

CRM-M-30971-2026

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-30971-2026
Date of Decision: 10.09.2026

Davinder Singh Nirwal @ Dev

...Petitioner

Versus

Directorate of Enforcement

...Respondent

CORAM: HON’BLE MR. JUSTICE ANOOP CHITKARA
HON’BLE MR. JUSTICE HARMEET SINGH DEOL

Present: Mr. Tanheer Singh Bariana, Advocate and
Mr. Jangveer Singh Bariana, Advocate
for the petitioner.

Mr. Satya Pal Jain, Additional Solicitor General of India with
Mr. Akash Vashisth, Advocate
for the respondent-E.D.

ANOOP CHITKARA, J.

ECIR No.	Dated	Police Station	Sections
02/JLZO/2013	25.03.2013	Fatehgarh Sahib	Prevention of Money Laundering Act, 2002

1. The petitioner, who is in custody in the above-captioned ECIR, came up before this Court for the second time under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 [BNSS], seeking interim bail on medical grounds.
2. The petitioner’s Counsel confines his submissions to medical grounds, reserving the right to file for bail on the merits and on prolonged pre-trial custody if the medical bail is either not extended or denied.
3. The petitioner's counsel seeks interim bail on medical grounds and submits that the petitioner, aged 76 years, is suffering from medical issues and cannot even take care of his personal needs and any further pre-trial incarceration would cause irreversible injustice to the petitioner and his family. Counsel for the petitioner, on instructions, states that the petitioner is not a flight risk and that all the documentary evidence is already in the possession of the Enforcement Directorate; as such, there is no reason to deny bail to the petitioner, and if denied, the petitioner's deteriorating medical condition would have an irreversible impact on his life if he survives.



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4. The petitioner's counsel further states, on instruction, that the petitioner would have no objection whatsoever to any stringent conditions that this Court may impose, including that, if the petitioner repeats the offense, commits any non-bailable offense that provides for a sentence of imprisonment for more than seven years, commits any offense under the NDPS Act where the quantity involved is more than half of the intermediate or commercial quantity, or violates S. 19, 24, or 27-A of the NDPS Act, the State may file an application to revoke this bail before the concerned Special Judge or Sessions Court having jurisdiction over this FIR, which shall have the authority to cancel this bail and may do so at its discretion, to which the petitioner shall have no objection.

5. The ED's counsel opposes bail and refers to the replies and previous conduct, which was that the petitioner was initially summoned, but he tried to evade the summons from 2016. He was arrested with great difficulty, and if released on bail, he would be a flight risk.

6. Counsel for the ED submits that the twin conditions of Section 45 of the PMLA must be satisfied before bail is granted, and they have not been explained in this matter. It is alleged that the petitioner has purchased a large number of properties in India in the name of his son, Rao Bahadur Nirwal, who is also an accused but is absconding. The other reason to oppose bail is that the petitioner is already convicted in FIR No. 1 dated 17.06.2018 and sentenced to 12 years. He was convicted in FIR No. 41 dated 07.12.2013 and sentenced to 04 years, and in FIR No. 214 of 2018 under the Prisons Act, he has already completed his sentence.

7. Brief facts of the case are that an FIR No. 45 was initially registered on March 3, 2013, at Police Station Fatehgarh Sahib under Section 21 of the NDPS Act, read with offenses under the IPC and the Arms Act. The allegations against the petitioner are of smuggling 925 kg of ketamine drug to China and one ton of pseudoephedrine to Canada. The police had also seized 10 kilograms of pseudoephedrine and 500 grams of intoxicating powder from the petitioner, and as such, FIR No. 241 of 2013 was also registered against him at Police Station Patiala.

8. The Assistant Director, Director of Enforcement, has filed a reply affidavit dated 07.06.2026. The Enforcement Directorate is opposing the bail even on medical grounds by stating that the petitioner is in judicial custody and all his medical care, including spinal surgery, has been taken care of by the jail authorities, and he can be shifted to government hospitals, and there is no need to grant interim bail to him on medical grounds. Further, the opposition is that a successive application is not maintainable because the bail was earlier dismissed on merits. Although the reply was supposed to be filed on medical grounds, the



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focus is more on merits. We are not considering bail on merits, but only on medical grounds and prolonged custody.

9. The stand of the petitioner is clearly mentioned in the bail petition. In paragraph no. 3, it is mentioned that the petitioner is a senior citizen aged 76 years and suffering from multiple severe and debilitating ailments which are posing a grave and imminent threat to his life because the petitioner's health is deteriorating at an alarming speed on a daily basis. It is further mentioned in paragraph no. 4 of the bail petition that the petitioner has been diagnosed with severe spinal ailments, and even an open spinal surgery had been conducted, but he still needs constant and specialized medical care, which is not possible in jail. Thus, there is no specific denial of the medical condition of the petitioner in the reply, where the emphasis is to highlight the gravity of the offense and previous rejection of bail petitions on merits and that the petitioner is a flight risk.

10. Regarding the previous rejection of bail petitions on merits, this Court is confining itself only to medical and prolonged custody; as such, the opposition to the previous rejection does not survive.

11. Regarding medical, there is no denial of the allegations either in reply or at the time of arguments of the case.

12. In Tulsi Ram Yadav v. State of Uttar Pradesh, I.A. No.28851/2020 in SLP(Crl) No. 10732 of 2019, Mar 27, 2020, the Hon'ble Supreme Court observed,

The applicant has been convicted of an offence under Section 302 of the Indian Penal Code. The Special Leave Petition arises from the judgment of the High Court of Allahabad dated 13 May 2019, affirming the conviction and the sentence of life imprisonment. The interlocutory application is for interim bail on medical grounds.

The applicant has been detected to suffer from pancreatic carcinoma. It has been disclosed in the application that the applicant was referred by the Swarup Rani Hospital at Allahabad to the Sanjay Gandhi Postgraduate Institute of Medical Sciences, Lucknow. Mr. Tuhin, learned counsel appearing on behalf of the applicant states that the applicant is presently undergoing indoor treatment at SGPIMS, Lucknow. However, in the current situation, the surgery has not been specifically scheduled on a particular date. Relevant medical papers have been annexed to the application for interim bail.

Having heard learned counsel appearing on behalf of the applicant and upon perusing the record, we find it appropriate and just to direct that the applicant be released on interim bail for a period of six weeks so as to enable him to pursue the medical treatment which he is undergoing for pancreatic cancer. The applicant shall surrender immediately upon the expiry of the period of six weeks from today. In the meantime, the whereabouts of the applicant shall be communicated by him to the nearest police station on a weekly basis. We are passing this order in the



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peculiar facts which have been noted above and having regard to the current situation.

13. In Shoma Kanti Sen v. State of Maharashtra,¹ Apr 05, 2024, the Hon'ble Supreme Court holds,

[2]. The appellant was detained on 06.06.2018 in connection with First Investigation Report ("FIR") no. 04/2018 dated 08.01.2018 registered with Vishrambaug Police Station, Pune alleging commission of offences under Sections 153A, 505 (1b), 117 read with Section 34 of the Indian Penal Code, 1860 ("1860 Code"). The complaints therein related to violence that broke out at a function organised by Elgar Parishad. Certain acts of violence had taken place at Shanivarwada, Pune on 31.12.2017 thereafter. The prosecution's case is that in the said programme, provocative speeches were delivered and there were cultural performances which had the effect of creating enmity between caste groups, resulting in disruption of communal harmony, violence, and loss of life. The said FIR was initially lodged against the organisers of the Elgar Parishad event, which included activists of a cultural body, known as Kabir Kala Manch. The appellant before us was not named in that FIR as an accused at that point of time.

[41]. Once we find that Section 43D (5) of the 1967 Act would not be applicable in the case of the appellant, we shall have to examine the case of the appellant in relation to accusation against her under Section 13 of the 1967 Act and also other offences under the provisions of the 1860 Code, which we have narrated earlier. We have already indicated that she is a lady of advanced age, suffering from various ailments. The ailments by themselves may not be serious enough for granting bail on medical ground. But taking cognizance of the composite effect of delay in framing charge, period of detention undergone by her, the nature of allegations against her vis-à-vis the materials available before this Court at this stage in addition to her age and medical condition, we do not think she ought to be denied the privilege of being enlarged on bail pending further process subsequent to issue of chargesheets against her in the subject-case.

14. In Sanket Balubhai Patel v. Directorate of Revenue Intelligence, SLP (Crl.) 5015-2025, decided on July 16, 2025, the Hon'ble Supreme Court holds,

[2]. Mr. Devashish Bharuka, learned senior counsel appearing for the petitioner undertakes to ensure that the service is effected on the Respondent No.1- Directorate of Revenue Intelligence. He submits that, as of now, temporary bail may be granted since the petitioner's wife is suffering from cancer and is undergoing chemotherapy.

[3]. The petitioner's wife is living with her mother-in-law alongwith their 8 year old child and she is unable to manage the treatment effectively in the absence of the petitioner.

[4]. It is further submitted that the High Court of Gujarat had earlier granted interim bail to the petitioner for a period of two weeks on the ground of his wife's medical treatment. The petitioner had dutifully surrendered on the expiry of the period.

¹ [2024] 4 S.C.R. 270; 2024 INSC 269, Apr 05, 2024, https://api.sci.gov.in/supremecourt/2023/12835/12835_2023_5_1501_52096_Judgement_05-Apr-2024.pdf



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[5]. In the light of the above circumstances, we are of the opinion that the petitioner can be granted temporary bail for a period of three weeks.

15. The rationale behind detention and custody is deterrence, retribution, protecting society from such criminals from committing further offenses, and sending a firm message to the public not to violate the law enacted by the State, or else their freedom might be curtailed. At the same time, it reassures victims that the State's justice system is in place and discourages them from seeking revenge by taking the law into their own hands. Reforming the inmates to prepare for their re-integration into society as a social philosophy behind modern-day prisons becomes futile when they are on the last leg of their lives. The incarceration loses its objectivity when the inmate is a sick and infirm middle-old.

16. Unhealthy old age is a curse. It is inhumane to deny bail to middle-old people, or to those who are so sick that it is better for them to receive treatment outside prison walls; subject to the exception like the inmate is a recidivist who refuses to mend their ways, or is at flight risk, or that the criminal is of extreme perversity, or that the crime is so heinous or so cruel, that releasing such person on bail would be more disastrous to the society. Denying bail in such cases can be unkind and goes against the conscience of the Court. Thus, whenever a person above 75 years of age with health issues is in custody, the concerned Judge must have the spine to do justice and examine the health and old age related issues with utmost sympathy and concern, and before rejecting the bail application of a person above 75 years of age, the Court must document the reasons for the same.

17. The rigors of section 45 under PMLA cannot be a hindrance if someone is medically so unfit that the treatment inside the closed walls of the prison becomes a mere formality. Accordingly, denying bail would violate such a person's right to life, which can be taken only by due process of law and is a fundamental right guaranteed under Article 21 of the Constitution of India.

18. In Gautam Kundu Vs. Manoj Kumar, Govt. of India, Dec 16, 2015, MANU/SC/1453/2015, Hon'ble Supreme Court holds,

[33]. ...We have noted that Section 45 of the PMLA will have overriding effect on the general provisions of the Code of Criminal Procedure in case of conflict between them. As mentioned earlier, Section 45 of the PMLA imposes two conditions for grant of bail, specified under the said Act. We have not missed the proviso to Section 45 of the said Act which indicates that the legislature has carved out an exception for grant of bail by a Special Court when any person is under the age of 16 years or is a woman or is a sick or infirm. Therefore, there is no doubt that the conditions laid down under Section 45A of the PMLA, would bind the High Court as the provisions of special law having overriding effect on the provisions of Section 439 of the Code of Criminal Procedure for grant of bail to any person accused of committing offence punishable



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under Section 4 of the PMLA, even when the application for bail is considered under Section 439 of the Code of Criminal Procedure.

[35]. We cannot brush aside the fact that the appellant floated as many as 27 companies to allure the investors to invest in their different companies on a promise of high returns and funds were collected from the public at large which were subsequently laundered in associated companies of Rose Valley Group and were used for purchasing moveable and immoveable properties.

[36]. We do not intend to further state the other facts excepting the fact that admittedly the complaint was filed against the Appellant on the allegation of committing offence punishable under Section 4 of the PMLA. The contention made on behalf of the Appellant that no offence under Section 24 of the SEBI Act is made out against the Appellant, which is a scheduled offence under the PMLA, needs to be considered from the material collected during the investigation and further to be considered by the competent court of law. We do not intend to express ourselves at this stage with regard to the same as it may cause prejudice the case of the parties in other proceedings. We are sure that it is not expected at this stage that the guilt of the accused has to be established beyond reasonable doubt through evidences. We have noted that in *Y.S. Jagan Mohan Reddy v. Central Bureau of Investigation* (2013) 7 SCC 439, this Court has observed that the economic offences having deep rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of country. In *Union of India v. Hassan Ali Khan* (2011) 10 SCC 235, this Court has laid down that what will be the burden of proof when attempt is made to project the proceeds of crime as untainted money. It is held in the said paragraph that allegations may not ultimately be established, but having been made, the burden of proof that the monies were not the proceeds of crime and were not, therefore, tainted shifted on the accused persons under Section 24 of the PML Act, 2002. The same proposition of law is reiterated and followed by the Orissa High Court in the unreported decision of *Smt. Janata Jha v. Assistant Director, Directorate of Enforcement* (CRLMC No. 114 of 2011 decided on December 16, 2013). Therefore, taking into account all these propositions of law, we feel that the application for bail of the Appellant should be seen at this stage while the appellant is involved in the economic offence, in general, and for the offence punishable under Section 4 of the PMLA, in particular.

19. In *Bachhu Yadav v. Directorate of Enforcement Government of India represented by its Assistant Director (PMLA) and Ors.*, Sep 06, 2023, MANU/SC/0982/2023, Hon'ble Supreme Court holds,

[7]. In that background, keeping in view the allegation against the Petitioner is of possessing the amount of Rs. 30 lakh in his bank account, apart from the fact that the very allegation is that the said amount was deposited on 24.01.2022 which is prior to the period of illegal activity alleged, for the present there is an explanation as put forth by the Petitioner during the course of investigation in answer to the specific question on being confronted with the account details in Jharkhand Gramin Bank, Bhagamari Branch. The explanation is that the amount was deposited by him in respect of the transaction for purchase of house



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with land in Asansol for Rs. 26 lakhs. It is further stated that the sum of Rs. 26,00,024/- was transferred through NEFT to one Munmun Maji and it is stated that the said amount was the sale consideration for the property. To enable transfer of the same, it had been deposited in the bank account. At the point of hearing this petition, it was stated across the bar that the sale has also been registered. Be that as it may, these are aspects which, in any event, would be looked at during the course of the trial.

[8]. Further, though the learned Additional Solicitor General has contended that the bail application filed by the main Accused Pankaj Mishra has been dismissed by this Court on 26.04.2023 in Special Leave Petition (Criminal) No. 4682 of 2023, it is seen that the application filed has in fact been withdrawn with liberty to file an application for interim bail on medical ground and also to file afresh bail application after six months. Be that as it may, in the instant facts, the nature of the allegation in the present proceedings has been taken note. In that circumstance, it is seen that the Petitioner was arrested on 05.08.2022 and he has spent a little over one year of incarceration. The chargesheet is filed and the Trial Court having framed the charges, no doubt has started the trial and it is stated across the bar that five witnesses have been examined but it is also stated that in all 42 witnesses are cited to be examined. In that circumstance, taking into consideration all aspects of the matter and also making it subject to the condition that the Petitioner shall diligently participate in the trial without interfering in the course of justice and also complying with the other appropriate conditions to be imposed by the trial court, the prayer is accepted.

[9] . Hence, we direct that the Petitioner be enlarged on bail subject to appropriate conditions being imposed by the trial court and the Petitioner diligently adhering to such conditions, as also not being required in any other case.

20. In Sheikh Javed Iqbal v. State of Uttar Pradesh, July 18, 2024, MANU/SC/0716/2024, Hon'ble Supreme Court holds,

[21]. It is true that the appellant is facing charges under Section 489B Indian Penal Code and under Section 16 of the UAP Act which carries a maximum sentence of life imprisonment, if convicted. On the other hand, the maximum sentence under Section 489C Indian Penal Code is 7 years. But as noticed above, the trial is proceeding at a snail's pace. As per the impugned order, only two witnesses have been examined. Thus, it is evident that the trial would not be concluded in the near future.

[22]. It is trite law that an accused is entitled to a speedy trial. This Court in a catena of judgments has held that an accused or an undertrial has a fundamental right to speedy trial which is traceable to Article 21 of the Constitution of India. If the alleged offence is a serious one, it is all the more necessary for the prosecution to ensure that the trial is concluded expeditiously. When a trial gets prolonged, it is not open to the prosecution to oppose bail of the accused-undertrial on the ground that the charges are very serious. Bail cannot be denied only on the ground that the charges are very serious though there is no end in sight for the trial to conclude.

[32]. This Court has, time and again, emphasized that right to life and personal liberty enshrined under Article 21 of the Constitution of India is



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overarching and sacrosanct. A constitutional court cannot be restrained from granting bail to an accused on account of restrictive statutory provisions in a penal statute if it finds that the right of the accused-undertrial under Article 21 of the Constitution of India has been infringed. In that event, such statutory restrictions would not come in the way. Even in the case of interpretation of a penal statute, howsoever stringent it may be, a constitutional court has to lean in favour of constitutionalism and the Rule of law of which liberty is an intrinsic part. In the given facts of a particular case, a constitutional court may decline to grant bail. But it would be very wrong to say that under a particular statute, bail cannot be granted. It would run counter to the very grain of our constitutional jurisprudence. In any view of the matter, K.A. Najeeb (supra) [Union of India v. K.A. Najeeb, 2021:INSC:50] being rendered by a three Judge Bench is binding on a Bench of two Judges like us.

[33]. Thus, having regard to the discussions made above, we are of the considered view that continued incarceration of the appellant cannot be justified. We are, therefore, inclined to grant bail to the appellant.

21. As per the custody certificate dated 17.08.2026, the petitioner's custody in the present case is 05 years, 01 month and 12 days. Although the petitioner is entitled to medical bail, even on the ground of old age, he is also entitled to bail on the ground of prolonged custody.

22. The main offense was under the NDPS Act, where rigors of section 37 similar to those of section 45 of the PMLA are applied. The large quantity of narcotics allegedly involved in this case is an offense under the NDPS Act, whereas under the PMLA, the offense is only for money laundering regarding the conversion of the drug money being utilized for other purposes. It is always within the purview of the Enforcement Directorate to recover all the proceeds of crime traced to a precursor offense, but it would not mean that when the trial is not being concluded for such a long time, the person should still be kept in custody because of the inability and the inefficiency of the Enforcement Directorate to recover the money, or furthermore for the loopholes in the statute itself.

23. Medical history of the petitioner indicates that he is undergoing treatment and requires periodic checkups. Furthermore, per the custody certificate dated 17.08.2026, the petitioner's custody in the present case is more than five years. Thus, the petitioner is entitled to medical bail not only on the grounds of old age but also entitled to bail on the ground of prolonged custody.

24. Given the above and without commenting on the case's merits, in the facts and circumstances peculiar to this case, coupled with the petitioner being 76 years and his old age, the Court is inclined to grant interim bail to the petitioner from **Sep 11, 2026, to Dec 21, 2026**, with liberty to file an application for extension of interim bail, if the health condition does not improve. This order shall come into force from the time it is uploaded



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on this Court's official webpage.

25. This order is subject to the the petitioner complying with all the conditions mentioned in this order, and upon furnishing bail bonds of Rs. 1,00,000/- with one surety of the like amount, to the satisfaction of the concerned Trial Court/Chief Judicial Magistrate/Judicial Magistrate/Illaqa Magistrate.

26. The surety bonds can be furnished by following the guidelines laid down in Sukhdev Singh @ Rinku v. State of Punjab, CRA-D-616-2026, decided on 29.05.2026, Neutral Citation 2026-PHHC-086085-DB.

27. If the bail bonds are not furnished within 10 days, then the petitioner's Counsel may file an application before the trial Court/Sessions Court for reducing or waiving the surety bonds, and the trial Court/Sessions Court shall be competent to reduce/ waive the same.

28. Any observation made hereinabove is tentative and is not an expression of opinion on the case's merits, and it shall have no bearing on the trial or on the case of the co-accused, if any, and the trial Court shall not advert to these comments.

29. In Pila Pahan @ Peela Pahan and others v. State of Jharkhand and another, WP(Crl.)169-2025, 2026-INSC-604, May 29, 2026, while exercising powers under Article 142 of the Constitution of India, the Hon'ble Supreme Court holds,

[16.A.I.] d. Orders granting regular bail, suspending sentence, or acquitting a convict in custody should be communicated to the jail authorities and the Trial Court on the date it is pronounced.

[16.A.I.] e. Consequent upon the outcome of serial number (d) above, the undertrial/convict must be released on the same day or, at most, on the next day, unless they are required to be taken in custody in another case, or there is a delay in complying with the bail conditions, etc.

30. It is clarified that this order shall not be considered as a blanket bail order in any other matter and is only limited to bail in the matter arising from the ECIR captioned in the beginning.

31. In Amit Rana v. State of Haryana, CRM-18469-2025 in CRA-D-123-2020, decided on 05.08.2025, a Division Bench of the Punjab and Haryana High Court held,

[13]. To ensure that every person in judicial custody who has been granted bail or whose sentence has been suspended gets back their liberty without any delay, it is appropriate that whenever the bail order or the orders of suspension of sentence are not immediately sent by the Registry, computer systems, or Public Prosecutor, then in such a situation, to facilitate the immediate restoration of the liberty granted by any Court, the downloaded copies of all such orders, subject to verification, must be accepted by the Court before whom the bail bonds are furnished.

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32. The petitioner is directed to surrender by 11 AM on Dec 22, 2026, to the prison from which the petitioner was released on bail based on this order.

PETITION ALLOWED.

(ANOOP CHITKARA)
JUDGE

(HARMEET SINGH DEOL)
JUDGE

September 10, 2026
Jyoti-II

Whether speaking/reasoned	YES
Whether reportable	YES