



2026 INSC 1124

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO(S).4904 OF 2026
(Arising out of SLP (Crl.) No. 10994 of 2026)**

**SANJAY SUREKA @SANJAY
KUMAR SUREKA**

... APPELLANT(S)

VERSUS

**DIRECTORATE OF
ENFORCEMENT**

...RESPONDENT(S)

J U D G M E N T

ARAVIND KUMAR, J.

- 1.** Leave granted.
- 2.** The Appellant / Accused is before us challenging the order of the High Court of Calcutta in CRM (R) 84 / 2025 dated 14.11.2025 whereby the Appellant's prayer for regular bail under Section 439 of the Code of Criminal Procedure, 1973 r/w Section 45 of the Prevention of Money Laundering Act, 2002 was rejected.

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- 3.** The said regular bail application was filed by the Appellant / Accused in connection with ECIR/KLZO-1/10/2023 dt. 24.03.2023 and the predicate offence i.e FIR No. RCBSK2022E0001 registered u/Sections 120B / 420 / 477A IPC, 1860 r/w Sections 13(1)(d) & 13(2) of the Prevention of Corruption Act, 1988 on 06.09.2022.
- 4.** The seeds of the case lie in the CIRP which was initiated against M/s. Concast Steel and Power Limited on 07.11.2017, and has since been concluded and the company has gone into liquidation. On 08.10.2021, an application was filed by the Liquidator under Sections 43, 45 and 66 of the IBC, 2016, alleging several fraudulent and avoidable transactions indulged in by the management of M/s. Concast Steel and Power Limited during or prior to the CIRP proceedings. The NCLT, by a detailed order, dismissed the said application, which order was not challenged. Thereafter, on 06.09.2022, the CBI registered FIR No. RCBSK-2022-E-0001 under Sections 420, 477A and 120B of the IPC and Sections 13(1)(d) and 13(2) of the Prevention of Corruption Act. Subsequently, on 24.03.2023, i.e. approximately one year and three months after registration of the FIR, an ECIR was registered against the Appellant /A-1 and four other accused persons. The accusation

against the Appellant is that he had orchestrated a complex web of financial transactions to fraudulently inflate the company's turnover, secure credit from a consortium of banks led by the State Bank of India, and divert those funds for personal enrichment through 62 shell companies. The Proceeds of Crime involved are to the tune of Rs. 6210.72 Crores out of which only Rs. 777.10 Crores have been attached under the provisions of PMLA so far. The Appellant had created 62 shell companies, 34 persons were made dummy directors and 20 companies were manned by his relatives who contributed to the offence of money laundering. The Appellant was arrested by the Enforcement Directorate on 18.12.2024 and has remained in custody for about 20 months, the maximum punishment prescribed under the PMLA being seven years.

- 5.** The Learned Counsel for the Appellant submits that the arrest was vitiated due to the non-compliance of S.19(1) and (2). Since arrest itself is vitiated, invocation of Section 45 is legally impermissible. Further, there was a delay of 5 days in forwarding the arrest order and material in possession to the Adjudicating authority which constitutes as non-compliance of Section 19(2). He further asserts that the "Grounds of Arrest" and "Reasons to Believe", both dated 18.11.2024 reveal that

the said documents are virtually identical except for the cosmetic variations in the concluding paragraph. It is further stated that the Appellant has not been interrogated while in custody and that the contents of the grounds of arrest and the reasons to believe are verbatim similar, allegedly indicating non-application of mind in recording the reasons to believe. On 15.02.2025, the ED filed the prosecution complaint, wherein it categorically stated that the investigation qua the Appellant was complete. Thereafter, the first supplementary prosecution complaint was filed on 11.07.2025, followed by the second supplementary prosecution complaint on 01.07.2026. Significantly, the three complaints involve a total of 97 accused persons, 48 prosecution witnesses and approximately 15,000 pages of relied-upon documents, while the investigation is stated to be still pending qua the other accused persons. The sheer volume of evidence demonstrates that the trial is unlikely to commence or conclude within a reasonable timeframe. They have sought to rely on the following cases:

- *Union of India V. KA Najeeb (2021) 3 SCC 713*
- *Arvind Dham V. Directorate of Enforcement, 2026 SCC OnLine SC 30*
- *Basudeb Bagchi & Anr. V. Enforcement Directorate, SLP (Crl.) 7613 / 2026*

- *Arvind Walia v. Directorate of Enforcement & Anr., SLP (Crl.) 2461 / 2026*
- *Padam Chand Jain V. Enforcement Directorate, SLP (Crl.) 17476 / 2024*

6. *Per Contra*, the Directorate of Enforcement submits that the Appellant /Accused was produced before the Special Court within 24 hours. That delayed compliance with Section 19(2) of the Prevention of Money Laundering Act, 2002, is wholly misconceived and devoid of merit. That a post-arrest procedural requirement cannot be turned into a pre-remand sanction requirement. The Appellant was arrested on 18.12.2024 and the material under S.19(2) was forwarded to the Adjudicating Authority on 23.12.2024. Such delay of five days, by itself, does not vitiate the arrest and consequent remand as the said section does not prescribe automatic invalidation of arrest as the consequence of delayed forwarding.

7. Mere similarity between grounds of arrest and reasons to believe does not cause prejudice to the Appellant. The relevant test, in this regards, is whether the accused was made aware of the essential basis of his arrest and whether the Special Court was able to examine the existence of material and recorded satisfaction u/S. 19(1). That the core safeguards against

arbitrary arrest were duly complied with: the authorised officer had material in possession, reasons to believe were recorded in writing, grounds of arrest were furnished and the Appellant was produced before the competent court within 24 hours. That grave economic offence involving proceeds of Crime is more than Rs. 6,210.72 Crores. That the Appellant is involved in over 444 cases.

- 8.** Heard. Records perused.
- 9.** In a bail matter, especially in serious offences, the job of a Court is to balance the rights of the State with those of the Arrestee. In special laws such as PMLA, 2002, the conditions for granting bail are stringent, and the circumstances in which bail can be granted are rare, for the simple reason that economic offences of a large magnitude punch a whole through the financial fabric of the country, causing a top-down ripple effect into the entire eco-system resulting in large consequences for most of the population. That is the justification for making the provisions of PMLA stringent. In the same breath, sight must not be lost of the fact that the institutions have a duty to expeditiously investigate the cases, or else the justification to keep an accused person under

custody for an indefinite period of time. Process must not be turned into a punishment unto itself.

- 10.** We do not agree with the contention of the Ld. Counsel for the Appellant that the arrest was rendered illegal and there was non-compliance of Section 19(2) because there was a delay of 5 days in forwarding the arrest order and material in possession to the Adjudicating Authority. The reason is simple. There is no timeline mentioned in PMLA to forward the arrest order and the material in possession to the Adjudicating Authority. It has to be done “immediately”. The word “immediately” does not mean within 24 hours or within a set time limit, it means that the material has to be transferred expeditiously and simultaneously. When the records of the case run into thousands of pages, it is natural for the arresting officer to require some time to forward the same. Again, this time cannot be strictly defined, but as long as the forwarding of the material is simultaneous with the arrest, with no delay, except for that which is absolutely necessary, the same cannot be said to be falling foul of Section 19(2) of the Act. Practicalities must not be rendered otiose. When an investigating agency is collecting, assimilating, and compiling evidence to be forwarded, there can be administrative requirements which need to be fulfilled

and which might require a few days of time to be adhered to. Hence, there is no merit in the contention that the delay of five days will jeopardise the state of arrest itself.

- 11.** That being said, we find ourselves in agreement with the Ld. Counsel for the Appellant that the magnitude of this case renders it impossible for the trial to be completed anytime soon. The Appellant has been in custody for over 20 months for an offence which has a punishment period of 7 years. The investigation has been completed quo Appellant. No purpose will be served by keeping the accused person behind bars now.
- 12.** The twin conditions under Section 45 of the PMLA cannot override the constitutional safeguards under Article 21 of the Constitution, as has been held in the case of *Manish Sisodia v. Directorate of Enforcement*¹. Prolonged incarceration, if allowed to continue, will set at naught the constitutional safeguards extended to the accused persons.
- 13.** We are of the opinion that the culmination of the trial is a time consuming process, since the trial court will have to go through documents running into thousands of pages and examine around 98 witnesses. The Appellant must not be subjected to

¹ (2024 SCC OnLine SC 1920)

the rigours of custody as long as the trial is pending. Hence, Appellant must be released on bail, subject to furnishing of bail bonds to the satisfaction of the trial court and subject to such other terms and conditions as may be imposed by it.

- 14.** Further, the Appellant shall deposit their passport with the Trial Court and shall not leave the country during the pendency of the trial without the prior permission of the Trial Court.
- 15.** While on bail, the Appellant shall not make an attempt to influence the witnesses or tamper with the evidence. In case of a breach of bail conditions, the trial court will be at a liberty to cancel the bail of the Appellant.
- 16.** The observations made in this case must not be treated as findings on the merits of the case.
- 17.** In terms aforesaid, this Appeal is allowed. Pending application(s), if any, shall stand disposed of.

.....J.
[ARAVIND KUMAR]

.....J.
[VIPUL M. PANCHOLI]

**NEW DELHI;
OCTOBER 14th, 2026.**