* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 21st September, 2026
Pronounced on: 24th September, 2026
Uploaded on: 24th September, 2026

\# **CNR No. DLHC010288812026**

\+ BAIL APPLN. 2564/2026, CRL.M.A. 19685/2026 & CRL.M.(BAIL) 1280/2026

MASASASONG AO .....Applicant

Through: Mr. S. K. Srivastava, Mr. Prince Kumar, Ms. Shubhi Srivastava, Ms. Garima Singh and Ms. Kriti Sharma, Advocates.

versus

DIRECTORATE OF ENFORCEMENT AND ANR .....Respondents

Through: Mr. Vivek Gurnani, Panel Counsel with Mr. Ch. Abhinandan Patra and Mr. Kanishk Maurya, Advocates for R-1.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J.

1. The Applicant seeks regular bail in Complaint Case No. 145/2022 arising out of ECIR No. HQ-09/STF/2021 dated 4th June, 2021, registered for offences under Sections 3 and 4 of the Prevention of Money Laundering Act, 2002 ["PMLA"]. His earlier application for bail was rejected by the Special Judge on 16th March, 2026.

2. The proceedings originate from FIR No. 228/2019 dated 17th December, 2019. Alemla Jamir, the co-accused, was intercepted at Delhi Airport while carrying cash of INR 72 lakh, which, according to the

prosecution, was meant for NSCN(IM), and formed part of funds raised for the organisation through extortion and illegal taxation. The investigation was thereafter taken over by the National Investigation Agency ["NIA"] and RC No. 26/2019/NIA/DLI was registered. The Applicant, though not named in the original FIR, was subsequently arrayed as an accused. The NIA charge-sheet proposes his prosecution under Sections 120-B, 201, 384, 465 and 467 of the Indian Penal Code, 1860 ["IPC"] and Sections 17, 18, 20 and 21 of the Unlawful Activities (Prevention) Act, 1967.

3. Some of the offences invoked in the NIA case are scheduled offences under the PMLA. Based on these predicate offences, ED registered the present ECIR. The Applicant was arrested in this case on 18th October, 2022 while he was already in custody in the NIA proceedings. Alemla Jamir was arrayed as Accused No. 1, the Applicant as Accused No. 2 and M/s A.J. Agency as Accused No. 3 in the original prosecution complaint. A supplementary complaint subsequently brought in another accused, Tanton Muivah.

4. ED's case is that funds collected through extortion and illegal taxation were routed through numerous bank accounts in the names of Alemla Jamir, her relatives and associated entities, with a view to projecting them as untainted. The prosecution complaint refers to 59 bank accounts opened in the names of Alemla Jamir, her relatives and associated entities through which, according to ED, approximately INR 173.24 crore was deposited and routed over the years, including inter-account transactions.

5. ED does not accuse the Applicant merely of allowing Alemla Jamir to use an account standing in his name. Its case goes further. Sinam Pritam Singh of Eastern Motors is stated to have disclosed that approximately INR 4.20 crore was paid over a period of three years into accounts of A.J. Agency and

an account of the Applicant for uninterrupted movement of vehicles. P. Impty of Trident Enterprises is relied upon to say that the Applicant was involved in arranging and controlling funds of Alemla Jamir and that substantial amounts were advanced from the Applicant's account as loans. ED also relies upon a transfer of INR 70 lakh from the Applicant's Axis Bank account to A.J. Agency.

6. ED places considerable reliance on what happened after Alemla Jamir's arrest. The Applicant is stated to have withdrawn INR 54.71 lakh from one account on 2nd January, 2020, which he says was done at Alemla's instructions; another INR 57 lakh was withdrawn on 4th January, 2020 for a proposed purchase of land. An amount of INR 2.5 lakh was received from Eastern Motors on 27th December, 2019 for movement of vehicles. The Applicant also acknowledges depositing INR 1 lakh in an account opened after Alemla's arrest. P. Impty, in turn, is stated to have disclosed that the Applicant instructed him after her arrest to deposit INR 1.18 crore into accounts whose particulars were furnished by the Applicant. These are the principal circumstances on which ED relies to contend that his role was active and knowing, rather than incidental.

7. The Applicant, however, has throughout maintained that several of these accounts, though standing in his name or that of his wife, were operated by Alemla Jamir, who is his close relative. He stated during investigation that the accounts had been opened at her instance and that the signed cheque books were thereafter handed over to her.

8. Mr. S. K. Srivastava, counsel for the Applicant, submits that the prosecution has sought to attribute a much larger role to the Applicant than the material would bear. The accounts in question were substantially operated

at the instance of Alemla Jamir and the transactions now relied upon by ED do not, by themselves, establish that the Applicant knew the source of the funds or consciously participated in their laundering. He emphasises that the Applicant is a serving government employee; the investigation is complete; the complaint as well as the supplementary complaint have already been filed; and the banking and other documentary material is in the possession of the investigating agencies. Mr. Srivastava also places considerable reliance on the Applicant's incarceration since 18th October, 2022, which has crossed one-half of the maximum sentence prescribed for the offence, particularly when the trial is progressing slowly and Alemla Jamir has since been enlarged on bail in both the predicate and PMLA proceedings.

9. Mr. Vivek Gurnani, counsel for ED, on the other hand, submits that the Applicant's role cannot be reduced to that of an account holder who merely permitted Alemla Jamir to use his accounts. Reliance is placed on the transactions undertaken by the Applicant himself, particularly after her arrest, including substantial withdrawals, deposits, dealings with funds received from Eastern Motors and the statement of P. Impty regarding the Applicant's directions for transfer of INR 1.18 crore. These circumstances, it is urged, show active and knowing involvement in the handling and movement of proceeds of crime. Mr. Gurnani accordingly contends that the Applicant has failed to satisfy the twin conditions under Section 45 of the PMLA. It is further submitted that the seriousness of the scheduled offences, which concern alleged extortion and terror funding, cannot be overlooked; that bail granted to a co-accused does not create a right to parity; and that Section 436A of the Code of Criminal Procedure, 1973 ["Cr.P.C."] does not mandate release merely upon completion of one-half of the maximum prescribed sentence.

Analysis

10. The submission based on Section 45 must be addressed first. In ***Union of India v. Kanhaiya Prasad***,[1] the Supreme Court reiterated that the twin conditions under Section 45 are mandatory and that a court dealing with bail under the PMLA cannot pass a cursory order without reckoning with the material and recording the requisite satisfaction.

11. At the same time, the scope of enquiry under Section 45 must be kept in perspective. In ***Prem Prakash v. Union of India through Directorate of Enforcement***,[2] the Supreme Court, following ***Vijay Madanlal Choudhary v. Union of India,***[3] and ***Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra,***[4] clarified that the Court, at the stage of bail, is not required to delve deep into the merits or meticulously weigh the evidence. The expression "reasonable grounds for believing" requires the Court to assess, on broad probabilities, whether there is a genuine case against the accused. The prosecution is not required, at this stage, to establish the charge beyond reasonable doubt, nor is the Court required to return a positive finding of innocence. Any finding so recorded remains confined to the consideration of bail and does not bear upon the merits of the trial.

12. The allegation under the PMLA has to be examined in that setting. The offence under Section 3 is not made out merely because money which is alleged to be tainted has passed through an account standing in the name of an accused. What the prosecution must ultimately establish is the Applicant's involvement, directly or indirectly, in a process or activity connected with

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[1] 2025 INSC 210.
[2] 2024 INSC 637.
[3] (2023) 12 SCC 1.
[4] (2005) 5 SCC 294.

proceeds of crime. In the present case, ED relies upon more than the mere existence of the accounts. It refers to withdrawals and deposits made by the Applicant himself, transactions undertaken after Alemla Jamir's arrest, and the statement of P. Impty to contend that the Applicant was knowingly involved in handling and moving the funds.

13. There is, therefore, material which *prima facie* supports the prosecution case. At the same time, the explanation offered by the Applicant cannot, at this stage, be dismissed as a bare denial. His consistent case is that Alemla Jamir substantially controlled the accounts and that several transactions were undertaken at her instance. Even the withdrawal of INR 54.71 lakh, on which ED places reliance, is stated in the complaint itself to have been made on her instructions. Likewise, the Applicant disputes the inference which ED seeks to draw from the other withdrawals, deposits and transfers. Whether these circumstances establish that he knew the criminal source of the funds and consciously participated in their laundering is not self-evident merely from the movement of money; that inference will have to be tested with the evidence at trial.

14. At this stage, the Court is not called upon to finally choose between these competing explanations of the transactions. The material relied upon by ED undoubtedly raises circumstances against the Applicant; however, whether those circumstances establish his knowing involvement in the alleged money laundering remains a matter for trial. On the broad probabilities which govern the enquiry under Section 45, the material does not presently justify treating that inference as conclusive. Any firmer determination would require an assessment of the evidence beyond the scope of the present bail proceedings.

15. The second limb of Section 45 requires the enquiry to be forward-looking: whether the Applicant is likely to commit an offence while on bail. In *Prem Prakash*, the Supreme Court explained that, since future conduct cannot be predicted with certainty, this assessment must be made having regard to the antecedents and propensities of the accused, as well as the nature and manner of the alleged offence. The Special Judge relied, amongst other things, upon the transactions undertaken after Alemla Jamir's arrest as indicative of future offending. While those transactions are relevant, they date back to 2019-20 and, without more, do not establish that, after nearly four years in custody, the Applicant is presently likely to commit an offence if released.

16. Apart from the NIA proceedings arising from the same underlying transactions, no other criminal involvement of the Applicant has been brought to the Court's notice. He is a government employee with a permanent place of residence, and his jail conduct is recorded as satisfactory. The financial and banking records relied upon by ED are already with the investigating agencies, and any apprehension of flight or interference with witnesses can be addressed through appropriate conditions. The Court is therefore satisfied that the second condition under Section 45 is also met.

17. What then remains is the effect of the period of incarceration. The Applicant has been in custody in the present case since 18th October, 2022. The maximum punishment under Section 4 of PMLA, in the present case, is seven years. He crossed one-half of that period on 18th April, 2026, thereby attracting the consideration contemplated under Section 436A Cr.P.C. The nominal roll records that by 23rd July, 2026 he had already undergone three years, nine months and six days in custody. He is now approaching four years

of incarceration.

18. Section 436A Cr.P.C. was also considered by the Special Judge. The Judge was correct in observing that the provision does not confer an absolute right comparable to default bail. *Vijay Madanlal Choudhary* itself says so. At the same time, the Supreme Court emphasised that Section 436A is a beneficial provision founded upon the constitutional right to a speedy trial under Article 21. Where an accused has undergone one-half of the maximum period of imprisonment and the trial remains pending, the provision assumes particular significance in considering whether further detention is justified.

19. That principle was applied in *Ajay Ajit Peter Kerkar v. Directorate of Enforcement*,[5] where the Supreme Court dealt specifically with an accused under the PMLA who had undergone one-half of the maximum period of imprisonment and directed his release on bail under Section 436A Cr.P.C. The statutory protection against excessive undertrial detention therefore operates in PMLA proceedings as well, although its application remains dependent upon the facts of the case.

20. However, the fact that the trial has been delayed does not, by itself, conclude the enquiry under Section 436A. As *Vijay Madanlal Choudhary* clarifies, relief may still be denied where the delay is attributable to the accused himself. That is not the position here. The Special Judge noted that the delay arose, in part, from the supplementary complaint against Tanton Muivah and the proceedings pursued by her thereafter in exercise of her legal remedies. Indeed, the Judge expressly observed that no party could be blamed for such delay. There is thus nothing to suggest that the delay in the present

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[5] 2024 SCC OnLine SC 4055.

case is attributable to the Applicant.

21. The pace of the trial acquires particular significance in this backdrop. The affidavit filed pursuant to this Court's directions identifies 27 prosecution witnesses, 18 in the original complaint and 9 in the supplementary complaint. As of July, 2026, only 5 had been examined. Even accounting for the progress thereafter, nothing on record suggests that the trial is nearing conclusion.

22. It is at this point that the rigours of Section 45 intersect with the constitutional concern against prolonged incarceration. In *Prem Prakash*, the Supreme Court recognised that where an accused has remained in custody for a substantial period and the trial is unlikely to conclude within a reasonable time, the restrictions under Section 45 may yield to the imperative of protecting conditional liberty. Pre-trial detention cannot be permitted to assume a punitive character; Article 21 remains the governing constitutional command.

23. The position has since been reiterated in ***Arvind Dham v. Directorate of Enforcement***.[6] Referring to ***V. Senthil Balaji v. Enforcement Directorate,***[7] the Supreme Court reiterated that, in statutes such as the PMLA where the maximum punishment is seven years, prolonged incarceration may warrant grant of bail by a Constitutional Court where there is no likelihood of the trial concluding within a reasonable time. Statutory restrictions cannot be permitted to produce indefinite pre-trial detention. The Court also noticed that where the documentary evidence relied upon by the prosecution has already been seized, the possibility of its being tampered with stands eliminated.

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[6] 2026 INSC 12.
[7] 2024 SCC OnLine SC 2626.

24. There is, of course, an additional feature here. The predicate prosecution is under the UAPA and the allegations are serious. That circumstance has been kept in view. However, seriousness cannot be the complete answer to the length of custody in the PMLA case. The two prosecutions are distinct, and the maximum punishment with which this Court is presently concerned remains seven years. *Arvind Dham* reiterates that Article 21 is not eclipsed by the nature of the accusation.

25. Mr. Gurgani has also pointed to the pendency of the predicate case. Section 479(2) of the BNSS requires the pendency of multiple offences or proceedings to be taken into account while considering release on bail. It does not, however, preclude the Court from granting bail once the prescribed period of custody has been undergone. This Court has recently taken that view in ***Leena Paulose v. Directorate of Enforcement***,[8] holding that Section 479 has to be read as a whole and in its constitutional setting. Multiple proceedings remain a relevant factor; they do not by themselves extinguish the protection against prolonged undertrial detention.

26. The fact that Alemla Jamir has obtained bail both in the predicate proceedings and thereafter in the PMLA case has also been pressed into service. The Court, however, place limited weight on parity. Her circumstances were not identical: she had undergone a longer period of custody and considerations personal to her, including the proviso applicable to a woman under Section 45, entered into the decision. The Applicant must therefore succeed, if at all, on his own case. Her release is only an additional circumstance and not the reason for this order.

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[8] 2026:DHC:3809.

27. A number of other issues were raised on behalf of the Applicant. The status of NSCN(IM), the notifications under the UAPA, the competence of officers of ED and objections concerning some of the material collected during investigation. It is unnecessary to decide those questions. The present application can be disposed of without pronouncing upon issues which would take the Court beyond what is required at the stage of bail.

28. The position, therefore, is this. ED has material which requires trial, and the Court has not proceeded on the assumption that its case is insubstantial. At the same time, the prosecution is substantially founded on financial records and transactions which have already been secured. The investigation *qua* the Applicant is complete. There is no material suggesting that the Applicant is likely to re-offend or that any residual risk to the trial cannot be controlled by conditions. Most importantly, he has spent nearly four years in custody against a maximum sentence of seven years, has crossed the statutory halfway mark, and the trial still has substantial ground to cover. No comparable part of the delay is shown to have been caused by him.

29. To continue the Applicant's detention until an uncertain end of trial would allow pre-trial custody to assume a punitive character. Section 45 does not require that result, and Article 21 does not permit it.

30. The application is accordingly allowed. The Applicant shall be released on bail in Complaint Case No. 145/2022 arising out of ECIR No. HQ-09/STF/2021, on furnishing a personal bond in the sum of INR 50,000/- with one surety of the like amount, to the satisfaction of the Trial Court, subject to the following conditions:

(i) the Applicant shall cooperate in any further investigation, as and when required by the Investigating Officer;

(ii) the Applicant shall surrender his passport, if not already deposited, and shall not leave India without prior permission of the Trial Court;

(iii) the Applicant shall furnish his current residential address and mobile number to the Investigating Officer and shall intimate any change thereof. He shall keep his mobile phone operational and reachable at all times;

(iv) the Applicant shall appear before the Trial Court as and when required and shall not seek unnecessary adjournments;

(v) the Applicant shall not, directly or indirectly, contact, threaten, induce or influence any prosecution witness, or tamper with the evidence in any manner; and

(vi) the Applicant shall not indulge in any criminal activity while on bail.

31. In the event of any FIR, DD entry or complaint being lodged against the Applicant, it shall be open to the Respondent to seek cancellation of bail in accordance with law.

32. It is clarified that the present order concerns only the Applicant's custody in the proceedings arising out of the aforesaid ECIR. If the Applicant is required to remain in custody in the predicate proceedings or in any other case, his release shall be governed by the orders passed in those proceedings.

33. It is further clarified that the observations made in the present order are confined to the adjudication of the present bail application and shall not be construed as an expression of opinion on the merits of the case or influence the Trial Court while appreciating the evidence.

34. The bail application is allowed in the aforesaid terms.

SANJEEV NARULA, J

SEPTEMBER 24, 2026/*hc*