IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

203 **CRM-M-7180-2026 (O&M)**

Mrs. Surabhi @ Surbhi Duhan

....Petitioner

V/s

Directorate of Enforcement, through its Assistant Director,
Chandigarh Zonal Office-1, Chandigarh

....Respondent

Date of decision: 07.08.2026

Date of Uploading : 10.08.2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vikram Chaudhri, Senior Advocate with
Ms. Hargun Sandhu, Advocate for the petitioner.

Mr. Satyapal Jain, Additional Solicitor General of India
(through Video Conference) with
Ms. Meghna Malik, Senior Panel Counsel,
Mr. Ritika, Advocate alongwith
Mr. Vikash, Assistant Director, ED.

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<u>SUMEET GOEL, J. (Oral)</u>

1. The present petition (hereinafter referred to as '*petition in hand'*) has been filed by the petitioner — Surabhi @ Surbhi Duhan for grant of regular bail in ECIR/CDZO-I/17/2025 dated 18.09.2025 registered under the Prevention of Money Laundering Act, 2002 (hereinafter referred to as '*PMLA'*)

2. The gravamen of the allegations set-up in ECIR dated 18.09.2025 and prosecution complaint dated 27.01.2026 filed by the Enforcement Directorate (hereinafter referred to as '*ED*') is that the Surbhi Duhan (petitioner herein); in active connivance with co-accused Mahesh

Chandrashekhar Shetye, Rishabh Duhan and Rahul Chookar; was the real owner and in control of M/s Certiszep Innovations (OPC) Private Limited which was allegedly used to run an organized transnational cyber-fraud call centre targeting citizens of the United States of America. The prosecution has alleged that the proceeds of crime amounting to approximately ₹25 crores were generated through the said operations and received through hawala channels. It has been further alleged that the accused managed the financial affairs of the company, handled hawala transactions, with the assistance of her brother Rishabh Duhan and father Krishan Lal, routed illicit funds through her own accounts, those of her family members and third parties and thereafter integrated such funds to show them as legitimate before investing them in movable and immovable assets. Furthermore, the petitioner is also alleged to have paid ₹8 lakh per month to a person in a law enforcement agency for protection and unhindered operation of the call centre activities. As per the *ED*, the petitioner has knowingly participated in the concealment, possession, acquisition, use and projection of proceeds of crime and thereby committed the offence of money laundering punishable under Sections 3 and 4 read with Section 70 of the *PMLA*.

Rival Submissions

3. Learned counsel for the petitioner; led by Shri. Vikram Chaudhri, Senior Advocate); has argued that the petitioner is a woman aged 29 years and has been unduly arrested by ED with undue haste. Learned counsel has urged that, since the petitioner is a woman, the bail plea of the petitioner (herein) is not required to meet with the rigors of Section 45 of *PMLA* and the twin conditions prescribed under Section 45(1)(ii) of the Act

are not applicable to her in the same manner as they would be applicable to an accused not covered by the proviso. It has been further contended that the petitioner has no connection whatsoever with the alleged offending call centre or its business activities. According to learned senior counsel, the petitioner was neither associated with the company nor has any role in its day-to-day affairs, financial transactions or business operations. Furthermore, the implication of the petitioner is based primarily upon the disclosure statement of a co-accused, who allegedly has a personal grudge against her. According to learned senior counsel, such a statement, without independent and reliable corroboration, cannot constitute sufficient material to justify her continued incarceration. It has been further contended that there is no documentary material on record to establish that the petitioner was either a partner or director or authorised signatory of the alleged illegal entity, namely M/s Certis IT Services. Moreover, there is no rent agreement, partnership deed, bank mandate or other independent document connecting the petitioner with the said illegal entity. Learned senior counsel has emphasized that the case against the petitioner rests substantially upon oral statements and uncorroborated allegations.

Learned senior counsel has further urged that the petitioner, before her arrest, had been cooperating with the *ED* as and when called upon & thus, there was no occasion for *ED* to take the petitioner into custody. Moreso, the prosecution complaint already stands filed against the petitioner on 27.01.2026 and hence the investigation *qua* the petitioner already stands concluded.

Learned senior counsel has further urged that the *ED* has cited 73 witnesses and has relied upon 111 documents running into 6728 pages *whereas* the trial is still at the pre-cognizance stage.

Learned senior counsel has further urged that the petitioner had no role to play in the offending call Centre Company and was never ever associated with the same muchless being involved in effectively running the same.

Learned senior counsel has further argued that the statement under Section 50 of PMLA cannot be read against the petitioner (herein). It has been further urged that the petitioner has been diagnosed with Pelvic Inflammatory Disease (PID), candidal infection and recurrent/chronic vaginal infection.

Learned senior counsel has further iterated that the arrest of the petitioner is contrary to the mandatory safeguards contained in Section 19 of the PMLA. It has been argued that the authorised officer must possess sufficient material and must record reasons to believe, in writing, that the person sought to be arrested is guilty of an offence punishable under the PMLA. Mere suspicion, alleged non-cooperation or evasive answers do not satisfy the statutory threshold prescribed under Section 19 of the PMLA.

Learned senior counsel has further urged that the petitioner is neither in a position to influence the prosecution witnesses nor is capable of influencing the course of trial in any manner.

On these grounds, the grant of *petition in hand* is entreated for.

4. Respondent-*ED* has filed reply dated 20.04.2026 opposing the *petition in hand*. Learned counsel for *ED*; led by Shri Satyapal Jain, Senior

Advocate/Additional Solicitor General of India; while raising submissions in tandem with the said reply, has drawn the attention of this Court to the specific role of the petitioner as pleaded in the reply, relevant whereof reads thus:

> *"Role of Mrs. Surbhi Duhan:*
>
> *a. Ms. Surbhi Duhan was arrested on 16.12.2025 by the Complainant Directorate in Chandigarh following due process of law. She was produced before the Hon'ble Special Court, Panchkula on 17.12.2025. The Hon'ble Court, vide its order dated 17.12.2025, remanded her to the custody of the Directorate of Enforcement for seven days, with direction to produce her before the Hon'ble Court on 24.12.2025 at 02:00 PM. In pursuance of the order the accused was produced on 24.12.2025 before the Hon'ble Court. Further, by order dated 24.12.2025 of the Hon'ble Court, Ms. Surbhi was sent to judicial custody, and the accused is currently in judicial custody.*
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> *b. That as per her own submissions in the statement u/s 50 of PMLA, 2002 on 16/12/2025, she remained absconding since 25.08.2025 till 15.12.2025, since when the Police started cracking down the illegal CALL CENTRE. Other main accused Mahesh, employees and her father Sh. Krishan Lal Duhan have admitted that she had key role in the running of the illegal call center and in managing the finances and POC generated out of the illegal business. It is no coincidence that she had remained absconding and untraceable since that the crackdown of the case.*
>
> *c. That the arrestee Mrs. Surbhi Duhan along with her other associates/partners Mahesh Chander Shekar Shetye and Rishabh Duhan, who were operating a fake call center under the name M/s Certiszep Innovations (OPC) Private Limited at 2nd Floor, Plot No. 7, Sector 22, IT Park, Panchkula without obtaining any DoT licence, mandatory guidelines, or client agreements. They used X-Lite dialers, Eyebeam, and remote-access software to induce foreign nationals into believing false technical problems and thereby dishonestly cheated them. The investigation further states that the illicit amounts were siphoned off through Bitcoin and CashApp gift cards, and that the proceeds of crime generated in the United States were transferred to India through a hawala network, eventually reaching her personal accounts, accounts of family members and in the accounts of related persons/firms in cash.*

d. During investigation under PMLA, 2002, it has been unearthed that chats containing hawala related chats between Mahesh and Ms. Surbhi have been found and that Mrs. Surbhi was in continuous communication with Mahesh Chandershekar Shetye regarding cash pickups, hawala transactions, and discussion of profit sharing between Mahesh, Rishabh and Surbhi. There were also chats about police protection (PP) between Surbhi and Mahesh in the chats indicating that both Mahesh and Surbhi were hand in glove in running the illegal call centre including managing the profits, managing the proceeds of crime received through hawala and distribution of salaries to the staff. Mahesh during investigation under PMLA has also admitted that a signature found in the whatsapp chats belongs to him and Surbhi.

e. The proceeds of crime generated from organized transnational cyber-fraud operations were primarily received in cash and largely utilized in cash itself. However, on several occasions, the accused deliberately routed and re- routed the proceeds of crime for the purpose of placement or introduction into the financial system, followed by layering with the intent to conceal and ultimately integrate the said proceeds, thereby projecting them as untainted and utilizing the same for the acquisition or purchase of movable and immovable assets. Proceeds of crime to the tune of 25 crores were generated from the operations of call center under the name Certiszep Innovations (OPC) Private Limited for its operations from June, 2024 to till August, 2025. Out of the said amount, Ms. Surbhi Duhan is in possession of approximately 8-9 crore, which is still recoverable.

f. Upon examining the bank accounts of Surbhi Duhan and her Family members Mrs Meena Devi, Krishan Lal and Rishabh it has been observed that the proceeds of crime-received in cash through the hawala network after duping US citizens- were routed through different modus operandi in the bank accounts of them and eventually integrated in the form of investments as explained above.

g. In view of the above, Surbhi is clearly involved in generation of the POC since 2021 by cheating and defrauding the persons based at foreign countries viz USA etc. Surbhi is the key person involved in managing the POC received through Hawala channels and as per the submission of the one of the accused Mahesh Shetye not only has she earned as at least 8-9 Cr. of the POC and has concealed the same by getting it deposited into various bank accounts abetted by her father Sh. Krishan Lal Duhan as *known till now but had also absconded with around 3.25 cr cash in past few months, the whereabouts of the cash are unknown at this stage.*

h. Therefore, the investigation reveals a clear role of the arrestee Mrs. Surbhi Duhan in commission of the offence of money laundering u/s 3 read with Section 4 of the PMLA.

i. During custody, Mrs. Surbhi Duhan admitted that she had absconded from the police from 25.08.2025 till 15.12.2025. She further admitted that during this absconding period, they deliberately avoided providing their genuine identity documents while staying at various hotels and instead used fake identity documents for the purpose of hotel accommodation.

j. Regarding her source of income and transfers/transactions from her accounts which were received in her account through third parties by depositing cash in their accounts, she could not give any satisfactorily answers. She admitted that she had no legitimate source of income.

k. Concerning her association with Certiszep Innovations (OPC) Pvt. Ltd., situated at 2nd Floor, Plot No. 7, Sector- 22, IT Park, Panchkula, Mrs. Surbhi Duhan categorically denied having any connection with the said call centre. However, statements of employees of the said call centre, recorded under Section 50 of the PMLA, 2002, clearly contradicted her claim. The employees in their statements confirmed the control and management of Mrs. Surbhi Duhan it was submitted by the employees that she was the owner of the call centre and was actively involved in its operations and day to day affairs. They further stated that she managed all expenses of the call centre, personally brought cash for disbursement of salaries to employees, and consistently emphasized increasing sales and performance of the call centre.

1. It is revealed during investigation that M/s Certiszep Innovations (OPC) Private Limited was fraudulently incorporated in the name of a mere name-lender, by deceiving Sh. Purushottam Mishra, with the deliberate intent of concealing the real ownership, control, and management of the company, which in fact vested with Sh. Mahesh Chandrashekar Shetye and Ms. Surbhi Duhan, who were the beneficial owners and persons in control of the affairs of the company since its inception. Therefore, Shri Mahesh Chandrashekar Shetye and the petitioner herein were the beneficial owners, and was in charge and was responsible to and controllers of M/s Certiszep Innovations (OPC) Private Limited. During the period in which the offence was committed. Ms. Surbhi also compelled Sh. Purushottam Mishra, under threat and *pressure, to obtain an Airtel SIM card (8968880205) in his name for her use, which was subsequently used by her for hawala-related transactions.*

m. Therefore, from the investigation conducted under the provisions of PMLA, 2002, it has been found that the Mrs. Surbhi Duhan has been directly and knowingly involved in the process or activity of generation of proceeds of crime from commission of scheduled offence and criminal activities relating thereto. Prosecution Complaint against the petitioner has been filed by the Department proving guilt of the Petitioner."

Learned Additional Solicitor General of India has further contended that merely because the fact that the petitioner is a woman does not vest an indefeasible right in her favour for grant of regular bail in an offence as is involved in the *petition in hand.* It has been further urged that the petitioner (herein) was having an active role into the offending - company in question. Further, it has been argued that the petitioner, on account of her deep involvement with the offending company, is in a position to influence the course of trial by exerting pressure etc on the witnesses.

It has been further urged that the petitioner (herein) poses a flight-risk, as she is likely to abscond from the process of justice, in case she is afforded the concession of regular bail.

Learned senior counsel for the *ED* has further urged that the petitioner is not suffering from any such adverse medical condition(s) on account of which regular bail can be afforded to her & the concerned authorities are well taking care of the medical requirements of the petitioner (herein) in accordance with law.

Thus, dismissal of the *petition in hand* is canvassed for.

5. I have heard the learned counsel for the rival parties and have gone through the available record of the case.

Prime Issue

6. The prime issue that arises for determination in the petition in hand is as to whether the petitioner (herein) ought to be granted regular bail.

The seminal legal issue that arises for cogitation is as to what are the parameters for granting regular bail to a woman – accused under the *PMLA*.

7. **Relevant statutory provisions**

I. **Section 45 of Prevention of Money Laundering Act, 2002 (*PMLA*)**

*"**45. Offences to be cognisable and non-bailable.** — (1) [Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no person accused of an offence [under this Act] shall be released on bail or on his own bond unless —]*

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release; and

(ii) where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:

Provided that a person, who is under the age of sixteen years or is a woman or is sick or infirm, [or is accused either on his own or along with other co-accused of money-laundering a sum of less than one crore rupees] may be released on bail, if the Special Court so directs:

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(2) The limitation on granting of bail specified in [***] of sub-section (1) is in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.

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xxx xxx xxx xxx"

II. **Section 437 of The Code of Criminal Procedure, 1973** (hereinafter referred to as 'Cr. P.C., 1973')

"***437. When bail may be taken in case of non-bailable offence. –***

(1) When any person accused of, or suspected of, the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court other than the High Court or Court of Session, he may be released on bail, but –

xxx xxx xxx xxx

xxx xxx xxx xxx

Provided that the Court may direct that a person referred to in clause (i) or clause (ii) be released on bail if such person is under the age of sixteen years or is a woman or is sick or infirm :

xxx xxx xxx xxx

xxx xxx xxx xxx"

III. **Section 480 of The Bharatiya Nagarik Suraksha Sanhita, 2023** (hereinafter referred to as 'BNSS, 2023')

*"**480. When bail may be taken in case of non-bailable offence.** — (1) When any person accused of, or suspected of, the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court other than the High Court or Court of Session, he may be released on bail, but-*

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Provided that the Court may direct that a person referred to in clause (i) or clause (ii) be released on bail if such person is a child or is a woman or is sick or infirm:

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xxx xxx xxx xxx"

Relevant Case Law

8. The precedents germane to the issues in question are, thus:

I. ***Grant of regular bail to a woman – accused under the Cr.P.C., 1973***

(i) The Hon'ble Supreme Court in a judgment titled as ***Prahlad Singh Bhati vs. NCT, Delhi and another, (2001) 4 Supreme Court Cases 280***; has held as under:

> "*5. xxxxxxxxxxxxxxxxxxx under Section 437 of the Code when a person accused of, or suspected of the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a court, he may be released on bail by a court other than the High Court and Sessions subject to the condition that he does not reasonably appear to have been guilty of an offence punishable with death or imprisonment for life. The condition of not releasing the person on bail charged with an offence punishable with death or imprisonment for life shall not be applicable if such person is under the age of 16 years or is a woman or is sick or infirm, subject to such conditions as may be imposed. It does not, however, mean that persons specified in the first proviso to sub-section (1) of Section 437 should necessarily be released on bail. The proviso is an enabling provision which confers jurisdiction upon a court, other than the High Court and the Court of Sessions, to release a person on bail despite the fact that there appears reasonable ground for believing that such person has been guilty of an offence punishable with death or imprisonment for life. There is no gainsaying that the discretion conferred by the Code has to be exercised judicially. xxxxxxxxxxxxxxxxx*"

(ii) The Hon'ble Supreme Court in a judgment titled as ***Satender Kumar Antil vs. Central Bureau of Investigation and another, (2022) 10 Supreme Court Cases 51***; has held as under:

> "*69. .Proviso to Section 437 of the Code mandates that when the accused is under the age of sixteen years, sick or infirm or being a woman, is something which is required to be taken note of. Obviously, the court has to satisfy itself that the accused person is sick or infirm. In a case pertaining to women, the court is expected to show some sensitivity. We have already taken note of the fact that many women who commit cognizable offences are poor and illiterate. In many cases, upon being young they have children to take care of, and there are many instances when the children are to live in prisons. The statistics would show that*

more than 1000 children are living in prisons along with their mothers. This is an aspect that the courts are expected to take note of as it would not only involve the interest of the accused, but also the children who are not expected to get exposed to the prisons. There is a grave danger of their being inherited not only with poverty but with crime as well.

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78. Section 437 of the Code empowers the Magistrate to deal with all the offences while considering an application for bail with the exception of an offence punishable either with life imprisonment or death triable exclusively by the Court of Sessions. The first proviso facilitates a court to conditionally release on bail an accused if he is under the age of 16 years or is a woman or is sick or infirm, as discussed earlier. This being a welfare legislation, though introduced by way of a proviso, has to be applied while considering release on bail either by the Court of Sessions or the High Court, as the case may be. The power under Section 439 of the Code is exercised against an order rejecting an application for bail and against an offence exclusively decided by the Court of Sessions. There cannot be a divided application of proviso to Section 437, while exercising the power under Section 439. While dealing with a welfare legislation, a purposive interpretation giving the benefit to the needy person being the intendment is the role required to be played by the court. We do not wish to state that this proviso has to be considered favourably in all cases as the application depends upon the facts and circumstances contained therein. What is required is the consideration per se by the court of this proviso among other factors."

II. ***Grant of regular bail to a woman – accused under the PMLA, 2002***

(i) The Hon'ble Supreme Court in a Judgment titled as ***Saumya Chaurasia vs. Directorate of Enforcement, (2024) 6 Supreme Court Cases 401***; has held as under:

"*23. The use of the expression "may be" in the first proviso to Section 45 clearly indicates that the benefit of the said proviso to the category of persons mentioned therein may be extended at the discretion of the Court considering the facts and circumstances of each case, and could not be* *construed as a mandatory or obligatory on the part of the Court to release them. Similar benevolent provision for granting bail to the category of persons below the age of sixteen years, women, sick or infirm has been made in Section 437 Cr.P.C. and many other special enactments also, however by no stretch of imagination could such provision be construed as obligatory or mandatory in nature, otherwise all serious offences under such special Acts would be committed involving women and persons of tender age below 16 years. No doubt the courts need to be more sensitive and sympathetic towards the category of persons included in the first proviso to Section 45 and similar provisions in the other Acts, as the persons of tender age and women who are likely to be more vulnerable, may sometimes be misused by the unscrupulous elements and made scapegoats for committing such crimes, nonetheless, the courts also should not be oblivious to the fact that nowadays the educated and well placed women in the society engage themselves in the commercial ventures and enterprises, and advertently or inadvertently engage themselves in illegal activities. In essence, the courts should exercise the discretion judiciously using their prudence, while granting the benefit of the first proviso to Section 45 PMLA to the category of persons mentioned therein. The extent of involvement of the persons falling in such category in the alleged offences, the nature of evidence collected by the investigating agency etc., would be material considerations."*

(ii) The Hon'ble Supreme Court in a Judgment titled as ***Directorate of Enforcement vs. Preeti Chandra, 2023 SCC OnLine SC 930***; has held as under:

"*2. The proviso to Section 45 of the Prevention of Money Laundering Act 2002 confers a discretion on the Court to grant bail where the accused is a woman. Similar provisions of Section 437 of the Code of Criminal Procedure 1973 have been interpreted by this Court to mean that the statutory provision does not mean that person specified in the first proviso to sub-section (1) of Section 437 should necessarily be released on bail. [see Prahlad Singh Bhati vs NCT, Delhi and Another (2001) 4 SCC 280].*

(iii) The Hon'ble Supreme Court in a Judgment titled as ***Kalvakuntla Kavitha vs. Directorate of Enforcement, 2024 SCC OnLine SC 2269***; has held as under:

> " *14. We are further of the view that the proviso to Section 45(1) of the PMLA would entitle a woman for special treatment while her prayer for bail is being considered.*
>
> *15. The said proviso to Section 45(1) of the PMLA reads thus:-*
>
> *"Provided that a person, who, is under the age of sixteen years, or is a woman or is sick or infirm, or is accused either on his own or along with other co- accused of money-laundering a sum of less than one crore rupees, may be released on bail, if the special court so directs:"*
>
> *16. A perusal of the above proviso would thus reveal that the proviso permits certain category of accused including woman to be released on bail, without the twin requirement under Section 45 of the PMLA to be satisfied. No doubt that, as argued by the learned ASG, in a given case the accused even if a woman may not be automatically entitled to benefit of the said proviso and it would all depend upon the facts and circumstances of each case.*
>
> *17. However, when a statute specifically provides a special treatment for a certain category of accused, while denying such a benefit, the Court will be required to give specific reasons as to why such a benefit is to be denied.*
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> *xxx xxx xxx xxx*
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> *xxx xxx xxx xxx*
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> *24. A perusal of the judgment of this Court in the case of Saumya Chaurasia (supra) would show that this Court has observed that the Courts need to be more sensitive and sympathetic towards the category of persons included in the first proviso to Section 45 of the PMLA and similar provisions in the other Acts. The Court observes that the persons of tender age and women who are likely to be more vulnerable may sometimes be misused by unscrupulous elements and made scapegoats for committing such crime.*
>
> *25. No doubt that this Court observes that nowadays the educated and well-placed women in the society engage themselves in commercial ventures and enterprises and advertently or inadvertently engage themselves in the illegal activities. The Court therefore puts a caution that*

the Courts, while deciding such matters, should exercise the discretion judiciously using their prudence.

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(iv) The Hon'ble Supreme Court in a Judgment titled as ***Shashi Bala @ Shashi Bala Singh vs. Directorate of Enforcement, Criminal Appeal No.212 of 2025, decided on 15.01.2025***; has held as under:

> *"As rigours of clause (ii) of sub-Section (1) of Section 45 of the PMLA will not apply, the Special Court ought to have treated the application as the one under Section 439 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C.") or Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (for short, "BNSS"). Hence, the first proviso to sub-Section (1) of Section 437 of the Cr.P.C. (the first proviso to sub-Section (1) of Section 480 of the BNSS) will apply."*

Analysis (re law)

9. Personal liberty is not a mere statutory concession conferred by state benevolence, but an inalienable, natural right intrinsic to human existence, serving as the foundational prerequisite for all other civil liberties. Within our constitutional paradigm, Article 21 does not create liberty; rather, it enshrines an inviolable sanctuary against arbitrary state intrusion, demanding that any deprivation of individual freedom must satisfy the tripartite test of legality, reasonableness, and procedural fairness. In the realm of penal procedure, this tripartite test aims at ensuring that pre-trial detention must never degenerate into punitive incarceration; it operates purely as an *ad hoc* custodial measure designed to secure the attendance of the accused at trial, prevent the tampering of evidence *pari passu* , and preserve the integrity of the judicial process without subverting the fundamental maxim *ei incumbit probation, qui dicit, non qui negat* i.e., the

burden of proof lies upon him who affirms, not him who denies. Recognizing that pre-trial incarceration inflicts a disproportionate toll upon classes of individuals, on account of their socio-historical positioning, the legislature has embedded statutory sanctuaries within procedural law to bridge the chasm between formal equality and substantive justice. Women accused of non-bailable offenses are frequently subjected to acute social excommunication, heightened custodial vulnerabilities, and the disruption of primary maternal obligations, which elevates them to a uniquely precarious position. To mitigate these structural handicaps, the procedural regime historically mandated a humane and liberal judicial approach under the first proviso to Section 437(1) of the Cr.P.C., the significance whereof could be fathomed by the fact that the same has been preserved under the first proviso to Section 480(1) of the BNSS. Far from constituting an arbitrary legislative indulgence, this benevolent dispensation is deeply rooted in the constitutional architecture of protective discrimination under Article 15(3), which explicitly empowers the State to enact special provisions for women and children. The constitutional scrutiny recognizes that formal equality, when applied to those who are situated unequally, merely entrenches existing structural disadvantages. Viewed in that light, these affirmative bail provisions are not an exception to Article 14, but a manifestation of its complementary mandate of equal protection of laws, caliberated to account for socio-institutional realities. However, it is imperative to observe that the legislative structuring of this gender-conscious protection within a *'proviso'*; rather than a mandatory standalone provision, holds a distinct legal significance. It signifies that it is merely an enabling provision that confers judicial discretion rather than an imperative command conferring an absolute right to bail solely on the basis of gender. As observed by the Hon'ble Supreme Court in ***Prahlad Singh Bhati*** (supra) that proviso to Section 437(1) of the Cr.P.C. (now proviso to Section 480(1) BNSS) is not intended at conferring an absolute right of bail upon individuals mentioned therein. Furthermore, while interpreting the scope of proviso to Section 437(1) Cr.P.C. (now proviso to Section 480(1) BNSS), the Hon'ble Supreme Court in ***Satinder Kumar Antil*** categorically observed that application of proviso and the concession therein ought not to be extended mechanically in an automatic manner, rather, after taking into account other attending circumstances and factual conspectus.

10. Pertinently, the statutory scheme governing financial crimes under the Prevention of Money Laundering Act, 2002 (PMLA) reflects a rigorous legislative strategy to combat the white-collar crimes and preserve national economic stability. Recognizing money laundering as a grave, calculated social injury rather than an impulsive offence, Section 45(1) of the *PMLA* provides for a higher threshold by imposing mandatory *"twin conditions"* for the grant of bail. Under this general rule, the Court is statutorily constrained from enlarging an accused on bail unless the prosecution is afforded an opportunity to oppose the plea and the court records a positive judicial satisfaction that there exists reasonable grounds to believe that the accused is not guilty and is unlikely to commit any offence while on bail. This stringent operational framework reverses the conventional presumption of pre-trial liberty, and establishes detention as the norm to prevent systemic economic disruption. Recognizing, however,

that an unyielding application of this statutory prohibition would inflict disproportionate hardship on certain class(s) of individuals, the legislature has provided for a concession in the form of the first proviso to Section 45(1) of the *PMLA*. Having derived its legitimacy in the constitutional mandate of protective discrimination under Article 15(3), this statutory proviso carves out a sanctuary, for specified classes, *inter alia*, namely, women. A bare perusal of the proviso reveals that the legislative object of this exception is to dispense with the mandatory application of the *"twin conditions"* for these protected groups wherever warranted, ensuring that procedural rigours do not supersede substantive justice. It is, however, pertinent to emphasize that the proviso to Section 45(1) *PMLA* is intended to carve out a limited exception solely in regard to the applicability of the *"twin conditions"*; it does not obliterate or supersede the broader principles governing bail jurisprudence. The proviso is not designed for automatic or mechanical application, nor does it secure an absolute or unconditional entitlement to liberty for the individuals enumerated therein. The concession under the proviso merely lifts the statutory bar of meeting the *"twin conditions"*, whereupon all other factors involved in bail jurisprudence; including but not limited to, the prima facie strength of the prosecution case, the nature & extent of the role attributed, the gravity of the offence, the severity of the potential sentence, flight risk, and the apprehension of witness tampering or evidence suppression, remain fully attracted and operative.

11. The statutory use of the permissive auxiliary expression *"may be"*, as opposed to an imperative command such as *"shall"*, manifests that

the proviso is enabling in nature and confers discretion upon the court considering the bail plea, rather than being an imperative command directing for release on bail.

It is, however, true that the interpretation of the statutory language relies on the contextual analysis rather than mechanical literalism. While the choice between the terms *"shall"* and *"may"* is not inherently determinitive of whether a provision is mandatory or directory, legislative intent must be inferred from the precise statutory context in which these auxiliary expressions are placed. Within the statutory architecture of Section 45(1) of *PMLA*, the main provision employs the mandatory imperative *"shall"* when stipulating the *"twin conditions"* for bail. This choice of word establishes a stringent, non-discretionary statutory prohibition against enlarging an accused on bail unless the prosecution is heard and the court records a positive finding of non-guilt and non-propensity to commit offences. In contrast, the legislature deliberately substituted *"shall"* with the permissive auxiliary expression *"may be"* within the first proviso to Section 45(1). This intentional shift in nomenclature confirms that the proviso was enacted not to impose a mandatory command, but to confer an enabling, judicial discretion upon the court. As observed by the Hon'ble Supreme Court in ***Preeti Chandra*** (supra) and re-iterated in ***Shashi Bala @ Shashi Bala Singh*** (supra), first proviso to Section 45(1) of the *PMLA* is similar in nomenclature and intent to that of Section 437(1) Cr.P.C., and are merely enabling provisions, and do not mean that the class(s) of person specified therein, should necessarily be released on bail.

12. It is a cardinal principle of statutory construction that a proviso must be construed strictly in relation to the principal enactment to which it is appended. A proviso does not operate as an independent substantive provision conferring standalone rights; rather, its legal function is strictly limited to carving out an exception from the specific field covered by the main body of the section. Since, the main body of Section 45(1) *PMLA* deals exclusively with the imposition of the *"twin conditions"*, the accompanying proviso necessarily operates solely to exempt the specified categories i.e. women, minors, and the sick or infirm, from meeting the burden of those *"twin conditions"*. The proviso cannot be extended beyond its statutory office to grant any broader immunity or create an absolute, automatic entitlement to bail. Where a provision creates an exception to a general rule of stringency, settled principles of interpretation dictate that such a derogation must be stated categorically and cannot be expanded by judicial implication.

13. *Ergo*, the dispensation granted under the first proviso to Section 45(1) *PMLA* merely lifts the mandatory statutory prohibition imposed by the *"twin conditions"*, leaving all other foundational principles of bail jurisprudence fully operative. The use of *"may be"* restores judicial discretion, requiring the court to exercise the jurisdiction for grant of bail on the basis of the well settled principles, having regard to the circumstances of each case and not in an arbitrary manner. While granting the bail, the court has to keep in mind, *inter alia,* the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour, means and standing of the accused,

circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations.

14. There is another *nay* vital aspect of the matter which craves attention of this Court.

15. Pertinently, the statutory command in the proviso to Section 45(1) of the *PMLA*, is categoric: it exempts all women as a class from the stringent operation of the *"twin conditions"* without drawing any statutory distinction based on education, professional standing, social status, or societal exposure. Since, the legislature chose not to qualify the term "*woman*", any attempt by the Court to carve out sub-categories, such as excluding educated, and professionally employed, etc. women from the purview of the proviso, would tantamount to impermissible judicial legislation and statutory supplanting. *Ergo*, as far as the initial applicability of the proviso is concerned, creating sub-classifications within the protected group runs contrary to the constitutional ethos of Article 15(3) and violates the plain-meaning rule of statutory interpretation, as enshrined in the maxim *absoluta sententia expositor non indigent*, i.e. where the language is plain, it requires no construction. However, a vital legal distinction must be drawn between the applicability of the proviso and the ultimate exercise of judicial discretion under it. While factors such as education, high official standing, socio-economic influence, and the specific role played in the offence are irrelevant (in case of a woman) for deciding whether the “*twin conditions*” stand displaced, they nevertheless be taken into account, where relevant,

while adjudicating the bail plea on merits. As affirmed by the Hon'ble Supreme Court in ***Saumya Chaurasia*** (supra), lifting the statutory bar under the *"twin conditions"* merely re-vests discretion in the court; it does not guarantee an automatic, mechanical release. *Ergo*, while there cannot be any further sub-classification amongst women, as far as the applicability of proviso to Section 45(1) *PMLA* is concerned, the factors such as the *prima facie* strength of the prosecution case, the degree of intellectual or managerial participation in the money-laundering scheme, the background and specific role attributed, the potential to influence witnesses or tamper with evidence, and flight risk, etc. remain legitimate factors in deciding whether judicial discretion ought to be exercised in her favour. The Hon'ble Supreme Court in ***Kalvakuntla Kavitha*** (supra) cautioned for a judicious and prudent exercise of discretion while adjudicating bail plea of educated and well-placed women in the society engaging themselves in commercial ventures and enterprises and inadvertently or advertently engaging themselves in illegal activities pertaining to grave offences such as money laundering. It goes without saying that it is neither pragmatic nor feasible to lay any universal exhaustive yardstick or inexorable set of guidelines for adjudication of this aspect as every case has its own unique factual conspectus, which has to be taken into account by the Court which is in *seisin* of the matter. It was said by Lord Denning, an observation which met with approval by the Hon'ble Supreme Court, that:

> *".....Each case depends on its own facts, and a close similarity between one case and another is not enough, because even a single significant detail may alter the entire aspect. In deciding such case, one should avoid the temptation to decide case (As said by Cardozo) by*

matching the colour of one case against the colour of another. To decide, therefore, on which side of the line a case falls, its broad resemblance to another case is not all decisive."

16. As a sequitur to prevenient rumination, the following postulates emerge:

(i) The statutory exemption carved out under the first proviso to Section 45(1) of *PMLA*; is clear, explicit and unambiguous, in mandating that the statutory bar imposed by the *"twin conditions"* does not apply to a woman accused seeking regular bail for an offence under *PMLA*.

(ii) The legislature has deliberately used the term *"woman"* without qualification or exception. Applying the plain-meaning rule, the proviso applies universally to all women as a class. Consequently, judicial creation of sub-classifications; whether based on education, professional standing, high official capacity, or socio-economic status; is impermissible as it would amount to statutory supplanting.

(iii) The intentional statutory shift from the mandatory imperative *"shall"* in the main body of Section 45(1) of *PMLA* to the permissive auxiliary expression *"may be"* in the first proviso thereof demonstrates that the dispensation is an enabling, discretionary provision rather than an imperative command. The proviso lifts the statutory bar of the twin conditions to re-vest judicial discretion in the court; it does not confer an absolute, automatic, unconditional or indefeasible right to bail solely on the basis of gender.

(iv) The legal ambit of first proviso to Section 45(1) of *PMLA* is strictly confined to exempting a woman-accused seeking regular bail, from meeting the burden of the *"twin conditions"*. Lifting this statutory prohibition does not obliterate, supersede, or override the broader principles governing bail jurisprudence. Once the *"twin conditions"* stand displaced, the general principles for grant/refusal of bail remain fully operative and must be satisfied independently.

(v) There is no straight-jacket formula for determining the factors required to be taken into account while considering a bail plea of a woman-accused under the *PMLA;* as it is a question that depends upon the facts/ circumstances of a particular case, including but not limited to; the *prima facie* strength of the prosecution case, the nature and extent of the accused's participation, the gravity of the offence, potential sentence severity, flight risk, the apprehension of witness tampering or evidence suppression etc. No universal guidelines or parameters can possibly be exhaustively enumerated for this exercise of power by the concerned Court as every case has its own unique factual conspectus.

Analysis (re facts of the present case)

17. Now this Court reverts to the facts of *petition in hand* to delve thereupon.

The petitioner (herein) is a woman and in view of the rumination *ibid,* she would not be required to meet with the rigors of Section 45 of the *PMLA*. First proviso to Section 45(1) of the *PMLA* confers a discretionary power upon this Court to release such an accused on bail. The said legislative consideration cannot be treated as an empty formality. It is required to be kept in mind while assessing the overall circumstances of the case including the period of custody, the stage of proceedings and the likelihood of conclusion of trial. Furthermore, at the stage of consideration of bail, this Court is not required to undertake a meticulous examination of the evidence or record a finding which may prejudice either side at the stage of trial. At this stage; this Court is required to examine the broad contours of the allegations, the material collected during investigation, the role attributed to the accused, the period of custody already undergone and the likelihood of the trial being concluded within a reasonable time.

18. In the present case, the petitioner was arrested on 16.12.2025 and as per the custody certificate dated 06.08.2026, she has remained in custody for more than 07 months. The *ED* has filed the prosecution complaint dated 27.01.2026 *qua* her before the concerned Court. There is no tangible material available before this Court from which it can be deciphered that any further custodial interrogation of the petitioner is presently required. This Court cannot lose sight of the fact that the prosecution proposes to examine 73 witnesses as also rely upon 111 documents running into 6728 pages & the trial is concededly at the pre-cognizance stage. It is, thus, indubitable that the conclusion of trial will take long & culmination thereof cannot be reasonably foreseen in near future considering the volume of the prosecution material and the number of witnesses proposed to be examined. Nothing tangible has been brought forth to indicate the likelihood of the petitioner absconding from the process of justice. Furthermore, nothing perceptible has been brought forward from where it can be inferred that the petitioner may influence the witnesses. The material relied upon by the prosecution is substantially documentary and electronic in nature. The prosecution has already completed its investigation

and has filed the prosecution complaint against the petitioner (herein). The documents and electronic devices stated to have been seized during investigation are already in the custody of the investigating agency. In the considered opinion of this Court, the petitioner cannot be subjected to incarceration for an indefinite period merely because the allegations against her are serious, particularly when the trial is likely to take considerable time. At this stage, this Court is required to examine whether there is anything tangible on record to indicate that, if released on bail, the petitioner is likely to abscond or evade the process of law. Nothing substantial has been brought to the notice of the Court from which such an apprehension can be inferred. The petitioner has remained available during the investigation and the prosecution has already filed its complaint. The mere nature of the allegations cannot, by itself, be treated as sufficient ground for the continued incarceration of the petitioner and also the sole determining factor for deciding a prayer for bail. The Court is required to balance the gravity of the allegations with the principle of personal liberty and other attending circumstances emerging from the record. Furthermore, the *ED* has not brought forth list/details of any witness(s) being vulnerable muchless tangible basis thereof.

18.1. The prosecution has attributed to the petitioner a role in the management of the affairs of the Company and routing and layering the alleged proceeds of crime through various bank accounts. These allegations are yet to be established by the prosecution by leading cogent evidence during trial. At the stage of consideration of plea for grant of regular bail, this Court cannot determine the probative value of document/statement(s) relied upon by the prosecution as the same would be examined by the trial Court at the appropriate stage in accordance with law. Furthermore, as noted above, the petitioner has already suffered incarceration for more than seven months. The prosecution complaint was filed within six weeks of her arrest but the trial is presently at the pre-cognizance stage. Considering the number of witnesses and the voluminous documentary material relied upon by the prosecution, there is no reasonable possibility of the trial concluding in the near future.

19. Keeping in view the entirety of the factual *milieu* of the case in hand; more pertinently the factum of the petitioner (herein) being a woman, the procrastinated nature of the trial which is reflectable from the extensive prosecution evidence likely to be yet led (in the form of 73 witnesses and 111 relied upon documents running into 6728 pages) *vis-à-vis* the petitioner (herein) already having suffered incarceration for more than 07 months as per the custody certificate dated 06.08.2026 brought forth by ED, no list of vulnerable witnesses muchless basis thereof being brought forward, nothing tangible being shown that the petitioner is likely to influence any witness(s) & nothing substantial being brought forward that the petitioner poses a potent flight risk; this Court is inclined to afford regular bail to the petitioner (herein).

<u>Decision</u>

In view of the prevenient ratiocination, it is ordained thus:

I. The *petition in hand* is granted & it is directed that the petitioner be released on regular bail in ECIR/CDZO-I/17/2025 dated 18.09.2025 registered under the Prevention of Money Laundering Act, 2002 on such terms and condition(s) as deemed appropriate by the concerned Special Judge/Duty Magistrate, including but not limited to, the following conditions:

(i) The petitioner shall not mis-use the liberty granted.

(ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.

(iii) The petitioner shall not absent herself on any date before the trial without the prior permission of competent Court.

(iv) The petitioner shall not commit any offence while on bail.

(v) The petitioner shall deposit her passport with the concerned Special Judge/Duty Magistrate.

(vi) The petitioner shall give her cellphone number to the Investigating Officer and shall not change her cell-phone number without prior permission of the trial Court.

(vii) The petitioner shall not in any manner try to delay the trial.

(viii) The petitioner shall submit, on the first working day of every month, an affidavit, before the concerned Court, to the effect that she has not been involved in commission of any offence after being released on bail. In case the petitioner is found to be involved in any offence after her being enlarged on bail in the present case, on the basis of her affidavit or otherwise, the ED is mandated to move, forthwith, for cancellation of her bail which plea, but of course, shall be pondered upon merits thereof.

(ix) The petitioner shall also be obligated to furnish either a demand-draft or FDR or bank guarantee to the tune of ₹20.00 lacs in favour of the Court releasing her on bail. Needless to say that this amount may be liable to be forfeited forthwith in case of any default at her end.

II. In case of breach of any of the aforesaid stipulation(s) and those which may be imposed by concerned Special Court/Duty Magistrate as directed hereinabove *or* upon showing any other sufficient cause, the *ED* shall be at liberty to move for cancellation of bail hereby granted to petitioner.

III. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

IV. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

August 07, 2026
Ajay/Mahavir

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No