<sup>4</sup> as well as this Court<sup>5</sup>, in which bail has nonetheless been granted to MCOCA accused on ground of prolonged incarceration. Additionally, he referred to the judgment in *Ranjitsingh Brahmajeetsing Sharma v. State of Maharashtra and Anr.*<sup>6</sup>, wherein the

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<sup>4</sup> *Rockysingh Jalindersingh Kalyani v. State of Maharashtra* [Criminal Appeal No. 176/2022, decided on 03.02.2022]; *Ranjana Tanaji Wanve v. State of Maharashtra* [SLP (Cr.) No. 12740/2024, decided on 22.10.2024]; *Siddhant v. State of Maharashtra* [2024 SCC OnLine SC 3798]; *Vinod v. State of Maharashtra* [SLP (Cr.) No. 14166/2024, decided on 08.01.2025]; *Vivek @ Vicky Janak Paneri v. State of Maharashtra* [SLP (Cr.) No. 2677-2678/2025, decided on 15.04.2025]; *Kailash Ramchandani v. State of Maharashtra & Anr.* [SLP (Cr.) No. 4276/2025, decided on 06.01.2026]; *Jagruti Dhanesh Thorat v. State of Maharashtra* [SLP (Cr.) No. 17295/2025, decided on 13.01.2026].

<sup>5</sup> *Arun v. State (Government of NCT of Delhi)*, BAIL APPLN. 3348/2023, decided on 07.04.2025; *Ashish @ Deva v. State (NCT of Delhi)*, BAIL APPLN. 1618/2024, decided on 29.04.2025; *Rajesh Kumar v. State (Government of NCT of Delhi)*, BAIL APPLN. 2986/2023, decided on 08.05.2025; *Jitender Dixit @ Bantu v. The State (Government of NCT of Delhi)*, BAIL APPLN. 3831/2023, decided on 19.05.2025.

<sup>6</sup> (2005) 5 SCC 294, paragraph 38.



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Supreme Court held that such statutory restrictions should not be “*pushed too far*”. He also relied upon the judgment in *Suhail Ahmad Thokar v. National Investigation Agency*<sup>7</sup>, which arose under the Unlawful Activities (Prevention) Act, 1967 [“UAPA”], to submit that, even recently, the Supreme Court has granted bail in a UAPA case, on the basis of period spent in custody, likelihood of prolonged trial, and parity with other co-accused, all of which are applicable to the present case also.

11. Mr. Malhotra further submitted that the legal position with regard to prolonged incarceration, *vis-à-vis* the restrictions on grant of bail under Section 21(4) of MCOCA, has been considered at length in the judgments in *Leena Paulose* and *Deepak Ramnani*. Applying the same yardstick to the present case, he submitted that the Court is required to examine the role attributed to the petitioner and the *prima facie* material supporting the allegations against him, to adjudicate whether his further custody is warranted. In this context, Mr. Malhotra argued that, even according to the prosecution, the petitioner’s role was limited to financial planning and handling in respect of the allegedly extorted funds. He played no role in the planning or execution of the foundational offence of extortion, but only in management of the funds sent by Sukesh to Leena in Chennai. To this extent, he submitted that the petitioner’s role is, at the highest, comparable to that of Deepak, who was granted bail by judgment of this Court dated 05.06.2026. According to Mr. Malhotra, the alleged money trail does not show that any part of the extorted funds were in the petitioner’s hand at any time. With regard to the further allegations of frequently meeting Leena and Sukesh, Mr. Malhotra submitted that such

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<sup>7</sup> SLP (CRL.) No. 83/2024, decided on 22.05.2026.



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“*associative proximity*” was also considered in Deepak’s case, and bail was nonetheless granted.

12. Mr. Malhotra also submitted, without prejudice to the aforesaid contentions, that the offences alleged against the petitioner are not made out at all, even on the prosecution’s own showing, as the petitioner had no knowledge or reason to believe that any of the activities in which he participated were connected with a criminal offence. In the absence of such *mens rea*, learned counsel submitted that the offences of assistance and abetment in a MCOCA offence cannot be established. For this purpose, he relied upon the judgments of the Madras High Court in *Kumar Ganesaperumal v. Directorate of Enforcement*<sup>8</sup> and *VMT Spinning Mills India Pvt. Ltd. v. Directorate of Enforcement*<sup>9</sup>. Mr. Malhotra also submitted that the petitioner has no prior criminal involvements, including in any FIR involving Sukesh/Leena, and the allegation of “*continuing unlawful activity*” under Section 2(1)(d) of MCOCA cannot be made out against him.

13. Mr. Malhotra lastly submitted that the petitioner has also been named as an accused in ECIR/54/DLZO-II/2021, dated 08.08.2021, registered under Sections 3 and 4 of the Prevention of Money Laundering Act, 2002 [“PMLA”], arising out of the same factual allegations. However, he has been granted bail in the said case, by judgment of this Court dated 20.02.2025 in BAIL APPLN. 1821/2024. He submitted that on similar considerations, the petitioner is also entitled to bail in the present case.

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<sup>8</sup> 2021 SCC OnLine Mad 8689.

<sup>9</sup> 2022 SCC OnLine Mad 9267.



14. Mr. Jain, in contrast, submitted that the petitioner had a direct role in handling of the extorted funds in Chennai, alongwith other accused persons, with full knowledge of the illegal activities of the Organised Crime Syndicate [hereinafter, “OCS”]. He was thus not only involved in abetment of the activities of the OCS, but was also directly involved in the “*continuing unlawful activities*”, within the meaning of Section 2(1)(d) of MCOCA, which reveals “*membership*” of the OCS under Section 3(4) of MCOCA. He submitted that the petitioner and Mohanraj, alongwith other Chennai based co-accused, participated in planning and execution of the activities related to handling of the extorted funds sent by Suresh to Leena.

15. Mr. Jain urged the Court, at the stage of bail adjudication, to have due regard to Section 21(4) of MCOCA, which places restrictions on the grant of bail in such offences. According to him, grant of bail in such cases cannot be determined solely by the length of custody, for which purpose he reiterated the submissions recorded in *Leena Paulose*<sup>10</sup> and in *Deepak Ramnani*<sup>11</sup>.

#### **IV. ANALYSIS**

16. This case raises a question of the interplay between the constitutional rights of an undertrial, who remains in custody for a prolonged period, with the statutory restrictions on grant of bail, found in several special statutes such as the UAPA<sup>12</sup>, the Narcotic Drugs and Psychotropic Substances Act, 1985<sup>13</sup>, MCOCA<sup>14</sup>, and PMLA<sup>15</sup>. I have

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<sup>10</sup> Paragraphs 15, 16, 24, and 25.

<sup>11</sup> Paragraphs 9(a)-(c), 25, and 26.

<sup>12</sup> Section 43-D (5).

<sup>13</sup> Section 37.



had the opportunity to consider the legal position governing this question, both in *Leena Paulose* and *Deepak Ramnani*.

17. In *Leena Paulose*, upon consideration of the interpretation of the three-Judge Bench decision of the Supreme Court in *Gulfisha Fatima v. State (Govt. of NCT of Delhi)*<sup>16</sup>, which had interpreted an earlier three-judge bench judgment in *Union of India v. K.A. Najeeb*<sup>17</sup>, I had proceeded on the following basis:

“29. The decision in *Gulfisha Fatima*, in my view, provides guidance on the approach to be adopted while adjudicating bail application under MCOCA also. Section 21(4) of MCOCA being on a “higher pedestal” than Section 43D(5) of UAPA, I agree with Mr. Jain that, at the very least, the same principles would govern the interplay between Section 21(4) of MCOCA and the Article 21 rights of an accused. The apparently distinct lines of authority cited above can, in my view, be reconciled, by applying the ratio of *Gulfisha Fatima*.

30. The position which emerges therefrom is that **statutory restrictions on grant of bail cannot preclude constitutionally protected claims, referable to Article 21 of the Constitution.** The ground of prolonged pre-trial incarceration without likelihood of culmination of proceedings must therefore be considered, even in cases involving special statutes. **However, these are not stand-alone considerations, but require to be analysed along with the nature of the offence and the prima facie material on record.** Conversely, while adjudicating the satisfaction required in terms of the statutory conditions, the material must be assessed through the lens of the right under Article 21 of the Constitution. **In order to adjudicate such a question, the factors to be borne in mind include the length of custody already undergone, the possible sentence for the offence, the possibility of concluding the proceedings within a reasonable time, whether delay in proceedings is attributable to the prosecution or the defence, and the nature of the prima facie case made out against the accused.**

31. *Haris Nisar Langoo*, in my view, does not depart from the above principles, but provides an example in which the Court was satisfied that the petitioner was entitled to bail, even after applying Section 43D(5) of UAPA. In fact, it may be noted that, even in *Gulfisha Fatima*, some of the

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<sup>14</sup> Section 21(4).

<sup>15</sup> Section 45.

<sup>16</sup> 2026 SCC OnLine SC 10 [hereinafter, “*Gulfisha Fatima*”].

<sup>17</sup> (2021) 3 SCC 713 [hereinafter, “*K.A. Najeeb*”].



*accused were granted bail, having regard to the specific facts of their cases.”<sup>18</sup>*

18. Soon after the judgment in *Leena Paulose* was delivered, the Supreme Court’s decision in *Syed Iftikhar Andrabi v. National Investigation Agency*<sup>19</sup> expressed reservations, with regard to the correctness of *Gulfisha Fatima*. This has led to a reference to a larger bench of the Supreme Court in *Tasleem Ahmad v. State Govt. of NCT of Delhi*<sup>20</sup>. Pending resolution of the issue by the larger Bench, this Court, in *Deepak Ramnani*, considered it appropriate to adopt the following approach:

*“22. The question that arises before this Court, in light of the aforesaid decisions, is to determine the approach which must be adopted in adjudication of the present applications. Needless to say, the differing approaches expounded by the Supreme Court in *Gulfisha Fatima* and *Syed Iftikhar Andrabi*, are both binding upon this Court. Although the question has been referred to a larger bench in *Tasleem Ahmed 2*, the factum of reference itself does not denude a Supreme Court decision of its binding authority<sup>21</sup>.*

*23. The possible course of awaiting an authoritative decision by the larger bench of the Supreme Court does not commend to me, in the context of these applications for bail, which by their very nature require expeditious resolution. Instead, having considered the judgments cited by both sides, which were rendered after *Gulfisha Fatima*, I am of the view that a practical approach must be adopted, at least until the reference is answered by a larger bench. In the present case, such an approach requires this Court first to adjudicate upon Mr. Malik’s submission that, even in terms of the interpretation of *K.A. Najeeb in Gulfisha Fatima*, as understood by this Court in *Leena Palouse-II*, the petitioners are entitled to bail. If this contention is accepted, it is unnecessary to delve further into the exercise of reconciliation between the views expressed in *Gulfisha**

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<sup>18</sup> Emphasis supplied.

<sup>19</sup> 2026 SCC OnLine SC 881 [hereinafter, “*Andrabi*”].

<sup>20</sup> SLP (CRL.) No. 3867/2026, dated 22.05.2026.

<sup>21</sup> *Harbhajan Singh and Another v. State of Punjab*, (2009) 13 SCC 608, paragraph 15; *National Insurance Company Limited v. Pranay Sethi*, (2017) 16 SCC 680; *Union Territory of Ladakh and Ors. v. Jammu and Kashmir National Conference and Anr.*, (2024) 18 SCC 643, paragraph 35.



*Fatima and Syed Iftikhar Andrabi, with regard to the competing interpretation of K.A. Najeeb.*

24. *Before embarking upon this exercise, I may only add that this course is also not, in my view, inconsistent with the interpretation of K.A. Najeeb in Syed Iftikhar Andrabi. The position of law laid down in Gulfisha Fatima, as I have understood it in Leena Paulose-II, was that the ground of prolonged incarceration without likelihood of culmination of proceedings, must be considered even in cases involving statutory restrictions on grant of bail. However, these must be analysed, alongwith the nature of offence, and the prima-facie material available against the accused. The articulation in Syed Iftikhar Andrabi, is that the statutory limitation on the grant of bail cannot override rights under Article 21, but that “of course, in an appropriate case, bail can be denied having regard to the facts of that particular case”<sup>22</sup>. Syed Iftikhar Andrabi therefore also requires a factual examination, to determine whether a particular accused is to be granted bail, despite an argument based upon his/her Article 21 rights. It may be noted that, both in Gulfisha Fatima and in Syed Iftikhar Andrabi, the Supreme Court examined the case of accused on merits, in the backdrop of period of incarceration and the likely length of trial. In Gulfisha Fatima, five of the seven accused were granted bail, as was the sole accused in Syed Iftikhar Andrabi.”<sup>23</sup>*

19. I propose to adopt the same approach in the present case also. I may also note that, in *Khuram Parvez v. National Investigation Agency*<sup>24</sup>, which was rendered after the aforesaid judgments of the Supreme Court, including the reference order in *Tasleem Ahmad*, a Division Bench of this Court has adopted a similar approach. The case concerned an application for bail in a UAPA offence. The Court’s approach is indicated by the following observations:

“61. Keeping in view the above, we have proceeded to consider the case of the appellant for releasing him on bail.

62. For the same, we would note that the appellant was taken into custody in the present case on 22.11.2021, and has, therefore, undergone prolonged incarceration of almost 4½ years. The stage of the trial is at the arguments for framing of charge. We are further informed that the

<sup>22</sup> *Andrabi*, paragraph 35.

<sup>23</sup> Emphasis supplied.

<sup>24</sup> CRL.A. 1234/2024, decided on 10.06.2026.



prosecution intends to examine 197 witnesses in case the charge is framed against the appellant.

63. We shall also conduct a surface evaluation of the case alleged by the prosecution against the appellant.

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71. We have taken note of the above allegations and the defence of the appellant, only to highlight that they must be tested against the long period of incarceration of the appellant and the fact that there is no likelihood of the trial ending soon as also against the yardstick of bail being the rule, while denial thereof being an exception. The appellant's rights under Article 21 of the Constitution of India need to be balanced and may even trump the restriction imposed under Section 43D(5) of the UAPA.

72. We are also mindful of the fact that one of the co-accused, namely, Zafar Abbas (A-4), has been denied bail by this Court and the said order has been upheld by the Supreme Court, however, we find that the allegations against the said co-accused were very different from the one against the appellant herein."<sup>25</sup>

20. Applying the same benchmarks to the present case, it may be noted that the petitioner is not accused of participation in the alleged acts of extortion, against the complainant or any other person. His role, as per the prosecution, was in planning and management of the funds which were sent by Sukesh to Leena, including facilitating accounting entries, purchase of properties and luxury cars, arranging parking of the said cars, and production of a film. It is alleged that he was remunerated for these tasks by way of commission. It is in this context that he is accused of frequent meetings with Leena as also with Sukesh, when he was on parole. The statements of other co-accused, and of witnesses relied upon by the prosecution, do not *prima facie* accord any higher role to the petitioner than this.

21. As against this, the petitioner has already spent approximately 4 years and 10 months in custody as an undertrial. The offence under



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Section 3(4) of MCOCA carries a sentence which may extend to imprisonment of five years to life imprisonment. However, the factors indicated above, including the number of accused [24], number of witnesses [403], and the complexity of the case, make expeditious conclusion of the proceedings unlikely. Having regard to the role ascribed to the petitioner by the prosecution, I am of the view that his further incarceration as an undertrial, is inappropriate. Although I have held, in *Leena Paulose*<sup>26</sup>, that the delay in the present case cannot be attributed to prosecutorial delays or court inaction alone, I am nonetheless of the view that the facts of each case have to be examined on their own merits, with due consideration of the specific roles ascribed to the individual in question.

22. As I have held that the petitioner is entitled to bail even if the prosecution case is taken at its highest, I do not consider it necessary to address the other contentions raised by Mr. Malhotra.

#### V. CONCLUSION

23. For the aforesaid reasons, the application is allowed, and it is directed that the petitioner be released on bail in connection with FIR No. 208/2021, dated 07.08.2021, registered at Police Station Special Cell, Delhi, subject to furnishing a personal bond of Rs. 2,50,000/-, alongwith two sureties in the like amount, to the satisfaction of the concerned Special Court/Duty Magistrate, and subject to the following further conditions:

a. The petitioner shall appear before the Special Court on each and

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<sup>25</sup> Emphasis supplied.

<sup>26</sup> Paragraph 37.



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- every date of hearing;
- b. The petitioner shall surrender his passport before the Special Court, and shall not leave the country without prior permission of the concerned Court;
  - c. The petitioner shall provide his permanent address to the concerned Court, as also the address where he is residing during the pendency of the case. The petitioner shall intimate the Investigating Officer [“IO”], and file an affidavit before the Special Court, regarding any change in residential address;
  - d. The petitioner shall provide his mobile number to the concerned IO/Station House Officer, which shall be kept in working condition at all times. The mobile number shall not be switched off or changed without prior intimation to the IO during the pendency of the trial;
  - e. The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
  - f. The petitioner shall not commit any offence during the period of his release.
24. The bail application is disposed of in terms of the above.
25. It is clarified that any observations made in the present judgment are solely for the purpose of deciding the present bail application, and shall neither influence the trial proceedings, nor be construed as an expression of opinion on the merits of the case.



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26. Copy of the judgment be communicated to the concerned Jail Superintendent electronically for information and necessary compliance.

**PRATEEK JALAN, J**

**JULY 7, 2026**

**'PV'/AD/KA/**

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

*Decided on: 07.07.2026*

+ **BAIL APPLN. 1881/2025**

KAMLESH KOTHARI

.....Petitioner

versus

STATE OF NCT DELHI

.....Respondent

***Appearance:-***

Mr. Naveen Malhotra and Mr. Ritvik Malhotra, Advocates for Petitioner. Mr. Sanjay Jain, Sr. Advocate with Mr. Akhand Pratap Singh, SPP, Mr. Nishank Tripathi, Ms. Harshita Sukhija, Ms. Rishika Agarwal, Mr. Shreyan Srivastav, Ms. Samridhi Dobhal, Ms. Krishna Mohan Chandel, Mr. Hritwik Maurya, Ms. Lisa Pagwal, Ms. Apoorv Paliya, Mr. Utkarsh Singh, Advocates for State with ACP Virender Kadyan, Insp. Pradeep Rai.

**CORAM:**

**HON'BLE MR. JUSTICE PRATEEK JALAN**

**J U D G M E N T**

**PRATEEK JALAN, J. (ORAL)**

1. By way of the present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ["BNSS"] (corresponding to Section 439 of the Code of Criminal Procedure, 1973 ["CrPC"]), the petitioner seeks regular bail in connection with FIR No. 208/2021, dated 07.08.2021, registered at Police Station Special Cell, Delhi, under Sections 170/384/385/388/419/420/506/120B of the Indian Penal Code, 1860 ["IPC"], and Section 66D of the Information Technology Act, 2000 ["IT Act"]. At the time of filing of the chargesheet, Sections 3 and 4 of

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the Maharashtra Control of Organised Crime Act, 1999 [“MCOCA”], were also invoked.

2. This is the second bail application filed by the petitioner before this Court. His first bail application<sup>1</sup> was dismissed by a judgment of this Court dated 11.07.2023 [hereinafter, “the 2023 judgment”]<sup>2</sup>.

3. I have heard Mr. Naveen Malhotra, learned counsel for the petitioner, and Mr. Sanjay Jain, learned Senior Counsel for the State. The State has also filed a status report, which is on record.

4. At the outset, it may be mentioned that I have recently decided three bail applications arising out of the same proceedings, filed by co-accused Leena Paulose [hereinafter, “Leena”], Deepak Ramnani [hereinafter, “Deepak”], and Pradeep Ramdane [hereinafter, “Pradeep”]. The application filed by Leena<sup>3</sup> was dismissed, whereas the applications filed by Deepak<sup>4</sup> and Pradeep<sup>5</sup> were allowed.

**I. PROSECUTION CASE:**

5. The prosecution case, as it appears from the material on record, is as follows:

- a. FIR No. 208/2021, dated 07.08.2021, lodged at Police Station Special Cell, Delhi, under Sections 170/384/385/388/419/420/506/120B of the IPC and Section 66D of the IT Act, was registered at the instance of one Ms. Aditi Singh.

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<sup>1</sup> BAIL APPLN. 4262/2021.

<sup>2</sup> It appears from the website of the Supreme Court that the petitioner had filed a Special Leave Petition [Diary No. 41706/2023] against the 2023 judgment, which was dismissed by order dated 09.07.2024, on account of being a defective matter not re-filed after 90 days.

<sup>3</sup> BAIL APPLN. 1802/2024, decided on 05.05.2026 [hereinafter, “Leena Paulose”]. An earlier application for bail filed by Leena in the State proceedings [BAIL APPLN. 3706/2022] was also rejected by the 2023 judgment.

<sup>4</sup> BAIL APPLN. 4286/2024, decided on 05.06.2026 [hereinafter, “Deepak Ramnani”].

<sup>5</sup> BAIL APPLN. 4441/2024, decided on 05.06.2026.



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- b. According to the complaint, on 15.06.2020, the complainant received a call on her mobile phone from a landline number. The caller introduced himself as a senior officer in the Ministry of Law and offered assistance in securing bail for her husband, who was in judicial custody in cases related to M/s Religare Enterprises Limited.
- c. It is alleged that the caller demanded Rs. 50 crores in exchange for facilitating the bail and explained the method of delivering the money.
- d. Subsequently, through his associates, the caller allegedly extorted money from the complainant on multiple occasions between June 2020 and August 2021, amounting to Rs. 217 crores. There are further allegations with regard to impersonation of senior officials, including the Home Secretary, Government of India, and misrepresenting the involvement of other government functionaries, including the Home Minister.
- e. Acting on the said information, on 07.08.2021, the police laid a trap and apprehended Pradeep, while he was receiving the extorted amount. He was arrested on the same day. During interrogation, he disclosed that he was acting on the instructions of his brother, Deepak, who was subsequently arrested on 08.08.2021.
- f. Using technical surveillance of the mobile phone used for making the calls, and the statements of co-accused, the caller was identified as one Sukesh Chandra Shekhar @ Sukash Chandra Shekhar [hereinafter, "Sukesh"].
- g. At this time, Sukesh was already lodged in Tihar Jail as an undertrial prisoner in a separate case, involving allegations of



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collecting money from a political leader on the pretext of helping him retain a particular election symbol. He was later shifted to Rohini Jail.

- h. A raid was conducted on the intervening night of 07/08.08.2021 by the Special Cell, during which two mobile phones were recovered from Sukesh, while he was in custody, and he was formally arrested in connection with the present FIR. His interrogation led to the identification and arrest of other associates and co-conspirators. The petitioner was arrested on 05.09.2021.
- i. During investigation, it was found that Sukesh was involved in multiple cases, including attempt to murder, criminal intimidation, cheating, and extortion, often by impersonating high-ranking officials.
- j. Part of the extorted amount was allegedly transmitted by Sukesh, through *hawala* channels, to his wife, Leena, in Chennai.
- k. Two criminal cases had been registered against the petitioner previously. Details of the said cases are as follows:
  - i. FIR No. 1319/2017, lodged at Police Station Soundarapandiyanar Angadi, District T. Nagar, Tamil Nadu under Sections 294(b)/341/342/363/506(1)/149 of the IPC.
  - ii. FIR No. 470/2012, lodged at Police Station Soundarapandiyanar Angadi, District T. Nagar, Tamil Nadu, under Section 75 of the Tamil Nadu Town and Country Planning Act, 1971 [“TNTCP Act”].
- l. As far as the present petitioner is concerned, his role in the aforesaid offences is summarised in the chargesheet as follows:

“8. *Accused Kamlesh Kothari*



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- *He is Car Dealer in Chennai. He knew Mohan Raj through Common Friend since 2018.*
- *He met Leena through Mohan Raj. Thereafter, he helped Leena & Sukash in purchasing High end luxury cars and property.*
- *He helped Leena in purchasing two cars in July-2020, by introducing his friend Surender Panwar (Financial Broker) to transfer the amount of Rs five Crores in the account of car owners. He got Rs 10 Lakh as commission.*
- *He with help of Mohan Raj purchased property of ECR in name of his relative Jitender Kothari in Aug 2020 for total consideration of Rs 7 Crores. The white amount of property i.e. Rs five Crores was paid from the account of Jitender Kothari, M/s Jai Jinender Construction to the owner of ECR house. He got Rs13.5 Lakh as commission.*
- *Statement U/s 18 (1) MCOCA of Sukash and B.Mohan Raj.”*

m. The State relied upon confessional statements, under Section 18 of MCOCA, made by co-accused Sukesh and B. Mohanraj [hereinafter, “Mohanraj”]. In the status report filed on behalf of the State, the statements of Sukesh and Mohanraj, insofar as they are relevant in respect of the present petitioner, have been summarised as follows:

**“Confessional statements u/s 18 MCOC Act of accused Sukash Chander Shekhar:**

*In the confessional statements got recorded U/s 18 MCOC Act by accused person namely Sukash V. Chandrashekar. The accused Sukash Chander Shekhar confessed that “I told her to brief each of our aid. The said cash was received at sow carpet Chennai and collected by Sudheer and Joel. Cash was delivered to Mohanraj and further delivered to Kamlesh Kothari and Arun Muthu. Arun Muthu deals in providing bank entries and Kamlesh Kothari deals in high end cars and house.”*

**Confessional Statement u/s 18 MCOC Act of accused B. Mohanraj:**

*The accused B. Mohanraj confessed that (“In June 2020, I got a call from Sukash Chander Shekhar on Telegram app on my mobile phone and Sukash Chander Shekhar asked me to buy cars for Leena Paulose. I introduced my friend Kamlesh Kothari to Leena Paulose. Leena Paulose bought three cars and cars were bought in cash on paper and payments were made to others. I and Kamlesh Kothari arranged all this and got huge commission. Last year i.e. 2020, Sukash Chander Shekhar called me on telegram and asked me to buy*

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*a house for Leena Paulose in some other's name. I discussed it with Kamlesh Kothari. The cash amount of Rs 7.75 Cr through Sudheer and Joel was handed over to Kamlesh Kothari at his office in T Nagar in my presence.”).*”

## **II. JUDGMENT DATED 11.07.2023:**

6. As noted above, an earlier bail application filed by the present petitioner before this Court, was dismissed by the 2023 judgment. It was Mr. Malhotra's submission that the Court must re-consider the question of the petitioner's entitlement to bail, in light of lapse of nearly three years since then. Mr. Malhotra placed reliance upon the judgment of the Supreme Court in *Babu Singh and Ors. v. State of Uttar Pradesh*<sup>6</sup>, which holds that rejection of an earlier application for bail, does not preclude further consideration, in the light of “*more materials, further developments and different considerations*”.

7. As the petitioner's contentions have been considered in the 2023 judgment, it is necessary to enumerate the following *prima facie* factual findings and legal conclusions recorded therein:

- a. After noticing the case of the prosecution and the contents of various statements recorded in the course of investigation, the Court considered the submissions made on behalf of the present petitioner, including as to the petitioner's limited role, and money received as commission in normal course of his business.
- b. In order to satisfy the ingredients of Sections 2(1)(d) of MCOCA, it is not necessary that the chargesheet should be against an individual, but a chargesheet against the syndicate as a whole, would also suffice<sup>7</sup>.

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<sup>6</sup>(1978) 1 SCC 579.

<sup>7</sup>2023 judgment, paragraph 45.



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- c. Individual members of the syndicate may have different roles in the commission of the crime. Channelising the money obtained through the foundational crime of extortion is, in fact, sufficient to make out an offence under MCOCA<sup>8</sup>.
- d. Membership of the syndicate itself constitutes an offence under Sections 2(1)(d) and 2(1)(e) of MCOCA<sup>9</sup>.
- e. The Court rejected the petitioner's contention that the provisions of MCOCA could not be invoked against him in the absence of more than one chargesheet having been filed against him<sup>10</sup>.
- f. The question of whether confessional statements recorded under Section 18 of MCOCA can be read into evidence in the absence of independent corroboration is a matter of trial<sup>11</sup>. Confessional statement may also be attributable to the co-accused<sup>12</sup>.
- g. Objections with regard to validity of the sanction under Sections 23(1)(a) and 23(2) of MCOCA can only be examined at trial, except when they touch upon inherent lack of jurisdiction, which was not argued in this case<sup>13</sup>.
- h. The twin conditions for grant of bail incorporated in Section 21(4) of MCOCA require the Court to be satisfied that there are "*reasonable grounds for believing that the accused is not guilty of such offence*", which is "*something more than prima facie grounds*"<sup>14</sup>.

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<sup>8</sup>2023 judgment, paragraph 46.

<sup>9</sup>2023 judgment, paragraph 47.

<sup>10</sup>2023 judgment, paragraph 48.

<sup>11</sup>2023 judgment, paragraph 49.

<sup>12</sup>2023 judgment, paragraph 50.

<sup>13</sup>2023 judgment, paragraph 54.

<sup>14</sup>2023 judgment, paragraph 55.

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- i. The present petitioner assisted Sukesh and Leena in purchasing luxury cars out of the extorted funds, including a Lamborghini Urus [TN04BE0006] with the help of one Surender Pawar [hereinafter, “Surender”], who was a financial broker. The said car was purchased in the name of Surender for Rs. 3.5 crores, but was used by Sukesh and Leena through a rental agreement in the name of M/s Nail Artistry in return for a monthly rent of Rs. 2.42 lakhs per month. It was found that the said amount was immediately withdrawn by Surender and handed over to the petitioner after deducting tax. The petitioner would thereafter deliver the said amount to Mohanraj or Leena. The aforesaid car was recovered from Leena’s possession. The purchase of the aforesaid car through *hawala* channel showed involvement of the petitioner as an active member of the Organised Crime Syndicate [hereinafter, “OCS”] in disposal of the extorted amount from the complainant<sup>15</sup>.
- j. Another vehicle, being a Bentley, was allegedly purchased in the name of M/s Priyanka Arcade using approximately Rs. 1.5 crores of the alleged extorted funds. It is alleged that the funds were routed through the petitioner, but the vehicle was ultimately used by Leena and Sukesh. The petitioner had allegedly stated that he handed the money to the owner of M/s Priyanka Arcade, although the owner later stated that payments had been received partly from the petitioner and partly from other persons. The vehicle was recovered from Leena’s possession.
- k. The petitioner’s brother, Manish Kothari, allegedly executed hire-purchase agreements with M/s Nail Artistry for three vehicles,

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<sup>15</sup>2023 judgment, paragraph 63.



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being a Bentley, a Range Rover, and a Toyota Fortuner, with financing of Rs. 40 lakhs, Rs. 30 lakhs, and Rs. 30 lakhs respectively. These vehicles were allegedly financed by Manish Kothari and the petitioner, and used by Leena and Sukesh<sup>16</sup>.

1. The petitioner also introduced his relative, Jitender Kothari, to Mohanraj to facilitate the purchase of a house for Leena at Kannatur Village for approximately Rs. 7 crores. Out of this amount, Rs. 5 crores were routed through sham transactions, after being received in cash through *hawala* channels, while the remaining Rs. 2 crores were allegedly paid in cash to the property's owner through the petitioner and Mohanraj. A lease agreement was then allegedly executed between Jitender Kothari and Leena for monthly rent of Rs. 2.5 lakhs. As with the Lamborghini car transaction, the rental payments were withdrawn and cycled back through the petitioner and Mohanraj to Leena. During a raid by the Enforcement Directorate, the house was found in Leena's possession, and was allegedly furnished with interiors worth several crores of rupees<sup>17</sup>.
- m. The petitioner is alleged to have received Rs. 10 lakhs as commission in relation to the vehicle transactions and Rs. 15 lakhs as commission in relation to the house transaction<sup>18</sup>.
- n. The investigation further alleges that Sukesh, assisted by Sudheer Abu and Joel, delivered money to Mohanraj, the petitioner, and others as part of the alleged laundering of the extorted funds<sup>19</sup>.

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<sup>16</sup>2023 judgment, paragraph 63.

<sup>17</sup>*Ibid.*

<sup>18</sup>*Ibid.*

<sup>19</sup>2023 judgment, paragraph 64.



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- o. The prosecution relies on the alleged confessional statements under Section 18 of MCOCA of Sukesh and Mohanraj, as well as the disclosure statement of the petitioner<sup>20</sup>.
- p. It is a matter of record that the petitioner had two previous involvements, being FIR No. 1319/2017, lodged at Police Station Soundarapandiyanar Angadi, District T. Nagar, Tamil Nadu under Sections 294(b)/341/342/363/506(1)/149 of IPC and FIR No. 470/2012, lodged at Police Station Soundarapandiyanar Angadi, District T. Nagar, Tamil Nadu, under Section 75 of the TNTCP Act<sup>21</sup>.

**III. SUBMISSIONS BY LEARNED COUNSEL FOR THE PARTIES:**

8. Mr. Malhotra's principal submission concerned prolonged incarceration and likely delay in completion of trial. He submitted that the petitioner was arrested on 05.09.2021, and has thus remained in custody for a period of almost 4 years and 10 months. Charges have recently been framed, by an order of the Special Court dated 03.06.2026. However, the State has cited 403 witnesses, and the chargesheets collectively exceed 10,000 pages. Further, one of the co-accused, Navas KI, has been arrested recently, and it is likely that a supplementary chargesheet will have to be filed in relation to his case. Considering the aforesaid factors, Mr. Malhotra submitted that the petitioner's right to a speedy trial, guaranteed under Article 21 of the Constitution, has been defeated, and his continued custody pending trial is constitutionally unjustifiable.

9. With regard to the statutory restrictions on grant of bail, under Section 21(4) of MCOCA, Mr. Malhotra referred to several judgments

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<sup>20</sup>2023 judgment, paragraph 65.

<sup>21</sup>2023 judgment, paragraph 66.



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and orders of Supreme Court<sup>22</sup> as well as this Court<sup>23</sup>, in which bail has nonetheless been granted to MCOCA accused on ground of prolonged incarceration. Additionally, he referred to the judgment in *Ranjitsingh Brahmajeetsing Sharma v. State of Maharashtra and Anr.*<sup>24</sup>, wherein the Supreme Court held that such statutory restrictions should not be “pushed too far”. He also relied upon the judgment in *Suhail Ahmad Thokar v. National Investigation Agency*<sup>25</sup>, which arose under the Unlawful Activities (Prevention) Act, 1967 [“UAPA”], to submit that, even recently, the Supreme Court has granted bail in a UAPA case, on the basis of period spent in custody, likelihood of prolonged trial, and parity with other co-accused, all of which are applicable to the present case also.

10. Mr. Malhotra further submitted that the legal position with regard to prolonged incarceration, *vis-à-vis* the restrictions on grant of bail under Section 21(4) of MCOCA, has been considered at length in the judgments in *Leena Paulose* and *Deepak Ramnani*. Applying the same yardstick to the present case, he submitted that the Court is required to examine the role attributed to the petitioner and the *prima facie* material supporting the allegations against him, to adjudicate whether his further custody is warranted. In this context, Mr. Malhotra argued that the petitioner’s role

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<sup>22</sup>*Rockysingh Jalindersingh Kalyani v. State of Maharashtra* [Criminal Appeal No. 176/2022, decided on 03.02.2022]; *Ranjana Tanaji Wanve v. State of Maharashtra* [SLP (Crl.) No. 12740/2024, decided on 22.10.2024]; *Siddhant v. State of Maharashtra* [2024 SCC OnLine SC 3798]; *Vinod v. State of Maharashtra* [SLP (Crl.) No. 14166/2024, decided on 08.01.2025]; *Vivek @ Vicky Janak Paneri v. State of Maharashtra* [SLP (Crl.) No. 2677-2678/2025, decided on 15.04.2025]; *Kailash Ramchandani v. State of Maharashtra & Anr.* [SLP (Crl.) No. 4276/2025, decided on 06.01.2026]; *Jagruti Dhanesh Thorat v. State of Maharashtra* [SLP (Crl.) No. 17295/2025, decided on 13.01.2026].

<sup>23</sup>*Arun v. State (Government of NCT of Delhi)*, BAIL APPLN. 3348/2023, decided on 07.04.2025; *Ashish @ Deva v. State (NCT of Delhi)*, BAIL APPLN. 1618/2024, decided on 29.04.2025; *Rajesh Kumar v. State (Government of NCT of Delhi)*, BAIL APPLN. 2986/2023, decided on 08.05.2025; *Jitender Dixit @ Bantu v. The State (Government of NCT of Delhi)*, BAIL APPLN. 3831/2023, decided on 19.05.2025.

<sup>24</sup>(2005) 5 SCC 294, paragraph 38.

<sup>25</sup>SLP (CRL.) No. 83/2024, decided on 22.05.2026.

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was limited to handling the allegedly extorted funds. He played no role in the planning or execution of the foundational offence of extortion, but only in management of the funds sent by Sukesh to Leena in Chennai. To this extent, he submitted that the petitioner's role is at the highest, comparable to that of Deepak, who was granted bail by judgment of this Court dated 05.06.2026. In fact, Mr. Malhotra submitted that the principal allegation against the petitioner was that he actively participated in the disposal of proceeds of crime, specifically by facilitating investments in luxury vehicles and immovable properties for Sukesh and Leena, and receiving a commission. According to Mr. Malhotra, the petitioner was not in contact with the main accused, i.e. Sukesh, and the alleged money trail also does not show that any part of the extorted funds were in the petitioner's hand at any time.

11. Mr. Malhotra also submitted, without prejudice to the aforesaid contentions, that the offences alleged against the petitioner are not made out at all, even on the prosecution's own showing, as the petitioner had no knowledge or reason to believe that any of the activities in which he participated were connected with a criminal offence. In the absence of such *mens rea*, learned counsel submitted that the offences of assistance and abetment in a MCOCA offence cannot be established. For this purpose, he relied upon the judgments of the Madras High Court in *Kumar Ganesaperumal v. Directorate of Enforcement*<sup>26</sup> and *VMT Spinning Mills India Pvt. Ltd. v. Directorate of Enforcement*<sup>27</sup>. Mr. Malhotra also submitted that the petitioner has no prior criminal involvements involving Sukesh/Leena, and the allegation of “*continuing*

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<sup>26</sup>2021 SCC OnLine Mad 8689.

<sup>27</sup>2022 SCC OnLine Mad 9267.

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*unlawful activity*” under Section 2(1)(d) of MCOCA cannot be made out against him.

12. With regard to the two earlier alleged criminal proceedings against the petitioner, referred to in the 2023 judgment, Mr. Malhotra submitted that proceedings arising out of FIR No. 1319/2017 were quashed, as against the petitioner by judgment of the Madras High Court<sup>28</sup>. He also submitted that FIR No. 470/2012 was closed without any further proceedings against the petitioner. He further stated that in the connected proceedings<sup>29</sup> under the Prevention of Money Laundering Act, 2002 [hereinafter, “PMLA”], the petitioner has already been granted bail<sup>30</sup>.

13. Mr. Jain, in contrast, submitted that the petitioner had a direct role in handling of the extorted funds in Chennai, alongwith other accused persons, with full knowledge of the illegal activities of the OCS. He was thus not only involved in abetment of the activities of the OCS, but was also directly involved in the “*continuing unlawful activities*”, within the meaning of Section 2(1)(d) of MCOCA, which reveals “*membership*” of the OCS under Section 3(4) of MCOCA. He submitted that the petitioner and Mohanraj, alongwith other Chennai based co-accused, participated in planning and execution of the activities related to handling of the extorted funds sent by Sukesh to Leena.

14. Mr. Jain urged the Court, at the stage of bail adjudication, to have due regard to Section 21(4) of MCOCA, which places restrictions on the grant of bail in such offences. According to him, grant of bail in such cases cannot be determined solely by the length of custody, for which

<sup>28</sup> CrI.O.P. No. 5801/2021: *Kamlesh Kothari v. The State and Anr.*, decided on 27.06.2023.

<sup>29</sup> ECIR/54/DLZO-II/2021, dated 08.08.2021, under Sections 3 and 4 of the PMLA.

<sup>30</sup> Order of the Special Court dated 14.08.2025.



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purpose he reiterated the submissions recorded in *Leena Paulose*<sup>31</sup> and in *Deepak Ramnani*<sup>32</sup>. Mr. Jain further urged that in the present case 17 adjournments have been taken by the accused alone, resulting in delay in framing of charges.

**IV. ANALYSIS:**

15. As noted above, this Court has, in the 2023 judgment, considered the petitioner's application for bail, in the course of which the prosecution case against the petitioner was discussed in detail. The role ascribed to the petitioner, as described in the 2023 judgment, has been summarised in paragraphs 6(i) to 6(n) above. As this Court has already analysed the material on record, albeit on a *prima facie* basis, I do not consider it appropriate to revisit that question at this stage.

16. However, the lapse of a period of three years since the 2023 judgment, raises a question of the interplay between the constitutional rights of an undertrial, who remains in custody for a prolonged period, with the statutory restrictions on grant of bail found in several special statutes such as the UAPA<sup>33</sup>, the Narcotic Drugs and Psychotropic Substances Act, 1985<sup>34</sup>, MCOCA<sup>35</sup>, and PMLA<sup>36</sup>. I have had the opportunity to consider the legal position governing this question, both in *Leena Paulose* and *Deepak Ramnani*.

17. In *Leena Paulose*, upon consideration of the interpretation of the three-Judge Bench decision of the Supreme Court in *Gulfisha Fatima v.*

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<sup>31</sup>Paragraphs 15, 16, 24, and 25.

<sup>32</sup>Paragraphs 9(a)-(c), 25, and 26.

<sup>33</sup>Section 43-D (5).

<sup>34</sup>Section 37.

<sup>35</sup>Section 21(4).

<sup>36</sup>Section 45.



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*State (Govt. of NCT of Delhi)*<sup>37</sup>, which had interpreted an earlier three-judge bench judgment in *Union of India v. K.A. Najeeb*<sup>38</sup>, I had proceeded on the following basis:

“29. The decision in *Gulfisha Fatima*, in my view, provides guidance on the approach to be adopted while adjudicating bail application under MCOCA also. Section 21(4) of MCOCA being on a “higher pedestal” than Section 43D(5) of UAPA, I agree with Mr. Jain that, at the very least, the same principles would govern the interplay between Section 21(4) of MCOCA and the Article 21 rights of an accused. The apparently distinct lines of authority cited above can, in my view, be reconciled, by applying the ratio of *Gulfisha Fatima*.

30. The position which emerges therefrom is that **statutory restrictions on grant of bail cannot preclude constitutionally protected claims, referable to Article 21 of the Constitution.** The ground of prolonged pre-trial incarceration without likelihood of culmination of proceedings must therefore be considered, even in cases involving special statutes. **However, these are not stand-alone considerations, but require to be analysed along with the nature of the offence and the prima facie material on record.** Conversely, while adjudicating the satisfaction required in terms of the statutory conditions, the material must be assessed through the lens of the right under Article 21 of the Constitution. **In order to adjudicate such a question, the factors to be borne in mind include the length of custody already undergone, the possible sentence for the offence, the possibility of concluding the proceedings within a reasonable time, whether delay in proceedings is attributable to the prosecution or the defence, and the nature of the prima facie case made out against the accused.**

31. *Haris Nisar Langoo*, in my view, does not depart from the above principles, but provides an example in which the Court was satisfied that the petitioner was entitled to bail, even after applying Section 43D(5) of UAPA. In fact, it may be noted that, even in *Gulfisha Fatima*, some of the accused were granted bail, having regard to the specific facts of their cases.”<sup>39</sup>

18. Soon after the judgment in *Leena Paulose* was delivered, the Supreme Court’s decision in *Syed Iftikhar Andrabi v. National Investigation Agency*<sup>40</sup> expressed reservations, with regard to the

<sup>37</sup>2026 SCC OnLine SC 10 [hereinafter, “*Gulfisha Fatima*”].

<sup>38</sup>(2021) 3 SCC 713 [hereinafter, “*K.A. Najeeb*”].

<sup>39</sup>Emphasis supplied.

<sup>40</sup>2026 SCC OnLine SC 881 [hereinafter, “*Andrabi*”].



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correctness of *Gulfisha Fatima*. This has led to a reference to a larger bench of the Supreme Court in *Tasleem Ahmad v. State Govt. of NCT of Delhi*<sup>41</sup>. Pending resolution of the issue by the larger bench, this Court, in *Deepak Ramnani*, considered it appropriate to adopt the following approach:

“22. The question that arises before this Court, in light of the aforesaid decisions, is to determine the approach which must be adopted in adjudication of the present applications. Needless to say, the differing approaches expounded by the Supreme Court in *Gulfisha Fatima* and *Syed Iftikhar Andrabi*, are both binding upon this Court. Although the question has been referred to a larger bench in *Tasleem Ahmed 2*, the factum of reference itself does not denude a Supreme Court decision of its binding authority<sup>42</sup>.

23. The possible course of awaiting an authoritative decision by the larger bench of the Supreme Court does not commend to me, in the context of these applications for bail, which by their very nature require expeditious resolution. Instead, having considered the judgments cited by both sides, which were rendered after *Gulfisha Fatima*, I am of the view that a practical approach must be adopted, at least until the reference is answered by a larger bench. In the present case, such an approach requires this Court first to adjudicate upon Mr. Malik’s submission that, even in terms of the interpretation of K.A. Najeeb in *Gulfisha Fatima*, as understood by this Court in *Leena Palouse-II*, the petitioners are entitled to bail. If this contention is accepted, it is unnecessary to delve further into the exercise of reconciliation between the views expressed in *Gulfisha Fatima* and *Syed Iftikhar Andrabi*, with regard to the competing interpretation of K.A. Najeeb.

24. Before embarking upon this exercise, I may only add that this course is also not, in my view, inconsistent with the interpretation of K.A. Najeeb in *Syed Iftikhar Andrabi*. **The position of law laid down in *Gulfisha Fatima*, as I have understood it in *Leena Paulose-II*, was that the ground of prolonged incarceration without likelihood of culmination of proceedings, must be considered even in cases involving statutory restrictions on grant of bail. However, these must be analysed, alongwith the nature of offence, and the prima-facie material available against the accused. The articulation in *Syed Iftikhar Andrabi*, is that the statutory limitation on the grant of bail cannot override rights under Article 21, but that “of course, in an appropriate case, bail can be**

<sup>41</sup>SLP (CRL.) No. 3867/2026, dated 22.05.2026 [hereinafter, “*Tasleem Ahmad*”].

<sup>42</sup>*Harbhajan Singh and Another v. State of Punjab*, (2009) 13 SCC 608, paragraph 15; *National Insurance Company Limited v. Pranay Sethi*, (2017) 16 SCC 680; *Union Territory of Ladakh and Ors. v. Jammu and Kashmir National Conference and Anr.*, (2024) 18 SCC 643, paragraph 35.

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*denied having regard to the facts of that particular case”<sup>43</sup>. Syed Iftikhar Andrabi therefore also requires a factual examination, to determine whether a particular accused is to be granted bail, despite an argument based upon his/her Article 21 rights. It may be noted that, both in *Gulfisha Fatima* and in *Syed Iftikhar Andrabi*, the Supreme Court examined the case of accused on merits, in the backdrop of period of incarceration and the likely length of trial. In *Gulfisha Fatima*, five of the seven accused were granted bail, as was the sole accused in *Syed Iftikhar Andrabi*.”<sup>44</sup>*

19. I propose to adopt the same approach in the present case also. I may also note that, in *Khuram Parvez v. National Investigation Agency*<sup>45</sup>, which was rendered after the aforesaid judgments of the Supreme Court, including the reference order in *Tasleem Ahmad*, a Division Bench of this Court has adopted a similar approach. The case concerned an application for bail in a UAPA offence. The Court’s approach is indicated by the following observations:

“61. Keeping in view the above, we have proceeded to consider the case of the appellant for releasing him on bail.

62. For the same, we would note that the appellant was taken into custody in the present case on 22.11.2021, and has, therefore, undergone **prolonged incarceration** of almost 4½ years. The **stage of the trial** is at the arguments for framing of charge. We are further informed that the **prosecution intends to examine 197 witnesses** in case the charge is framed against the appellant.

63. We shall also conduct a **surface evaluation of the case alleged by the prosecution against the appellant.**

xxx

xxx

xxx

71. We have taken note of the above **allegations and the defence of the appellant, only to highlight that they must be tested against the long period of incarceration of the appellant and the fact that there is no likelihood of the trial ending soon** as also against the yardstick of bail being the rule, while denial thereof being an exception. **The appellant’s rights under Article 21 of the Constitution of India need to be balanced and may even trump the restriction imposed under Section 43D(5) of the UAPA.**

<sup>43</sup> *Andrabi*, paragraph 35.

<sup>44</sup> Emphasis supplied.

<sup>45</sup> CRL.A. 1234/2024, decided on 10.06.2026.



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72. We are also mindful of the fact that one of the co-accused, namely, Zafar Abbas (A-4), has been denied bail by this Court and the said order has been upheld by the Supreme Court, however, we find that the allegations against the said co-accused were very different from the one against the appellant herein.<sup>46</sup>

20. Applying the same benchmark to the present case, it may be noted that the petitioner is not accused of participation in the alleged acts of extortion, against the complainant or any other person. Even as per the prosecution case, as noted in the 2023 judgment, the role attributed to him concerns planning and management of funds transferred by Sukesh to Leena, including acquisition of immovable properties and luxury cars in the names of other individuals or entities, and handling of the said cars. The alleged confessional statements, of the petitioner and Sukesh, relied upon by the prosecution, do not *prima facie* accord any higher role to the petitioner than this.

21. As against this, the petitioner has already spent approximately 4 years and 10 months in custody as an undertrial. The offence under Section 3(4) of MCOCA carries a sentence which may extend to imprisonment of five years to life imprisonment. However, the factors indicated above, including the number of accused [24], number of witnesses [403], and the complexity of the case, make expeditious conclusion of the proceedings unlikely. Having regard to the role ascribed to the petitioner by the prosecution, I am of the view that his further incarceration as an undertrial, is inappropriate. Although I have held, in *Leena Paulose*<sup>47</sup>, that the delay in the present case cannot be attributed to prosecutorial delays or court inaction alone, I am nonetheless of the view

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<sup>46</sup>Emphasis supplied.

<sup>47</sup>Paragraph 37.



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that the facts of each case have to be examined on their own merits, with due consideration of the specific roles ascribed to the individual in question.

22. As I have held that the petitioner is entitled to bail even if the prosecution case is taken at its highest, I do not consider it necessary to address the other contentions raised by Mr. Malhotra.

**V. CONCLUSION:**

23. For the aforesaid reasons, the application is allowed, and it is directed that the petitioner be released on bail in connection with FIR No. 208/2021, dated 07.08.2021, registered at Police Station Special Cell, Delhi, subject to furnishing a personal bond of Rs. 2,50,000/-, alongwith two sureties in the like amount, to the satisfaction of the concerned Special Court/Duty Magistrate, and subject to the following further conditions:

- a. The petitioner shall appear before the Special Court on each and every date of hearing;
- b. The petitioner shall surrender his passport before the Special Court, and shall not leave the country without prior permission of the concerned Court;
- c. The petitioner shall provide his permanent address to the concerned Court, as also the address where he is residing during the pendency of the case. The petitioner shall intimate the Investigating Officer [“IO”], and file an affidavit before the Special Court, regarding any change in residential address;
- d. The petitioner shall provide his mobile number to the concerned IO/Station House Officer, which shall be kept in working condition at all times. The mobile number shall not be switched off or



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changed without prior intimation to the IO during the pendency of the trial;

- e. The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- f. The petitioner shall not commit any offence during the period of his release.

24. The bail application is disposed of in terms of the above.

25. It is clarified that any observations made in the present judgment are solely for the purpose of deciding the present bail application, and shall neither influence the trial proceedings, nor be construed as an expression of opinion on the merits of the case.

26. Copy of the judgment be communicated to the concerned Jail Superintendent electronically for information and necessary compliance.

**PRATEEK JALAN, J**

**JULY 7, 2026**

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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Decided on: 07.07.2026*+ **BAIL APPLN. 881/2025**

B. MOHANRAJ

.....Petitioner

versus

THE STATE OF NCT OF DELHI &amp; ANR.

.....Respondent

***Appearance:-***

Mr. Anand Grover, Sr. Advocate with Mr. Ravinder Singh, Ms. Raveesha Gupta, Mr. Ritvik Bhardwaj, Ms. Nishita Kushwaha, Advocates for Petitioner.

Mr. Sanjay Jain, Sr. Advocate with Mr. Akhand Pratap Singh, SPP, Mr. Nishank Tripathi, Ms. Harshita Sukhija, Ms. Rishika Agarwal, Mr. Shreyan Srivastav, Ms. Samridhi Dobhal, Ms. Krishna Mohan Chandel, Mr. Hritwik Maurya, Ms. Lisa Pagwal, Ms. Apoorv Paliya, Mr. Utkarsh Singh, Advocates for State with ACP Virender Kadyan, Insp. Pradeep Rai.

**CORAM:****HON'BLE MR. JUSTICE PRATEEK JALAN****J U D G M E N T****PRATEEK JALAN, J. (ORAL)**

1. By way of the present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ["BNSS"] (corresponding to Section 439 of the Code of Criminal Procedure, 1973 ["CrPC"]), the petitioner seeks regular bail in connection with FIR No. 208/2021, dated 07.08.2021, registered at Police Station Special Cell, Delhi, under Sections 170/384/385/388/419/420/506/120B of the Indian Penal Code, 1860 ["IPC"], and Section 66D of the Information Technology Act, 2000

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[“IT Act”]. At the time of filing of the chargesheet, Sections 3 and 4 of the Maharashtra Control of Organised Crime Act, 1999 [“MCOCA”], were also invoked.

2. At the outset, it may be noted that this is the second bail application filed by the petitioner before this Court. His first bail application<sup>1</sup> was dismissed by a judgment dated 11.07.2023 [hereinafter, “the 2023 judgment”]. The petitioner had thereafter applied for bail before the Special Court for the second time. However, the Special Court rejected his application *vide* order dated 08.05.2024, which has brought him back to this Court.

3. In the meanwhile, the petitioner had also filed a Special Leave Petition<sup>2</sup> before the Supreme Court, challenging the observations contained in paragraph 54 of the 2023 judgment, with regard to the validity of the sanction under MCOCA. The said Special Leave Petition was disposed of by the Supreme Court *vide* order dated 01.04.2026, with the following observations:

*“1. Delay condoned.*

*2. Having heard Mr. Anand Grover, learned senior counsel appearing for the petitioner as well as Mr. S. D. Sanjay, learned Additional Solicitor General for the respondent, we dispose of the special leave petition with the clarification that paragraph 54 of the impugned judgment and order shall be read as necessary for disposal of the application before the High Court and any observation made in such paragraph shall have no bearing insofar as the petition that is pending before the High Court challenging the order of sanction.*

*3. Pending application(s), if any, shall stand disposed of.”*

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<sup>1</sup> BAIL APPLN. 1170/2022.

<sup>2</sup> SLP (Crl.) Diary No. 56122/2024.



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4. I have heard Mr. Anand Grover, learned Senior Counsel for the petitioner, and Mr. Sanjay Jain, learned Senior Counsel for the State. The State has also filed a status report, which is on record.

5. I have also recently decided three bail applications arising out of the same proceedings, filed by co-accused Leena Paulose [hereinafter, “Leena”], Deepak Ramnani [hereinafter, “Deepak”], and Pradeep Ramdanee [hereinafter, “Pradeep”]. The application filed by Leena<sup>3</sup> was dismissed, whereas the applications filed by Deepak<sup>4</sup> and Pradeep<sup>5</sup> were allowed.

**I. PROSECUTION CASE:**

6. The prosecution case, as it appears from the material on record, is as follows:

- a. FIR No. 208/2021, dated 07.08.2021, lodged at Police Station Special Cell, Delhi, under Sections 170/384/385/388/419/420/506/120B of the IPC and Section 66D of the IT Act, was registered at the instance of one Ms. Aditi Singh.
- b. According to the complaint, on 15.06.2020, the complainant received a call on her mobile phone from a landline number. The caller introduced himself as a senior officer in the Ministry of Law and offered assistance in securing bail for her husband, who was in judicial custody in cases related to M/s Religare Enterprises Limited.

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<sup>3</sup> BAIL APPLN. 1802/2024, decided on 05.05.2026 [hereinafter, “Leena Paulose”]. An earlier application for bail filed by Leena in the State proceedings [BAIL APPLN. 3706/2022] was also rejected by the 2023 judgment.

<sup>4</sup> BAIL APPLN. 4286/2024, decided on 05.06.2026 [hereinafter, “Deepak Ramnani”].

<sup>5</sup> BAIL APPLN. 4441/2024, decided on 05.06.2026.



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- c. It is alleged that the caller demanded Rs. 50 crores in exchange for facilitating the bail and explained the method of delivering the money.
- d. Subsequently, through his associates, the caller allegedly extorted money from the complainant on multiple occasions between June 2020 and August 2021, amounting to Rs. 217 crores. There are further allegations with regard to impersonation of senior officials, including the Home Secretary, Government of India, and misrepresenting the involvement of other government functionaries, including the Home Minister.
- e. Acting on the said information, on 07.08.2021, the police laid a trap and apprehended Pradeep, while he was receiving the extorted amount. He was arrested on the same day. During interrogation, he disclosed that he was acting on the instructions of his brother, Deepak, who was subsequently arrested on 08.08.2021.
- f. Using technical surveillance of the mobile phone used for making the calls, and the statements of co-accused, the caller was identified as one Sukesh Chandra Shekhar @ Sukash Chandra Shekhar [hereinafter, "Sukesh"].
- g. At this time, Sukesh was already lodged in Tihar Jail as an undertrial prisoner in a separate case, involving allegations of collecting money from a political leader on the pretext of helping him retain a particular election symbol. He was later shifted to Rohini Jail.
- h. A raid was conducted on the intervening night of 07/08.08.2021 by the Special Cell, during which two mobile phones were recovered



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from Sukesh, while he was in custody, and he was formally arrested in connection with the present FIR. His interrogation led to the identification and arrest of other associates and co-conspirators. The petitioner was arrested on 05.09.2021.

- i. During investigation, it was found that Sukesh was involved in multiple cases, including attempt to murder, criminal intimidation, cheating, and extortion, often by impersonating high-ranking officials.
- j. Part of the extorted amount was allegedly transmitted by Sukesh, through *hawala* channels, to his wife, Leena, in Chennai.
- k. As far as the present petitioner is concerned, his role in the aforesaid offences is summarised in the chargesheet as follows:

**“5. Accused B. Mohanraj:**

- *B. Mohanraj is an advocate by profession and he has been close associate of accused Sukash and Leena. Apart of facilitating the legal matters he has also helped them in disposing off crime proceeds.*
- *Accused B. Mohan Raj helped in purchasing property No. Plot No. 12813 Sneha Garden, Kanathur, ECR Road, Chennai against payment of Rs. 7.75 Crores and also purchased two high end carsd make Lambhorgini for Rs. 3 Crores and BentleyBehtayaga for Rs. 2 Crore for Leena Maria Paul from the crime proceeds sent by Sukash.*
- *B. Mohanraj helped Sukash and Leena in purchasing these assets in the name of third parties by arranging bank entries against receipt of cash. B. Mohanraj sought the help of his friend/contract namely Kamlesh Kothari and Jitender Kothari to accept the cash and then channelize the same for making banking transactions.*
- *The property and the cars were also purchased in the names of the associates so engaged and then Lease Agreement and rent Agreement were executed with Leena Paul w/o SukeshChanderSekha with the the engaged owners of her use.*
- *The arrangement was made to de-associate themselves with the properties acquired out of the proceeds of crime by*



*procuring these in the name of third parties and then entering into Lease Agreement /rent Agreement for personal use.*

- *He received Rs. 15 lakhs and 10 lakhs as his fees cum consultancy from Sukash Chandra Shekar in purchasing aforesaid assets and cars respectively.*
- *Statements U/s 18 (1) MCOCA of Sukash and B. Mohan Raj.”*

1. The State relied upon confessional statements under Section 18 of MCOCA made by Sukesh and the petitioner herein. The relevant portions of the statements of Sukesh, to the extent they relate to the present petitioner, and the petitioner himself, have been summarised in the status report filed on behalf of the State, as follows:

**“CONFESSONAL STATEMENTS U/S 18 MCOC ACT OF ACCUSED/APPLICANT B. MOHAN RAJ**

*During investigation, accused B. Mohan Raj was arrested on 05.09.2021 and his confessional statement u/s 18 MCOC Act was recorded as per procedure by an independent DCP rank officer.*

*In his confessional statement, accused B. Mohan Raj had admitted that while handling cases of Sukash Chandra Shekhar and Leena Paulose, he found that they were working as a group and obtaining lot of money from their illegal activities.*

*He also got into the affairs of management of their funds and joined their syndicate. He received a lot of commission from them. Over the period, he became one of the most integral part the syndicate. Though overtly, he was managing their legal affairs, but covertly he was managing their funds obtained from their illegal activities and getting his share too.*

*In the year 2017, Sukash Chandra was arrested by Delhi Crime Branch in connection with the Election Commission bribery case. In that case, Sukash Chandra Shekhar made a phone call to accused M. Mohan Raj and informed that he had struck a deal with TTV Dinakaran, a politician of AIADMK party for Rs. 50 Cr. and since then, Sukash Chandra Shekhar was lodged in Tihar Jail, Delhi. Accused B. Mohan Raj was continuously in contact with Sukash Chandra Shekhar and Leena Paulose. In 2019, Sukash Chandra Shekhar came out on interim bail for 4 months. Accused B. Mohan Raj met him in Leena’s parlour Nail Artistry, Alwarpet, Chennai and also met them at their house. He was introduced to one Arun Muthu, who is a friend of Sukash Chandra Shekhar and Leena*



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*Paulose. B. Mohan Raj came to know that Arun Muthu was running a Garment business in the name of Stash Wear, in Chennai.*

*In January, 2020, a case was registered against Sukash Chandra Shekhar while he was in Tihar Jail, by the C.B.I, Hyderabad wherein he came to know that Sukash Chandra Shekhar impersonated himself as a senior CBI officer and extorted money from the victim. CBI raided the house of Leena Paulose in Boat Club, Chennai which was taken on rent in the name of Arun Muthu for Leena. He has facilitated the rent deal in which Arun Muthu used to receive cash with huge commission. In June 2020, B. Mohan Raj got a call from Sukash Chandra Shekhar on Telegram App on his mobile number. Sukesh asked him to buy cars for Leena. He introduced his friend Kamlesh Kothari, a high-end car dealer in Chennai to Leena Paulose. Then, Leena Paulose bought three cars, Range Rover Sport, Bentley and Fortuner from Kamlesh Kothari in connivance with B Mohan Raj. Kamlesh Kothari and B. Mohan Raj himself arranged all these transactions and got huge commission. During August 2020, Sukash Chandra Shekhar called B. Mohan Raj on Telegram and asked him to buy a house for Leena Paulose in some other person's name. He discussed it with Kamlesh Kothari who suggested a house, Plot No.12&13, Sneha Garden, Kanathur, ECR Road, Chennai. They finalized the deal. Sukash Chandra Shekhar sent cash Rs.7.75 Crores through Sudheer and Joel Daniel and handed over the money to accused Kamlesh Kothari at his office at Chennai in his presence. The house was registered in the name of Shri Jai Jinendra Constructions Company in which Kamlesh Kothari's cousin brother Jitender Kothari is a director. The cost of the house was Rs.6.5 crores out of which Rs.4.5 crores was paid in Demand Draft by Jitender Kothari to the seller and Rs.2 crores cash was paid to the seller by Kamlesh Kothari. Rs.50 Lakhs was the cost of registration. Out of the remaining Rs.75 Lakh, Jitender Kothari got Rs.45 Lakhs, Kamlesh Kothari got Rs.15 Lakhs and B. Mohan Raj got Rs.15 Lakh as his share.*

*Leena Paulose occupied the said house and got the renovation work done and interior work and bought all the interiors. A rental agreement for this house was executed between Leena Paulose and Jitender Kothari for Rs.2.5 Lakhs per month from January 2021. Leena used to send the monthly rent through RTGS to Jitender Kothari and he in turn used to deduct the tax amount and return the balance amount to Kamlesh Kothari and he used to get that amount and handed it over to Leena Paulose.*

*The original documents of the house property were handed over to Leena Paulose by accused B. Mohan Raj in the presence of Sukash Chandra Shekhar at his TVH House, Adyar, Chennai, when Sukash Chandra Shekhar came on interim bail in October, 2020.*

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Later on, in August 2020, Sukash Chandra Shekhar wanted to buy two cars for his wife Leena Paulose. Sukash Chandra Shekhar informed accused B. Mohan Raj that he had spoken to the sellers of the car and Sukash wanted it to be bought in some other's names. Kamlesh Kothari arranged two buyers for the same. Sukash Chandra Shekhar sent cash through Sudheer to them and they bought two cars (1) Lamborghini Urus for Rs. 3.5 crores, and (2) Bentley Bentayga for Rs. 2 crores for which B. Mohan Raj received Rs.10 Lakhs and Kamlesh Kothari got Rs.10 Lakhs. For buying these cars, the cash was handed over by Sudheer to Kamlesh Kothari at Kamlesh's office. Kamlesh Kothari gave it to the owners and they sent it to the sellers through RTGS and bought the cars.

**CONFESSSIONAL STATEMENTS U/S 18 MCOC ACT OF ACCUSED SUKASH CHANDRA SHEKHAR**

The accused Sukash Chandra Shekhar confessed that "I told her (Leena Paulose) to brief each of our aid. The said cash was received at sow carpet Chennai and collected by Sudheer and Joel. Cash was delivered to B. Mohan Raj and further delivered to Kamlesh Kothari and Arun Muthu. Arun Muthu deals in providing bank entries and Kamlesh Kothari deals in high end cars and house. For me and Leena, it was B. Mohan Raj who looked after all the affairs. All members were paid hefty commissions for their respective works. B. Mohan Raj also arranged some entity for purchasing house also. B. Mohan Raj and Kamlesh Kothari connected us to Jitender Kothari and bought house at 12/13, Kannathur village, opposite Mayajaal Cinemas, ECR, Chennai in name of Jitender Kothari in August 2020."

**II. JUDGMENT DATED 11.07.2023:**

7. As noted above, an earlier bail application preferred by the present petitioner before this Court was dismissed by the 2023 judgment. Mr. Grover submitted that the Court ought to reconsider the petitioner's entitlement to bail, in view of the lapse of approximately three years since the said decision. As the 2023 judgment deals with the same FIR and the same petitioner, it is necessary to summarise the following *prima facie* factual findings and legal conclusions contained therein:



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- a. After noticing the case of the prosecution and the contents of various statements recorded in the course of investigation, the Court considered the submissions made on behalf of the present petitioner, including as to the petitioner's limited role.
- b. In order to satisfy the ingredients of Sections 2(1)(d) of MCOCA, it is not necessary that the chargesheet should be against an individual, but a chargesheet against the syndicate as a whole, would also suffice<sup>6</sup>.
- c. Individual members of the syndicate may have different roles in the commission of the crime. Channelising the money obtained through the foundational crime of extortion is, in fact, sufficient to make out an offence under MCOCA<sup>7</sup>.
- d. Membership of the syndicate itself constitutes an offence under Sections 2(1)(d) and 2(1)(e) of MCOCA<sup>8</sup>.
- e. The question of whether confessional statements recorded under Section 18 of MCOCA can be read into evidence in the absence of independent corroboration is a matter of trial<sup>9</sup>. Confessional statement may also be attributable to the co-accused<sup>10</sup>.
- f. Objections with regard to validity of the sanction under Sections 23(1)(a) and 23(2) of MCOCA can only be examined at trial, except when they touch upon inherent lack of jurisdiction, which was not argued in this case<sup>11</sup>.

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<sup>6</sup> 2023 judgment, paragraph 45.

<sup>7</sup> 2023 judgment, paragraph 46.

<sup>8</sup> 2023 judgment, paragraph 47.

<sup>9</sup> 2023 judgment, paragraph 49.

<sup>10</sup> 2023 judgment, paragraph 50.

<sup>11</sup> 2023 judgment, paragraph 54. This conclusion has been referred to in the order of the Supreme Court



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- g. The twin conditions for grant of bail incorporated in Section 21(4) of MCOCA requires the Court to be satisfied that there are “*reasonable grounds for believing that the accused is not guilty of such offence*”, which is “*something more than prima facie grounds*”<sup>12</sup>.
- h. The present petitioner played an active role in assisting the crime syndicate led by accused Sukesh and Leena in managing the proceeds of crime derived from cheated and extorted funds. He was also a member and an integral part of the group headed by Sukesh and Leena. The petitioner admitted that, while he was overtly managing their legal affairs, he was covertly managing funds derived from their illegal activities. He not only facilitated the purchase of vehicles but also handled the delivery of cash. Further, he played an instrumental role in the purchase of a property worth several crores in Chennai, which was a benami property of Leena. The said property was purchased in the name of Jitender Kothari on the instructions of accused Kamlesh Kothari [hereinafter, “Kamlesh”]<sup>13</sup>. Investigation further revealed that the petitioner had introduced Kamlesh to Leena<sup>14</sup>.
- i. The present petitioner was involved in aiding and abetting the foundational crime by channelising the proceeds of crime, and his role was not limited to that of a lawyer<sup>15</sup>.

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dated 01.04.2026 in SLP (Crl.) Diary No. 56122/2024, extracted in paragraph 3 above.

<sup>12</sup> 2023 judgment, paragraph 55.

<sup>13</sup> 2023 judgment, paragraphs 67, 68, and 69.

<sup>14</sup> 2023 judgment, paragraph 77.



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### **III. SUBMISSIONS BY LEARNED COUNSEL FOR THE PARTIES:**

8. In support of the present application, Mr. Grover submitted that the petitioner has remained incarcerated for nearly 4 years and 10 months. It was pointed out that charges have only recently been framed by the Special Court *vide* order dated 03.06.2026. Despite the prolonged period of custody, the trial is not likely to conclude within a reasonable timeframe, as the State has cited 403 witnesses and the chargesheets collectively run into more than 10,000 pages. It was further submitted that one of the co-accused, Navas KI, has been arrested only recently, and it is likely that a supplementary chargesheet will be filed in relation to his case, which would occasion further delay in the conclusion of the trial. Mr. Grover relied upon *Union of India v. K.A. Najeeb*<sup>16</sup>, and several later judgments of the Supreme Court, in support of this contention, which have been considered later in this judgment.

9. It was further submitted that the allegations against the petitioner do not attribute any role to him in the alleged coercion or extortion activities of Sukesh. The prosecution case against him, namely, that he facilitated the purchase of cars and property for Leena and parked funds on behalf of Sukesh and Leena, rests primarily on confessional statements recorded under Section 18 of MCOCA, which have since been retracted. There is no independent documentary evidence or money trail, linking the petitioner to the alleged offences. In these circumstances, it was submitted that there is no material to establish that the petitioner was a member of the OCS.

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<sup>15</sup> 2023 judgment, paragraph 69.

<sup>16</sup> (2021) 3 SCC 713 [hereinafter, “K.A. Najeeb”].



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10. Mr. Grover further submitted that the confessional statements under Section 18 of the MCOCA were recorded contrary to the statutory procedure. He contended that Section 18(3) mandates that the police officer certify his satisfaction that the confession was made voluntarily, which is a precondition for recording the confession. However, in the present case, no such certification was recorded. He further submitted that the validity of the confessional statements was undermined by the absence of a cooling-off period between the petitioner being in police custody, and the recording of the confession. In support of this contention, he placed reliance on the decision of the Supreme Court in *Kartar Singh v. State of Punjab*<sup>17</sup>.

11. Lastly, Mr. Grover submitted that the petitioner is a practising Advocate<sup>18</sup> with deep roots in society. The petitioner is married, has two minor daughters, and is also responsible for the care of his paralysed father. He stated that the petitioner has no criminal antecedents apart from the present case, and the connected proceedings<sup>19</sup> under the Prevention of Money Laundering Act, 2002 [hereinafter, “PMLA”], wherein he has already been granted bail<sup>20</sup>.

12. Mr. Jain, on the other hand, submitted that the issues now sought to be raised have already been raised<sup>21</sup> and dealt with in the 2023 judgment, which specifically considered the petitioner’s role in light of his

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<sup>17</sup> (1994) 3 SCC 569, paragraph 390.

<sup>18</sup> Mr. Grover placed on record a compilation to show that the petitioner was engaged in regular legal practice during the relevant period.

<sup>19</sup> ECIR/54/DLZO-II/2021, dated 08.08.2021, under Sections 3 and 4 of the PMLA.

<sup>20</sup> Order of the Special Court dated 16.12.2025.

<sup>21</sup> 2023 judgment, paragraphs 12 to 17.



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confessional statement<sup>22</sup>. It was observed that a sum of Rs. 21 crores was remitted to Leena by the petitioner, co-accused Arun Muthu, and other persons, in exchange for cash provided by Leena and Sukesh<sup>23</sup>. The petitioner made arrangement for the purchase of cars and property, as well as for the delivery of cash, despite his knowledge that the funds had been derived from the activities of the OCS. Further, call data from the Hushed App showed communication between the petitioner and Sukesh. The petitioner's involvement, therefore, demonstrates his active membership in the OCS.

13. Mr. Jain also submitted that the benefit of Article 21 cannot be granted in a case where the delay in trial is attributable to the accused. He contended that the judgment in *K.A. Najeeb* does not foreclose such considerations. According to him, the grant of bail in cases where statutory restrictions, such as those under Section 21(4) of MCOCA, apply cannot be determined solely on the basis of the length of custody. In support of this contention, he reiterated the submissions recorded in *Leena Paulose*<sup>24</sup> and *Deepak Ramnani*<sup>25</sup>.

14. In rejoinder, Mr. Grover reiterated his reliance upon *K.A. Najeeb*, to submit that statutory restrictions “*melt down where there is no likelihood of trial being completed within a reasonable time*”<sup>26</sup>. He also submitted that the Hushed App call data between the petitioner and Sukesh consists of only a single call of 36 seconds and, in any event, is of

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<sup>22</sup> 2023 judgment, paragraphs 67 to 69.

<sup>23</sup> 2023 judgment, paragraphs 60 and 61.

<sup>24</sup> Paragraphs 15, 16, 24, and 25.

<sup>25</sup> Paragraphs 9(a)-(c), 25, and 26.

<sup>26</sup> Paragraph 17.



no probative value in the absence of any material pertaining to the contents of the conversation.

**IV. ANALYSIS:**

15. As noted above, this Court has, in the 2023 judgment, considered the petitioner's application for bail, in the course of which the prosecution case against the petitioner was discussed in detail. The role ascribed to the petitioner, as described in the 2023 judgment, has been summarised in paragraphs 7(h) and 7(i) above. As this Court has already analysed the material on record, *albeit* on a *prima facie* basis, I do not consider it appropriate to revisit that question at this stage.

16. However, in view of the lapse of a further period of three years since the 2023 judgment, this case raises a question of the interplay between the constitutional rights of an undertrial, who remains in custody for a prolonged period, with the statutory restrictions on grant of bail found in several special statutes such as the Unlawful Activities (Prevention) Act, 1967 [hereinafter, "UAPA"]<sup>27</sup>, the Narcotic Drugs and Psychotropic Substances Act, 1985<sup>28</sup>, MCOCA<sup>29</sup>, and PMLA<sup>30</sup>. I have had the opportunity to consider the legal position governing this question, both in *Leena Paulose* and *Deepak Ramnani*.

17. In *Leena Paulose*, upon consideration of the interpretation of the three-Judge Bench decision of the Supreme Court in *Gulfisha Fatima v. State (Govt. of NCT of Delhi)*<sup>31</sup>, which had interpreted an earlier three-

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<sup>27</sup> Section 43-D (5).

<sup>28</sup> Section 37.

<sup>29</sup> Section 21(4).

<sup>30</sup> Section 45.

<sup>31</sup> 2026 SCC OnLine SC 10 [hereinafter, "*Gulfisha Fatima*"].



judge bench judgment in *K.A. Najeeb*, I had proceeded on the following basis:

“29. The decision in *Gulfisha Fatima*, in my view, provides guidance on the approach to be adopted while adjudicating bail application under MCOCA also. Section 21(4) of MCOCA being on a “higher pedestal” than Section 43D(5) of UAPA, I agree with Mr. Jain that, at the very least, the same principles would govern the interplay between Section 21(4) of MCOCA and the Article 21 rights of an accused. The apparently distinct lines of authority cited above can, in my view, be reconciled, by applying the ratio of *Gulfisha Fatima*.

30. The position which emerges therefrom is that **statutory restrictions on grant of bail cannot preclude constitutionally protected claims, referable to Article 21 of the Constitution.** The ground of prolonged pre-trial incarceration without likelihood of culmination of proceedings must therefore be considered, even in cases involving special statutes. **However, these are not stand-alone considerations, but require to be analysed alongwith the nature of the offence and the prima facie material on record.** Conversely, while adjudicating the satisfaction required in terms of the statutory conditions, the material must be assessed through the lens of the right under Article 21 of the Constitution. **In order to adjudicate such a question, the factors to be borne in mind include the length of custody already undergone, the possible sentence for the offence, the possibility of concluding the proceedings within a reasonable time, whether delay in proceedings is attributable to the prosecution or the defence, and the nature of the prima facie case made out against the accused.**

31. *Haris Nisar Langoo*, in my view, does not depart from the above principles, but provides an example in which the Court was satisfied that the petitioner was entitled to bail, even after applying Section 43D(5) of UAPA. In fact, it may be noted that, even in *Gulfisha Fatima*, some of the accused were granted bail, having regard to the specific facts of their cases.”<sup>32</sup>

18. Soon after the judgment in *Leena Paulose* was delivered, the Supreme Court’s decision in *Syed Iftikhar Andrabi v. National Investigation Agency*<sup>33</sup> expressed reservations, with regard to the correctness of *Gulfisha Fatima*. This has led to a reference to a larger

<sup>32</sup> Emphasis supplied.

<sup>33</sup> 2026 SCC OnLine SC 881 [hereinafter, “*Andrabi*”].



bench of the Supreme Court in *Tasleem Ahmad v. State Govt. of NCT of Delhi*<sup>34</sup>. Pending resolution of the issue by the larger bench, this Court, in *Deepak Ramnani*, considered it appropriate to adopt the following approach:

“22. The question that arises before this Court, in light of the aforesaid decisions, is to determine the approach which must be adopted in adjudication of the present applications. Needless to say, the differing approaches expounded by the Supreme Court in *Gulfisha Fatima* and *Syed Iftikhar Andrabi*, are both binding upon this Court. Although the question has been referred to a larger bench in *Tasleem Ahmed 2*, the factum of reference itself does not denude a Supreme Court decision of its binding authority<sup>35</sup>.

23. The possible course of awaiting an authoritative decision by the larger bench of the Supreme Court does not commend to me, in the context of these applications for bail, which by their very nature require expeditious resolution. Instead, having considered the judgments cited by both sides, which were rendered after *Gulfisha Fatima*, I am of the view that a practical approach must be adopted, at least until the reference is answered by a larger bench. In the present case, such an approach requires this Court first to adjudicate upon Mr. Malik’s submission that, even in terms of the interpretation of *K.A. Najeeb* in *Gulfisha Fatima*, as understood by this Court in *Leena Palouse-II*, the petitioners are entitled to bail. If this contention is accepted, it is unnecessary to delve further into the exercise of reconciliation between the views expressed in *Gulfisha Fatima* and *Syed Iftikhar Andrabi*, with regard to the competing interpretation of *K.A. Najeeb*.

24. Before embarking upon this exercise, I may only add that this course is also not, in my view, inconsistent with the interpretation of *K.A. Najeeb* in *Syed Iftikhar Andrabi*. **The position of law laid down in *Gulfisha Fatima*, as I have understood it in *Leena Paulose-II*, was that the ground of prolonged incarceration without likelihood of culmination of proceedings, must be considered even in cases involving statutory restrictions on grant of bail. However, these must be analysed, alongwith the nature of offence, and the prima-facie material available against the accused. The articulation in *Syed Iftikhar Andrabi*, is that the statutory limitation on the grant of bail cannot override rights under Article 21, but that “of course, in an appropriate case, bail can be**

<sup>34</sup> SLP (CRL.) No. 3867/2026, dated 22.05.2026 [hereinafter, “*Tasleem Ahmad*”].

<sup>35</sup> *Harbhajan Singh and Another v. State of Punjab*, (2009) 13 SCC 608, paragraph 15; *National Insurance Company Limited v. Pranay Sethi*, (2017) 16 SCC 680; *Union Territory of Ladakh and Ors. v. Jammu and Kashmir National Conference and Anr.*, (2024) 18 SCC 643, paragraph 35.



*denied having regard to the facts of that particular case”<sup>36</sup>. Syed Iftikhar Andrabi therefore also requires a factual examination, to determine whether a particular accused is to be granted bail, despite an argument based upon his/her Article 21 rights. It may be noted that, both in *Gulfisha Fatima* and in *Syed Iftikhar Andrabi*, the Supreme Court examined the case of accused on merits, in the backdrop of period of incarceration and the likely length of trial. In *Gulfisha Fatima*, five of the seven accused were granted bail, as was the sole accused in *Syed Iftikhar Andrabi*.”<sup>37</sup>*

19. I propose to adopt the same approach in the present case also. I may also note that, in *Khuram Parvez v. National Investigation Agency*<sup>38</sup>, which was rendered after the aforesaid judgments of the Supreme Court, including the reference order in *Tasleem Ahmad*, a Division Bench of this Court has adopted a similar approach. The case concerned an application for bail in a UAPA offence. The Court’s approach is indicated by the following observations:

“61. Keeping in view the above, we have proceeded to consider the case of the appellant for releasing him on bail.

62. For the same, we would note that the appellant was taken into custody in the present case on 22.11.2021, and has, therefore, undergone **prolonged incarceration** of almost 4½ years. The **stage of the trial** is at the arguments for framing of charge. We are further informed that the **prosecution intends to examine 197 witnesses** in case the charge is framed against the appellant.

63. We shall also conduct a **surface evaluation of the case alleged by the prosecution against the appellant.**

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xxx

xxx

71. We have taken note of the above **allegations and the defence of the appellant, only to highlight that they must be tested against the long period of incarceration of the appellant and the fact that there is no likelihood of the trial ending soon** as also against the yardstick of bail being the rule, while denial thereof being an exception. **The appellant’s rights under Article 21 of the Constitution of India need to be balanced**

<sup>36</sup> *Andrabi*, paragraph 35.

<sup>37</sup> Emphasis supplied.

<sup>38</sup> CRL.A. 1234/2024, decided on 10.06.2026.



**and may even trump the restriction imposed under Section 43D(5) of the UAPA.**

72. We are also mindful of the fact that one of the co-accused, namely, Zafar Abbas (A-4), has been denied bail by this Court and the said order has been upheld by the Supreme Court, however, we find that the **allegations against the said co-accused were very different from the one against the appellant herein.**<sup>39</sup>

20. Applying the same benchmark to the present case, it may be noted that the petitioner is not accused of participation in the alleged acts of extortion, against the complainant or any other person. Even as per the prosecution case, as noted in the 2023 judgment, the role attributed to him concerns planning and management of funds transferred by Sukesh to Leena, including the facilitation of bank entries, and acquisition of immovable properties and luxury cars in the names of other individuals or entities. The alleged confessional statements, of the petitioner and Sukesh, relied upon by the prosecution, do not *prima facie* accord any higher role to the petitioner than this.

21. As against this, the petitioner has already spent approximately 4 years and 10 months in custody as an undertrial. The offence under Section 3(4) of MCOCA carries a sentence which may extend to imprisonment of five years to life imprisonment. However, the factors indicated above, including the number of accused [24], number of witnesses [403], and the complexity of the case, make expeditious conclusion of the proceedings unlikely. Having regard to the role ascribed to the petitioner by the prosecution, I am of the view that his further incarceration as an undertrial, is inappropriate. Although I have held, in

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<sup>39</sup> Emphasis supplied.



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*Leena Paulose*<sup>40</sup>, that the delay in the present case cannot be attributed to prosecutorial delays or court inaction alone, I am nonetheless of the view that the facts of each case have to be examined on their own merits, with due consideration of the specific roles ascribed to the individual in question.

22. As I have held that the petitioner is entitled to bail even if the prosecution case is taken at its highest, I do not consider it necessary to address the other contentions raised by Mr. Grover.

**V. CONCLUSION:**

23. For the aforesaid reasons, the application is allowed, and it is directed that the petitioner be released on bail in connection with FIR No. 208/2021, dated 07.08.2021, registered at Police Station Special Cell, Delhi, subject to furnishing a personal bond of Rs. 2,50,000/-, alongwith two sureties in the like amount, to the satisfaction of the concerned Special Court/Duty Magistrate, and subject to the following further conditions:

- a. The petitioner shall appear before the Special Court on each and every date of hearing;
- b. The petitioner shall surrender his passport before the Special Court, and shall not leave the country without prior permission of the concerned Court;
- c. The petitioner shall provide his permanent address to the concerned Court, as also the address where he is residing during the pendency of the case. The petitioner shall intimate the Investigating Officer [“IO”], and file an affidavit before the Special Court, regarding any

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<sup>40</sup> Paragraph 37.



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- change in residential address;
- d. The petitioner shall provide his mobile number to the concerned IO/Station House Officer, which shall be kept in working condition at all times. The mobile number shall not be switched off or changed without prior intimation to the IO during the pendency of the trial;
- e. The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- f. The petitioner shall not commit any offence during the period of his release.
24. The bail application is disposed of in terms of the above.
25. It is clarified that any observations made in the present judgment are solely for the purpose of deciding the present bail application, and shall neither influence the trial proceedings, nor be construed as an expression of opinion on the merits of the case.
26. Copy of the judgment be communicated to the concerned Jail Superintendent electronically for information and necessary compliance.

**PRATEEK JALAN, J**

**JULY 7, 2026**  
*PV/AD/KA/*



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

*Decided on: 07.07.2026*

+ **BAIL APPLN. 3916/2025**

SUDHEER

.....Petitioner

Through: Mr. Tom Joseph, Mr. Nishe Rajen  
Shonker, and Ms. Anugrah Sabu,  
Advs.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Sanjay Jain, Sr. Advocate with  
Mr. Akhand Pratap Singh, SPP,  
Mr. Nishank Tripathi, Ms. Harshita  
Sukhija, Ms. Rishika Agarwal, Mr.  
Shreyan Srivastav, Ms. Samridhi  
Dobhal, Ms. Krishna Mohan  
Chandel, Mr. Hritwik Maurya, Ms.  
Lisa Pagwal, Ms. Apoorv Paliya,  
Mr. Utkarsh Singh, Advocates for  
State with ACP Virender Kadyan,  
Insp. Pradeep Rai.

**CORAM:**

**HON'BLE MR. JUSTICE PRATEEK JALAN**

**J U D G M E N T**

**PRATEEK JALAN, J. (ORAL)**

1. By way of the present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ["BNSS"] (corresponding to Section 439 of the Code of Criminal Procedure, 1973 ["CrPC"]), the petitioner seeks regular bail in connection with FIR No. 208/2021, dated 07.08.2021, registered at Police Station Special Cell, Delhi, under Sections 170/384/385/388/419/420/506/120B of the Indian Penal Code,

Signature Not Verified

Signed By: PARUL  
VASHIST  
Signing Date: 07.07.2026  
21:00:12

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1860 [“IPC”], and Section 66D of the Information Technology Act, 2000 [“IT Act”]. At the time of filing of the chargesheet, Sections 3 and 4 of the Maharashtra Control of Organised Crime Act, 1999 [“MCOCA”], were also invoked.

2. This is the first bail application filed by the petitioner before this Court. He had earlier filed a bail application before the Special Court, which was dismissed *vide* order dated 23.08.2025.

3. I have heard Mr. Tom Joseph, learned counsel for the petitioner, and Mr. Sanjay Jain, learned Senior Counsel for the State. The State has also filed a status report, which is on record.

4. At the outset, it may be mentioned that I have recently decided three bail applications arising out of the same proceedings, filed by co-accused Leena Paulose [hereinafter, “Leena”], Deepak Ramnani [hereinafter, “Deepak”], and Pradeep Ramdanee [hereinafter, “Pradeep”]. The application filed by Leena<sup>1</sup> was dismissed, whereas the applications filed by Deepak<sup>2</sup> and Pradeep<sup>3</sup> were allowed.

**I. PROSECUTION CASE:**

5. The prosecution case, as it appears from the material on record, is as follows:

- a. FIR No. 208/2021, dated 07.08.2021, lodged at Police Station Special Cell, Delhi, under Sections 170/384/385/388/419/420/506/120B of the IPC and Section 66D of the IT Act, was registered at the instance of one Ms. Aditi Singh.

<sup>1</sup> BAIL APPLN. 1802/2024, decided on 05.05.2026, [hereinafter, “Leena Paulose”]. An earlier application for bail filed by Leena in the State proceedings [BAIL APPLN. 3706/2022] was also rejected by judgment dated 11.07.2023.

<sup>2</sup> BAIL APPLN. 4286/2024, decided on 05.06.2026 [hereinafter, “Deepak Ramnani”].



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- b. According to the complaint, on 15.06.2020, the complainant received a call on her mobile phone from a landline number. The caller introduced himself as a senior officer in the Ministry of Law and offered assistance in securing bail for her husband, who was in judicial custody in cases related to M/s Religare Enterprises Limited.
- c. It is alleged that the caller demanded Rs. 50 crores in exchange for facilitating the bail and explained the method of delivering the money.
- d. Subsequently, through his associates, the caller allegedly extorted money from the complainant on multiple occasions between June 2020 and August 2021, amounting to a total of Rs. 217 crores. There are further allegations with regard to impersonation of senior officials, including the Home Secretary, Government of India, and misrepresenting the involvement of other government functionaries, including the Home Minister.
- e. Acting on the said information, on 07.08.2021, the police laid a trap and apprehended Pradeep, while he was receiving the extorted amount. He was arrested on the same day. During interrogation, he disclosed that he was acting on the instructions of his brother, Deepak, who was subsequently arrested on 08.08.2021.
- f. Using technical surveillance of the mobile phone used for making the calls, and the statements of co-accused, the caller was identified as one Sukesh Chandra Shekhar @ Sukash Chandra Shekhar [hereinafter, "Sukesh"].

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<sup>3</sup> BAIL APPLN. 4441/2024, decided on 05.06.2026.



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- g. At this time, Sukesh was already lodged in Tihar Jail as an undertrial prisoner in a separate case, involving allegations of collecting money from a political leader on the pretext of helping him retain a particular election symbol. He was later shifted to Rohini Jail.
- h. A raid was conducted on the intervening night of 07/08.08.2021 by the Special Cell, during which two mobile phones were recovered from Sukesh, while he was in custody, and he was formally arrested in connection with the present FIR. His interrogation led to the identification and arrest of other associates and co-conspirators. The petitioner was arrested on 20.07.2024.
- i. During investigation, it was found that Sukesh was involved in multiple cases, including attempt to murder, criminal intimidation, cheating, and extortion, often by impersonating high-ranking officials.
- j. Part of the extorted amount was allegedly transmitted by Sukesh, through *hawala* channels, to his wife, Leena, in Chennai.
- k. As far as the present petitioner is concerned, his role in the aforesaid offences is summarised in the chargesheet<sup>4</sup> as follows:

**“Role of accused Sudheer**

*During investigation, it has emerged that accused Sudheer was an important part of crime syndicate run by accused Sukash Chandra Sekhar. He was helping mastermind of the crime syndicate, accused Sukash Chandra Sekhar and his wife/co-accused Leena Paulose in parking of crime proceeds. He is an old trusted associate of accused Sukash Chandra Shekhar and Leena Paulose and was well aware about the activities of the crime syndicate.*

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<sup>4</sup> 5<sup>th</sup> Supplementary chargesheet dated 04.10.2024.



*During investigation at that time, it was found that accused Sudheer remained involved in unlawful activities of crime syndicate and efforts were made to examine him, but he deliberately avoided his joining investigation and kept on absconding continuously. Since, sufficient evidence against accused Sudheer have come on record, hence, Notices u/s 41A Cr.P.C. were issued to him for joining the investigation at that time. However, despite repeated efforts, he never joined the investigation. Accordingly, his NBW was got obtained from the Hon'ble Court and proceedings U/s 82 Cr.P.C. were also initiated. Finally, on 10-04-2024, the Hon'ble Trial Court declared him a proclaimed person.*

*During investigation, accused Leena Paulose in her disclosure statement stated that B. Mohan Raj and Sudheer were very close to Sukash Chandra Shekhar. Sudheer and accused Joel Daniel used to stay with her in August-2020 at her ECR House Chennai. Sudheer and Joel used to collect cash from Hawala operators on the instructions of Sukash Chandra Shekhar and further delivered it to different persons including B. Mohan Raj as per the directions of Sukash Chandra Shekhar and Leena Paulose.*

*Further, another accused Arun Muthu also disclosed that Leena Paulose with the help of B. Mohanraj, Sudheer and Joel Daniel used to convert cash into bank entries through card swapping etc. Accused Sukash Chandra Shekhar in his confessional statement U/s 18 MCOC Act also disclosed that cash was received from a sow carpet firms, Chennai and same was collected by Sudheer and Joel Daniel. This cash was delivered to B. Mohanraj. Accused B. Mohanraj in his confessional statement U/s 18 MCOC Act disclosed that the cash was handed over by Sudheer to Kamlesh Kothari at Kamlesh Kothari's office for buying high end cars.”*

## **II. STATEMENTS UNDER SECTION 18 OF MCOCA:**

6. In support of the above allegations, the State relied upon confessional statements under Section 18 of MCOCA made by co-accused Sukesh, B. Mohanraj [hereinafter, “Mohanraj”], and the petitioner himself.
7. The statements of Sukesh, Mohanraj and the petitioner, insofar as they are relevant, are summarised as follows:



A. Confessional statement under Section 18 MCOCA of Sukesh:

Sukesh stated that he had informed Leena about the whole plan and told her to take precautions to avoid trouble with the agencies. He told her that the cash will reach her through *hawala*, and Deepak will be helping them. He further told her that the cash will be delivered to pre-decided locations, and can be used to purchase luxury cars and valuable articles. He also told her to brief each of their aides. The said cash was received at Sow carpet, Chennai and collected by the petitioner and Joel Daniel [hereinafter, "Joel"]. Cash was delivered to Mohanraj and he further delivered it to Kamlesh Kothari [hereinafter, "Kamlesh"] and Arun Muthu [hereinafter, "Arun"]. Arun deals in providing bank entries and Kamlesh deals in purchasing high ends cars and house.

B. Confessional statement under Section 18 MCOCA of Mohanraj:

Mohanraj stated that Sukesh wanted to purchase two cars for his wife, and informed him about sellers of the cars, and that he wanted the cars to be bought under some other name. Kamlesh arranged two buyers for the same. Sukesh sent cash through the petitioner, who handed it over to Kamlesh at Kamlesh's office.

C. Confessional statement under Section 18 MCOCA of petitioner:

The petitioner stated that he was working in Dubai from 1999 to 2016. After returning from Dubai in 2016, he had no work. He thereafter met Leena, who employed him as a driver in Thrissur for a remuneration of Rs. 25,000/-. In August-September 2017, Leena shifted him to work at her ECR Road house in Chennai as a driver, where he was helping with other household tasks as well. His



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renumeration had also increased to Rs. 35,000/-. Over the course of his employment, he became a trusted associate of Leena, who then informed him about Sukesh. Leena also told him about a pending case against her and Sukesh, and that Sukesh was in jail. Leena used to buy him expensive clothes and phones. Leena informed him that she was looking for a trusted associate, who would help her and Sukesh in hiding the money made through crime, for which they would pay handsomely in return. At first, he refused, but upon assurances from Leena that he would not face any problems, and would also get a higher pay, he accepted her offer to join their group. Leena and Sukesh used to speak to him through WhatsApp, and would never take normal calls from him. Between 2018-2020, he visited Delhi multiple times on the instructions of Leena, and stayed at hotels near Delhi Airport or Tihar Jail. He visited Tihar Jail officially to meet Sukesh on multiple occasions and passed on Leena's messages to him. His work in Delhi involved providing clothes and food to Sukesh in jail. He used to wait outside, from where jail officials used to take the clothes and food from him. Sukesh had all the facilities in jail, including a room to himself, as well as a phone and laptop. Whenever the petitioner was in need of money, he was provided with a token number and a phone number from Leena or Sukesh, and upon calling that phone number and providing the token number, he used to receive the money. Sukesh and Leena sent a lot of money to him, which he used to deliver to Mohanraj and Arun on their instructions, who used to adjust the proceeds of crime in Salon Nail Artistry and Super Car company.



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The petitioner and Joel were tasked with getting cash and delivering it to Mohanraj, Arun, and sometimes Leena. The petitioner used to collect the *hawala* cash from Sow Carpet, Chennai, as well as other places. Pursuant to a raid in Sukesh's jail cell, Leena instructed the petitioner to go underground for 2-3 months. He thereafter stayed underground in Ajmer Sharif and Jaipur. Later, Leena called him back to Chennai. Leena purchased a new house in ECR Road in Chennai with the help of Mohanraj, Kamlesh and Arun. During the time of purchase, the petitioner had made a delivery through the token system of more than Rs. 7 Crores in cash to Kamlesh at his office. During July-August 2020, Sukesh and Leena were moving money worth crores, and the petitioner told Leena about the risk of collecting such high volume of money, but he was told that Sukesh was cheating a big person and that he would also get a good amount of money. Out of this money, a large portion was used to make the new house beautiful and purchase of cars. Whenever Sukesh used to be in Chennai on interim bail, Arun, Mohanraj, Kamlesh and Joel used to visit him, and discuss about plans to handle the money received through *hawala*. The petitioner used to receive money either in cash or in his wife's account. Upon Sukesh's arrest, the petitioner was on the run for three years. He wanted to go to Saudi Arabia for work, but was caught.

**III. SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES:**

8. Mr. Joseph's principal submission is that the petitioner is entitled to the benefit of parity with co-accused Joel, who was granted bail by the



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Special Court *vide* order dated 21.11.2022. He submitted that the allegations against the petitioner are substantially similar to those levelled against Joel, inasmuch as both were merely salaried employees of Leena, who were entrusted with the task of collecting cash and delivering it to other individuals, as instructed, or other menial tasks.

9. Mr. Joseph further submitted that the petitioner was arrested on 20.07.2024, and has thus been in custody for a period of nearly two years. Charges have recently been framed, by an order of the Special Court dated 03.06.2026. However, the State has cited 403 witnesses, and the chargesheets collectively exceed 10,000 pages. Further, one of the co-accused, Navas KI, has been arrested recently, and it is likely that a supplementary chargesheet will have to be filed in relation to his case. Considering the aforesaid factors, Mr. Joseph submitted that the petitioner's right to a speedy trial, guaranteed under Article 21 of the Constitution, has been defeated, and his continued custody pending trial is constitutionally unjustifiable.

10. Mr. Joseph further submitted that the legal position with regard to prolonged incarceration, *vis-à-vis* the restrictions on grant of bail under Section 21(4) of MCOCA, has been considered at length in the judgments in *Leena Paulose* and *Deepak Ramnani*. Applying the same yardstick to the present case, he submitted that the Court is required to examine the role attributed to the petitioner and the *prima facie* material supporting the allegations against him, to adjudicate whether his further custody is warranted. In this context, Mr. Joseph argued that, even according to the prosecution, the petitioner's role was limited to handling the allegedly extorted funds. He played no role in the planning or execution of the



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foundational offence of extortion, but only in delivery of the funds sent by Sukesh to Leena in Chennai.

11. Mr. Jain, on the other hand, submitted that the petitioner has remained in custody for less than two years in connection with offences punishable with imprisonment for life. He therefore contended that the petitioner cannot claim the benefit of prolonged incarceration.

12. Mr. Jain submitted that the petitioner had a direct role in handling of the extorted funds in Chennai, with full knowledge of the illegal activities of the Organised Crime Syndicate [hereinafter, "OCS"]. He was thus not only involved in abetment of the activities of the OCS, but was also directly involved in the "*continuing unlawful activities*", within the meaning of Section 2(1)(d) of MCOCA, which clearly demonstrates "*membership*" of the OCS under Section 3(4) of MCOCA. He submitted that the petitioner participated in disposal of the proceeds of crime, and also collection of money from *hawala* channels, and delivery to pre-determined associates on the instructions of Leena and Sukesh. In further support of this contention, he pointed out that the petitioner had visited Sukesh in Tihar Jail on five occasions, and had travelled with him on fourteen chartered flights. He also referred to the scrutiny of the bank account of the petitioner's wife, which revealed the receipt of Rs. 9 lakhs from M/s Stash Wear Pvt. Ltd., a company allegedly belonging to Arun.

13. Mr. Jain submitted that, at the stage of consideration of bail, statements recorded under Section 18 of MCOCA cannot be discarded merely because they have subsequently been retracted, the effect of such retraction being a matter for trial. In support, he relied upon the judgments of this Court rejecting the bail applications of co-accused



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Leena<sup>5</sup>. He emphasised that, according to the statements of Sukesh and the petitioner himself, the petitioner was a key participant in facilitating the disposal of proceeds of crime and in providing Sukesh with clothes and food while he was lodged in jail. He further referred to Mohanraj's statement, to contend that the petitioner had acted as a conduit for transferring funds utilised for the purchase of luxury cars for Leena.

14. Lastly, Mr. Jain submitted that the petitioner had absconded for nearly three years and was eventually declared a proclaimed offender by the Special Court, *vide* order dated 10.04.2023. He also submitted that the petitioner was apprehended near the Indo-Nepal border pursuant to a Look Out Circular issued against him. According to him, these circumstances militate against the grant of bail to the petitioner.

15. In rejoinder, Mr. Joseph disputed the allegation that the petitioner had absconded for three years. He submitted that the petitioner was first named as a suspect, only in the fourth supplementary chargesheet dated 21.08.2023 and was subsequently arraigned as an accused in the fifth supplementary chargesheet dated 04.10.2024, although he had already been arrested on 20.07.2024. He further contended that the fact that the petitioner had been declared a proclaimed offender does not, by itself, disentitle him from being considered for regular bail. He also submitted that the petitioner's wife and children are permanently settled in Kerala, demonstrating that he has deep roots in society.

16. Mr. Joseph further submitted that, while granting bail to Joel, the Special Court had specifically considered the evidentiary value of the

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<sup>5</sup> BAIL APPLN. 3706/2022, decided on 11.07.2023 and BAIL APPLN. 1802/2024, decided on 05.05.2026.



statements recorded under Section 18 of MCOCA and their subsequent retraction. He pointed out that the said order has not been challenged by the prosecution and has thus attained finality. On that basis, he reiterated the petitioner's claim for parity.

17. In response to the allegation regarding his meetings with Sukesh in jail, Mr. Joseph submitted that such "*associative proximity*" was also considered by this Court in *Deepak Ramnani*. He further pointed out that the alleged acts of extortion were committed in Rohini Jail, whereas his visits were to Sukesh in Tihar Jail, which further dilutes the significance of those meetings.

#### **IV. ANALYSIS**

18. The principal questions raised by Mr. Joseph, in support of the present application, are based on the grounds of prolonged incarceration and parity with co-accused Joel. In order to adjudicate these questions, it is appropriate to analyse the prosecution allegations against the petitioner.

19. At the outset, it is clear that the prosecution does not attribute any role in the planning or execution of the foundational offence of extortion to the petitioner. According to the prosecution, the petitioner was a salaried employee of Leena, primarily working as her driver. It is alleged that he facilitated the disposal of the proceeds of crime by collecting money received through *hawala* channels, and delivering it to persons designated by Leena and Sukesh. More specifically, the petitioner is alleged to have, alongwith Joel, collected cash from Sow Carpet, Chennai, and delivered it to Mohanraj. It is further alleged that, acting on Sukesh's instructions, he delivered a substantial amount of cash to Kamlesh at his office for the purchase of luxury cars. The prosecution



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also relies upon the transfer of Rs. 9 lakhs by M/s Stash Wear Pvt. Ltd., allegedly owned by Arun, into the bank account of the petitioner's wife. In addition, it is alleged that the petitioner visited Sukesh in Tihar Jail on five occasions, regularly supplied him with clothes and food through jail officials, and travelled with him on 14 chartered flights.

20. While granting bail to Joel, the Special Court noticed that he was also a salaried employee of Leena, who facilitated the collection and distribution of the alleged proceeds of crime received from Sukesh. It was alleged that he collected money through *hawala* channels on the instructions of Leena and Mohanraj and delivered the same to designated persons. Having considered the material in the context of the twin conditions under Section 21(4) of MCOCA, the Special Court ultimately concluded that Joel was entitled to bail. I am informed that the said order has not been challenged and has, therefore, attained finality.

21. Viewed holistically, the role attributed to the petitioner is, *prima facie*, substantially similar to that attributed to Joel. In both cases, the allegation is that they were salaried employees of Leena who acted under the instructions of Leena and Sukesh, and facilitated the movement and delivery of the alleged proceeds of crime through *hawala* channels. There is no suggestion that the petitioner had any decision-making responsibility, as far as collection of the amounts or their distribution is concerned. He, like Joel, was acting upon the instructions of Sukesh and Leena. To the extent that the petitioner was also allegedly travelling with Sukesh or providing him with clothes and food while he was in jail, I do not consider these factors to make a determinative difference to the case. They underscore his role as a salaried employee, responsible for fulfilling



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the demands of his employers. The fact that he was trusted by the employers, and frequently travelled with Sukesh, do not detract from this overall analysis, and are really facets of “*associative proximity*”, which has also been considered in *Deepak Ramnani*, while granting bail to the accused therein.

22. Turning next to the ground of prolonged incarceration, I am unable to accept the submission of Mr. Jain that the petitioner is disentitled to invoke Article 21 of the Constitution, merely because he has undergone custody for a period of less than two years, in respect of offences punishable with imprisonment for life. Although the period of incarceration undergone in the cases of co-accused Deepak and Pradeep, who have been granted bail by this Court<sup>6</sup>, was substantially higher, the question of prolonged incarceration cannot be determined by a rigid formula. Whether continued incarceration has become excessive, must necessarily be assessed on the facts of each case.

23. In *Leena Paulose*, and subsequently in *Deepak Ramnani*, this Court had occasion to consider the interplay between the constitutional guarantee under Article 21 and the statutory restrictions on the grant of bail under Section 21(4) of MCOCA. The position that emerges from those decisions is that the statutory embargo cannot eclipse a constitutionally protected claim founded upon prolonged pre-trial incarceration. At the same time, prolonged incarceration is not a standalone consideration. The Court is required to examine the period of custody in conjunction with the nature of the offence, the role attributed

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<sup>6</sup> BAIL APPLN. 4286/2024 and BAIL APPLN. 4441/2024, decided *vide* a common judgment dated 05.06.2026.



to the accused, the strength of the *prima facie* case, and the realistic possibility of the trial concluding within a reasonable time.

24. As noted above, the main allegation against the petitioner is that, being a salaried employee of Leena, he acted as a conduit in handling and delivering the alleged proceeds of crime pursuant to the instructions of Leena and Sukesh. The statements of other co-accused, and of witnesses relied upon by the prosecution, do not *prima facie* accord any higher role to the petitioner than this. As against this, the petitioner has undergone incarceration as an undertail of almost two years. This period is substantially higher than the period undergone by Joel when he was released on bail, which was approximately 14 months. The offence under Section 3(4) of MCOCA carries a sentence which may extend to imprisonment of five years to life imprisonment. However, the proceedings have only recently reached the stage of framing of charges. The prosecution proposes to examine as many as 403 witnesses, and the chargesheets collectively exceed 10,000 pages. In addition, one of the co-accused, Navas KI, has only recently been arrested, making the filing of a further supplementary chargesheet a distinct possibility. Thus, an expeditious conclusion of the trial is unlikely. Although I have held, in *Leena Paulose*<sup>7</sup>, that the delay in the present case cannot be attributed to prosecutorial delays or court inaction alone, I am of the view that the role ascribed to the petitioner by the prosecution does not justify his further incarceration as an undertrial.

25. Lastly, the petitioner's conduct in absconding and his subsequent declaration as a proclaimed offender does not persuade me to a contrary



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conclusion. While such conduct is definitely to be deprecated, it cannot, by itself, justify his continued incarceration for an indefinite period. As noticed above, the petitioner has remained in custody for nearly two years, and there is no likelihood of the trial concluding in the near future. Further, the nature of the allegations and the role attributed to the petitioner must be viewed holistically while considering the question of bail. The petitioner's past conduct is, therefore, one of the factors to be weighed in the overall balancing exercise under Article 21, but it cannot, in the facts of the present case, be treated as conclusive, so as to ignore all other relevant considerations. Instead of subjecting the petitioner to further pre-trial custody, I am of the view that the apprehension that the petitioner may evade the process of law, can be addressed by imposing stringent conditions to secure his presence during trial, including periodic requirement of reporting to the police authorities.

26. Having regard to the aforesaid considerations, including parity between the role attributed to the petitioner and that of Joel, the period of incarceration already undergone, the unlikely prospect of an early conclusion of the trial, and the nature of the allegations levelled against the petitioner, I am of the view that this is a fit case for the grant of bail.

**V. CONCLUSION**

27. The application is allowed, and it is directed that the petitioner be released on bail in connection with FIR No. 208/2021, dated 07.08.2021, registered at Police Station Special Cell, Delhi, subject to furnishing a personal bond of Rs. 2,00,000/-, alongwith two sureties in the like

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<sup>7</sup> Paragraph 37.



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amount, to the satisfaction of the concerned Special Court/Duty Magistrate, and subject to the following further conditions:

- a. The petitioner shall appear before the Special Court on each and every date of hearing;
- b. The petitioner shall surrender his passport before the Special Court, and shall not leave the country without prior permission of the concerned Court;
- c. The petitioner shall provide his permanent address to the concerned Court, as also the address where he is residing during the pendency of the case. The petitioner shall intimate the Investigating Officer [“IO”], and file an affidavit before the Special Court, regarding any change in residential address;
- d. The petitioner shall provide his mobile number to the concerned IO/Station House Officer, which shall be kept in working condition at all times. The mobile number shall not be switched off or changed without prior intimation to the IO during the pendency of the trial;
- e. The petitioner shall report to the jurisdictional Police Station near his place of residence every Monday and Thursday at 04:00 PM, and will be released within two hours, after completion of formalities.
- f. The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- g. The petitioner shall not commit any offence during the period of



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his release.

28. It is made clear that any violation of the aforesaid conditions may result in cancellation of bail granted to the petitioner.

29. The bail application is disposed of in terms of the above.

30. It is clarified that any observations made in the present judgment are solely for the purpose of deciding the present bail application, and shall neither influence the trial proceedings, nor be construed as an expression of opinion on the merits of the case.

31. Copy of the judgment be communicated to the concerned Jail Superintendent electronically for information and necessary compliance.

**PRATEEK JALAN, J**

**JULY 7, 2026**  
SS/AD/KA/