

IN THE SPECIAL COURT DESIGNATED UNDER THE PML ACT, 2002  
GR. BOMBAY

ORDER BELOW EXH.513  
IN  
SPECIAL CASE (PMLA) NO.452 OF 2020

Rana Raj Kapoor,  
.....

... Applicant (A1)

Versus

Directorate of Enforcement  
Through the Asst. Director,  
Zone Office I, Kaiser-I-Hind,  
Ballard Estate, Fort, Mumbai.

... Prosecution

**Appearance:**

Ld. Sr. Counsel Mr. Aabad Ponda a/w. Ld. Adv. Mr. Rahul Agarwal,  
Adv. Ms. Siya Chaudhary, Adv. Ms. Jasmin Purani and Mr. Sajid Sayed  
i/b Agarwal and Dhanuka Legal, Advocates on behalf of the applicant  
(A1).

Mr. Sunil Gonsalves, Ld. Spl. PP

CORAM : M. G. DESHPANDE,  
DESIGNATED SPECIAL COURT  
UNDER THE PML ACT, 2002.  
(C.R.N.16)

DATE : December 21, 2023.

**ORDER**

1. Unduly incarcerated Rana Kapoor (A1) having undergone more than a half period of sentence (3 years and 6 months) prescribed for the offence under Sec.3 punishable under Sec.4 of the Prevention of Money Laundering Act, 2002 (For short 'the PML Act') and as such, deemed to have been convicted without any trial for a minimum period of sentence, as per Sec.4 of the PML Act, has preferred this application

for exercising his right of bail under Sec.436-A of the Cr.P.C. on the basis of liberty granted to him by the Hon'ble Supreme Court vide Order dt. **04.08.2023** in **Rana Kapoor Vs. Directorate of Enforcement and another [Petition (s) for Special Leave to Appeal (Crl.) No.7700/2023]**. It is his specific contention that on the date of filing of this application he had been unduly incarcerated and had undergone 3 years and 6 months period which is half the period of maximum sentence prescribed for the offence under Sec.3 punishable under Sec.4 of the PML Act. Till date, its been **3 years and 9 months**, trial has not begun by framing charges. His specific contention is that delay in beginning of trial by framing charges has not being caused due to delay in proceeding on his part. Considering the present status of the case, there is no likelihood that in future within a particular time-frame, trial will begin and conclude. Therefore, he prayed to allow the application and release him on bail as per Sec.436-A of the Cr.P.C. Date-wise details are being discussed afterwards.

2. Directorate of Enforcement (For short, 'ED') filed their say at Exh.513-B and strongly opposed the application referring facts involved in the case and further law laid down in,

- i. **Gautam Kundu Vs. Enforcement Directorate [C.R.M. (SB) 237 of 2022 dt. 16.01.2023 – the Hon'ble Calcutta High Court],**
- ii. **Vijay Madanlal Choudhary and others Vs. Union of India and others, [Special Leave Petition (Cri.) No.4634 of 2014, decided on 27.07.2022] ;**
- iii. **Indu Dewan Vs. Republic of India, (2016 SCC OnLine Ori. 472) ;**
- iv. **Pradeep Vs. State of Maharashtra, (2012 SCC OnLine Bom.1106) ;**

- Suresh Badrinath Somani Vs. State of Maharashtra, (2009 SCC OnLine Bom.17829) ;
- v. V. Hansprakash Vs. State (2020 SCC OnLine Del.1926) ;
- vi Neeru Yadav Vs. State of Uttar Pradesh (2014) 16 SCC 508] ;
- vii. Y. S. Jagan Mohan Reddy Vs. C.B.I. (2013) 7 SCC 439 ;
- viii. Vijay Narendra Kumar Kothari Vs. Directorate of Enforcement (2021 SCC OnLine Bom. 540) ;
- ix. Ramchand Karunakaran, Managing Director Vs. Directorate of Enforcement (2020 SCC OnLine Bom. 7949).

3. On the basis of these authorities, it is contention of ED that Rana Kapoor is one of the main accused persons, being M.D. cum C.E.O. of Yes Bank during the relevant period, had misused his position to gain undue financial benefit for him, his family members and associates by involving himself in bribery, corruption and money laundering activities. On **08.03.2020**, he was arrested by the Agency on reasonable belief that he was involved in an offence of money laundering under Sec. 3 p.u. Sec. 4 of the PML Act. This Court had remanded him in ED custody and after exhausting the maximum period therein, he was remanded in judicial custody on 20.03.2023. Ever-since he has been in the judicial custody. The ED has filed one main Prosecution Complaint and three Subsequent Prosecution Complaints before this Court and the Court has taken cognizance thereof.

4. ED further contended that his application for regular bail under Sec.45 of the PML Act was already rejected by this Court vide Order dt.21.07.2020. The Hon'ble High Court vide Orders dt.25.01.2021 and 04.05.2023, rejected his subsequent bail

applications. Thereafter, he preferred this application under Sec.436-A of Cr. P. C., when this Court by reasons continued his detention for a period longer than one half of the said period, therefore, the Court is empowered to order continued detention of the applicant in jail instead of releasing him on personal bond or on surety bond under Sec.436A of Cr. P. C. However, in no case, detention of the applicant (A1) can be continued beyond the period of seven years. In this background, ED further contended that already his bail application was rejected on merits. Unless he satisfies rigors of twin conditions under Sec.45(1) of the PML Act, he is not even entitled to claim any right under Sec.436-A of Cr.PC. With this, ED contended to reject the application.

5. In view of these contentions, heard Ld. Sr. Counsel Mr. Aabad Pona for the applicant and Ld. Spl.PP. Mr. Sunil Gonsalves at length.

6. Following points arise for my determination. I am recording following findings thereon for the reasons discussed below :-

<b>POINTS</b>	<b>FINDINGS</b>
1. Whether the trial has been delayed at the instance of the applicant (A1)?	No
2. Whether the applicant (A1) satisfies twin conditions under Sec.45 and entitled to be released on bail as per Sec.436A Cr.PC. ?	Yes
3. What Order ?	As per final order

**REASONS****POINTS NO.1 AND 2.**

7. At the outset, it is necessary to note that the basis for this application is the liberty granted to the applicant (A1) by the Hon'ble Supreme Court vide **Order dt.04.08.2023 in Petition (s) for Special Leave to Appeal (Crl.) No.7700/2023**, which is reproduced below,

“Learned Senior Advocate appearing on behalf of the petitioner seeks permission to withdraw the present special leave petition and states that the petitioner – Rana Kapoor, if advised, will file an application for bail relying upon Section 436-A of the Code of Criminal Procedure, 1973.

**Taking the statement on record, the special leave petition is dismissed as withdrawn with liberty as prayed for.**

**We clarify that we have not made any observations/ comments on the merits of the case”.**

This is the basis for the present application. Admittedly, the bail applications filed by the applicant before this Court and before the Hon'ble High Court were rejected against which he preferred the said Special Leave Petition before the Hon'ble Supreme Court and subsequently withdrew the same, wherein above liberty was given to him by the Hon'ble Supreme Court. Therefore, it is an admitted fact that on merits his bail applications were rejected, but whether such rejections of bail applications on merits would completely debar the applicant (A1) in making application under Sec.436A Cr.PC.? or Once the application for bail is rejected on merits that shuts all the doors of the applicant (A1), including Sec.436A Cr.PC., particularly when there is undue incarceration, is to be assessed and determined on the basis of peculiar facts and surrounding circumstances, present stage of this case and the estimate when the trial will begin and conclude finally.

8. First of all it is necessary to calculate the exact period when the application was filed and whether it is after the period prescribed

under Sec.436A Cr. P. C.? thereafter. The applicant (A1) was arrested on **08.03.2020**. This application was filed on **08.09.2023**. When the application was filed on that day the applicant (A1) had completed **3 years and 6 months** of his judicial custody which has been further extended time to time till date. Sec.4 of the PML Act deals with punishment for money laundering and prescribes as **“Whosoever commits the offence of money-laundering shall be punishable with rigorous imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine”**. Applicant’s (A1) case does not fall under the Proviso (Paragraph 2 of Part A of the Schedule) to Sec.4 of the PML Act. Therefore, it is a fact that on the date of filing of the application the applicant (A1) had undergone detention for a period extending upto one half of the maximum period of imprisonment specified for the offence under Sec.3 of the PML Act, as required under Sec.436A of Cr.PC. Words **“for that offence under that law”** in Sec.436A cover the Prevention of Money Laundering Act also. Hence, the application is technically qualified under Sec.436A Cr. P. C. and the same is as per the liberty granted by the Hon’ble Supreme Court. As on today the detention of the applicant (A1) in judicial custody is of **3 years 9 months and 13 days** and admittedly trial has not yet begun.

9. Now, it is necessary to refer some legal positions settled by the Hon’ble Supreme Court and the Hon’ble High Courts. This being a case under the PML Act, recently the Hon’ble Supreme Court has laid down certain principles relating to the Sec.436A Cr.PC. in **Vijay Madanlal Choudhary and others Vs. Union of India and others, [Special Leave Petition (Criminal) No.4634 of 2014, decided on 27.07.2022]**.

Paragraphs 144 to 149 deal with the principles relating to Sec.436A of the Cr. P. C. as follows,

**PRINCIPLES AS PER VIJAY MADANLAL CHOUDHARY LAID DOWN BY  
THE HON'BLE SUPREME COURT FOR SEC.436A CR. P. C.**

- a. The Union of India also recognized right of speedy trial and access to justice as fundamental right in their written submissions.
- b. It would not be appropriate to deny the relief of Sec.436A of 1973 Code, which is a wholesome provision beneficial to a person accused under the 2002 Act. However, Sec.436A of the 1973 Code, does not provide for an absolute right of bail as in the case of default bail under Sec.167 of the 1973 Code.
- c. For, in the fact situation of a case, the Court may still deny the relief owing to the ground, such as where the trial was delayed at the instance of accused himself.
- d. In our opinion, this provision is comparable with the statutory bail provision or, so to say, the default bail, to be granted in terms of Section 167 of the 1973 Code consequent to failure of the investigation agency to file the chargesheet within the statutory period and, in the context of the 2002 Act, complaint within the specified period after arrest of the person concerned.
- e. In the case of Section 167 of the 1973 Code, an indefeasible right is triggered in favour of the accused the moment the investigating agency commits default in filing the chargesheet/complaint within the statutory period. The provision in the form of Section 436A of the 1973 Code, as has now come into being is in recognition of the constitutional right of the accused regarding speedy trial under Article 21 of the Constitution.
- f. For, it is a sanguine hope of every accused, who is in custody in particular, that he/she should be tried expeditiously — so as to uphold the tenets of speedy justice.
- g. **If the trial cannot proceed even after the accused has undergone one-half of the maximum period of imprisonment provided by law, there is no reason to deny him this lesser relief of considering his prayer for release on bail or bond, as the case may be, with appropriate conditions, including to secure his/her presence during the trial.**
- h. It is the Constitutional obligation of the State to insure that, trials are concluded expeditiously and **at least within a reasonable time where strict bail provisions are applied.**
- i. **If a person is detained for a period extending up to one-half of the maximum period of imprisonment specified by law and is still facing trial, it is nothing short of failure of the State in upholding the constitutional rights of the citizens, including person accused of an**

offence.

- j Section 436A of the 1973 Code, is a wholesome beneficial provision, which is for effectuating the right of speedy trial guaranteed by Article 21 of the Constitution and which merely specifies the outer limits within which the trial is expected to be concluded, failing which, the accused ought not to be detained further.
- k Section 436A of the 1973 Code also contemplates that the relief under this provision cannot be granted mechanically. It is still within the discretion of the Court, unlike the default bail under Section 167 of the 1973 Code.
- l Under Section 436A of the 1973 Code, however, the Court is required to consider the relief on case-to-case basis.
- m The proviso therein itself recognises that, in a given case, the detention can be continued by the Court even longer than one-half of the period, for which, reasons are to be recorded by it in writing and also by imposing such terms and conditions so as to ensure that after release, the accused makes himself/herself available for expeditious completion of the trial.
- n Section 436A needs to be construed as a statutory bail provision and akin to Section 167 of the 1973 Code.
- o The mandate of Section 167 of the 1973 Code would apply with full force even to cases falling under Section 3 of the 2002 Act, regarding money-laundering offences. **On the same logic, Section 436A of the 1973 Code could be invoked by accused arrested for offence punishable under the 2002 Act, being a statutory bail.**

10. **Vijay Madanlal Choudhary (supra)** is directly on this subject i.e. the PML Act, clearly laid down that if the trial cannot proceed even after the accused has undergone one half of the maximum period of imprisonment provided by law, there is no reason to deny him this lessor relief of considering his prayer for release on bail or bond, as the case may be, with appropriate conditions including to secure his/her presence during the trial. It is also made clear that under Sec.436A of the 1973 Code, however, the Court is required to consider the relief on case-to-case basis. The proviso therein itself recognises that, in a given case, the detention can be continued by the Court even longer than one-half of the period, for which, reasons are to be recorded by it in writing and also by imposing such terms and conditions so as to ensure that



after release, the accused makes himself/herself available for expeditious completion of the trial.

11. Particularly, whether the detention of the applicant (A1) can be continued by the Court even longer than one half of the period, will be discussed afterwards; but the law laid down by the Hon'ble Supreme Court in **Vijay Madanlal Choudhary (supra)** clearly indicates that any accused whose bail application is rejected on merits is not completely debarred from making an application under Sec.436A Cr.P.C. when he is not being tried as expeditiously as possible particularly from the point of maximum punishment provided for the offence. In **Vijay Madanlal Choudhary (supra)** the Hon'ble Supreme Court has referred it as "**lesser relief**", for such situation.

12. In the instant case from the circumstances which will be discussed afterwards make it clear that the trial is not delayed by any mistake or delaying tactics and conduct of the applicant (A1). The applicant (A1) cannot be blamed for multiple proceedings initiated by various other co-accused persons, which in fact have been delaying the trial. The most important aspect is that even ED has not perceived and sensed the true spirit of Sec.44(1)(c) of the PML Act, which also delayed the trial of the instant case and this aspect cannot be ignored while considering other circumstances as referred by the Hon'ble Supreme Court in **Vijay Madanlal Choudhary (supra)**.

13. Prior to **Vijay Madanlal Choudhary** the Hon'ble Supreme Court in the case of **Bhim Singh Vs. Union of India (2015)13 SCC 605** has given various directions in respect of Sec.436A Cr.P.C. Relying upon this authority even the Hon'ble Bombay High Court vide **Order**

dt.12.08.2015 in similarly situated case of money-laundering i.e. Hasan Ali Khan Vs. State of Maharashtra (Bail Application No.2035/2014) granted relief under Sec.436A Cr. P.c. as follows,

“15. In case of Bhimsingh v. Union of India reported in (2014)10 Scale 290, the Hon’ble Apex Court had considered the provisions of Section 436A of the Code of Criminal Procedure, 1973 and had issued direction and guidelines to follow the mandate of section 436A of the Code of Criminal Procedure, 1973. It is a matter of record that the applicant has served more than half of the sentence as contemplated for offence punishable under Section 3 of the Money Laundering Act and hence, the applicant would be entitled for grant of bail.

16. Since the Hon’ble Apex Court has observed that the case of the present applicant to be considered in view of the Judgment of the Bhimsingh v. Union of India reported in (2014) 10 Scale 290 this Court is of the opinion that it would not be necessary to go into the merits of the matter. Hence, this Court is of the opinion that by virtue of Section 436A of the code of Criminal Procedure, 1973, the applicant is entitled to be enlarged on bail”.

14. Always argument comes from the ED that stringent twin conditions under Sec.45(1) of the PML Act have their application even for the claim of bail under Sec.436A Cr.PC. Therefore, it is necessary to rely upon the recent guidelines of the Hon’ble Supreme Court in the case of **Manish Sisodia Vs. Central Bureau of Investigation [Criminal Appeal No. of 2023 (Arising out of Special Leave Petition (Criminal) No.8167 of 2023), decided on 30.10.2023]**. Though the application for bail was rejected, yet the guidelines are very very important. In paragraphs 26 and 28 the Hon’ble Supreme Court laid down as follows,

“26. However, we are also concerned about the prolonged period of incarceration suffered by the appellant – Manish Sisodia. In P Chidambaram

v. Directorate of Enforcement, the appellant therein was granted bail after being kept in custody for around days, relying on the Constitution Bench in **Shri Gurbaksh Singh Sibbia and Others v. State of Punjab**, and **Sanjay Chandra v. Central Bureau of Investigation**, that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case. Ultimately, the consideration has to be made on a case to case basis, on the facts. The primary object is to secure the presence of the accused to stand trial. The argument that the appellant therein was a flight risk or that there was a possibility of tampering with the evidence or influencing the witnesses, was rejected by the Court. **Again, in Satender Kumar Antil v. Central Bureau of Investigation and Another**, this Court referred to **Surinder Singh Alias Shingara Singh v. State of Punjab** and **Kashmira Singh v. State of Punjab**, to emphasise that the right to speedy trial is a fundamental right within the broad scope of Article 21 of the Constitution. In **Vijay Madanlal Choudhary (supra)**, this Court while highlighting the evil of economic offences like money laundering, and its adverse impact on the society and citizens, observed that arrest infringes the fundamental right to life. This Court referred to Section 19 of the PML Act, for the in-built safeguards to be adhered to by the authorised officers to ensure fairness, objectivity and accountability. **Vijay Madanlal Choudhary (supra)**, also held that **Section 436A of the Code can apply to offences under the PML Act, as it effectuates the right to speedy trial, a facet of the right to life, except for a valid ground such as where the trial is delayed at the instance of the accused himself. In our opinion, Section 436A should not be construed as a mandate that an accused should not be granted bail under the PML Act till he has suffered incarceration for the specified period.** This Court, in **Arnab Manoranjan Goswami v. State of Maharashtra and Others**, held that while ensuring proper enforcement of criminal law on one hand, the court must be conscious that liberty across human eras is as tenacious as tenacious can be.

28. **Detention or jail before being pronounced guilty of an offence should not become punishment without trial. If the trial gets protracted despite assurances of the prosecution, and it is clear that case will not be decided within a foreseeable time, the prayer for bail may be meritorious. While the prosecution may pertain to an economic offence, yet it may not be proper to equate these cases with those punishable with death, imprisonment for life, ten years or more like offences under the Narcotic Drugs and Psychotropic Substances Act, 1985, murder, cases of rape, dacoity, kidnaping for ransom, mass violence, etc.** Neither is this a case where 100/1000s of depositors have been defrauded. The allegations have to be established and proven. The right to bail in cases of delay, coupled with incarceration for a long period, depending on the nature of the allegations, should be read into Section 439 of the Code and Section 45 of the PML Act. The reason is that the constitutional mandate is the higher law, and it is the basic right of the person charged of an offence and not convicted, that he be ensured and given a speedy trial. When the trial is not proceeding for reasons not attributable to the accused, the court, unless there are good reasons, may well be guided to exercise the power to grant bail. This would be truer where the trial would take years.

So, consideration has to be made on case to case basis on

the facts, is the yardstick under Sec.436A Cr. P. C.

15. In Manish Sisodia (supra) the accused has not even completed incarceration of 3 and half years, yet it is held that he is entitled for speedy trial and upon its failure liberty was given to him to approach for bail once again. Here one aspect requires consideration. Manish Sisodia has been in custody from 26.02.2023 in R.C.No.0032022A00553 and from 09.03.2023 in the ECIR No.HIU-II/14/2022. CBI had submitted chargesheet on 25.04.2023 and ED filed the complaint on 04.05.2023. 294 witnesses and about 31000 pages of documents are in the chargesheet with CBI. In this background it appears that both CBI and ED have completed their investigations and both cases have ripen for trial.

16. The Hon'ble Supreme Court noted the assurance given at the bar on behalf of the prosecution that they shall conclude the trial by taking appropriate steps within next six-eight months and therefore the liberty was given to Manish Sisodia to move a fresh application for bail in case of change in circumstances or in case the trial is protracted and proceeds at a snail's space in next three months. This clearly indicates that right from the beginning i.e. from 26.02.2023 till 30.10.2023 when the judgment in Manish Sisodia was delivered by the Hon'ble Supreme Court, next six months i.e. until May, 2024, the Hon'ble Supreme Court has held as reasonable time for begin and conclude the trial. In case trial proceeds in snail's speed, again liberty was given to Manish Sisodia to apply for bail. So it is clear that the reasonable expected time to begin and conclude the trial of the PMLA case is hardly one and half years to two years and not beyond three and half years i.e. even after the undertrial prisoner undergoes judicial custody of three years and

nine months. This also makes it clear that even if ED is empowered to make further investigation as per Explanation (ii) to Sec.44(1) of the PML Act, the same has to be finished within a reasonable time and ED cannot exhaust whole period of maximum sentence i.e. 7 years (as per Sec.4 of the PML Act) and also travel beyond it under the umbrella of the said Explanation (ii).

17. I am constrained to note that Ld.SPP Mr. Sunil Gonsalves relied upon **Vijay Narendra Kumar Kothari Vs. Directorate of Enforcement (2021 SCC OnLine Bom. 540)**, supra, and also ED has given much stress on this judgment of the Hon'ble Bombay High Court in their say (Exh.513B). This case is pending in this Court itself since long, wherein Proceeds of Crime determined till date are **Rs.518,23,59,962/-**. Vijay Kothari is supposed to be one of the main accused therein. The Hon'ble Supreme Court for the challenge given to the order of the Hon'ble Bombay High Court dt.07.04.2021, in **Vijay Narendra Kumar Kothari Vs. Directorate of Enforcement [Criminal Appeal No.617 of 2021, Arising out of SLP (Crl.) No.3532 of 2021]** in last paragraph on page 3 held as, follows,

“Without going into the question whether the rigor of Section 45 of the Act would still apply as a result of amendment, in our view, the appellant is entitled to the benefit of bail principally for the reasons :

**(a) The length of custody undergone by the appellant as against the maximum sentence that could be visited upon the appellant under the offences in question.**

(b) The fact that the investigation in the matter is complete and draft charges have been circulated.

(c) ... ”

In this way the Hon'ble Supreme Court allowed the appeal

against the Order dt.07.04.2021 passed by the Hon'ble High Court long long ago, yet the ED in their say has suppressed this fact and highlighted the Order of the Hon'ble Bombay High Court, against which the appeal was already allowed by the Hon'ble Supreme Court. This accused Vijay Kothari is also facing charges under the PML Act. When the Hon'ble Supreme Court has granted him bail considering the length of custody he had undergone. The applicant (A1) herein has already undergone the custody which is much longer than the custody undergone by Vijay Kothari (supra), in the similarly situated offence of money-laundering.

18. Prima-facie it appears that the say filed by ED is with the help of copy paste or there is deliberate suppression of facts regarding appeal allowed by the Hon'ble Supreme Court in the case of Vijay Naredra Kumar Kothari (supra).

19. Not only this but also in the case pending in this Court against Ramchand Karunakaran, recently the Hon'ble Supreme Court vide Order dt.23.09.2022 in **Ramchand Karunakaran Vs. Directorate of Enforcement and Anr., [Criminal Appeal No.1650 of 2022, Arising out of SLP (Crl.) No.6061 of 2020]** in paragraph 6 laid down as follows,

“We are presently concerned with the proceedings arising out of the complaint filed under the provisions of PML Act. In the instant case, **the appellant was taken in custody on 19.06.2019 and has remained in custody since then. Thus, the appellant has completed more than three years of actual custody in connection with the offence in respect of PML Act**”.

In this case, the Hon'ble Supreme Court has taken

cognizance of the age of Ramchand Karunakaran that he is senior citizen. In the instant case, the applicant (A1) Rana Kapoor is also a senior citizen and aged 66 years and has already remained in custody for @ 3 years and 9 months for an offence which provides maximum punishment which may extend to 7 years. Therefore, at the moment the applicant (A1) has already suffered the minimum sentence of 3 years and 9 months prescribed under Sec.4 of the PML Act, without trial.

20. In **Mohd. Arif Vs. Enforcement Directorate, [Criminal Appeal No.702 of 2023, Arising out of SLP (Crl.) No.5709 of 2022]** the Hon'ble Supreme Court granted bail to the appellant considering that the appellant has almost served 50% of the sentence. In **Union of India Vs. K. A. Najeeb (2021)3 SCC 713** in paragraph 11 referred **Shahin Welfare Association Vs. Union of India (1996)2 SCC 616**, wherein the Hon'ble Supreme Court has referred the observations made by the Hon'ble High Court that gross delay in disposal of such cases (UAPA) would justify the invocation of Art.21 of the Constitution and consequential necessity to release the undertrial on bail. Further in paragraph 17 the Hon'ble Supreme Court clearly laid down as, **"The Courts are expected to appreciate the legislative policy against grant of bail but the rigors of such provisions will melt down where there is no likelihood of trial being completed within a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence"**.

21. It is significant to note that in the instant case the maximum punishment provided under Sec.4 for the offence under Sec.3 of the PML Act **which shall not be less than 3 years but which may**

**extend to 7 years.** Till date the applicant (A1) has undergone custody for **3 years 9 months 13 days**, which is more than a half of the prescribed maximum sentence and also more than the minimum punishment of 3 years. But it has to be noted that while suffering such undue incarceration, the applicant (A1) has already undergone the minimum sentence without trial. As on today he (A1) is deemed to have been convicted with more than the period of minimum punishment, that too without framing charge and without trial.

22. In **Alok Kumar Agarwal Vs. Directorate of Enforcement (2021) SCC OnLine SC 556**, the Hon'ble Supreme Court held as, "We are of considered view that the Petitioner may be enlarged on bail, especially in view of (i) his disability, **(ii) the fact that he has been released on bail in connection with the FIR for the scheduled offences on 23.08.2019** and (iii) that, he is under detention in connection with **the complaint under the Prevention of Money Laundering Act from October, 2018**". In the instant case, admittedly applicant Rana Kapoor (A1), who is 66 years old, was not arrested in the Scheduled Offences investigated by CBI. On the contrary he was released under Sec.88 Cr.P.C. especially by noting this fact. CBI has not challenged the said Order and allowed it to become absolute. Total incarceration of the applicant (A1) in this case is 3 years and 6 months on the date of filing this application and 3 years, 9 months till date, which is more than the minimum punishment as well as more than the half of the maximum punishment provided for the offence under Sec.3 of the PML Act. Sec.4 of the PML Act provides punishment providing rigorous punishment which shall not be less than 3 years but which may extend to 7 years with fine.

23. In **Abdul Razak Peediyakkal Vs. Union of India [Criminal**



Appeal No.2585 of 2023, SLP (Crl.) No.4627 of 2023 decided on 25.08.2023) wherein the Hon'ble Supreme Court granted bail to the accused for the offence under the PML Act. In this case, said Abdul Razak was in custody for 1 year and 5 months for the offence of money laundering which provides punishment of rigorous imprisonment which shall not be less than 3 years but which may extend to 7 years with fine. The accused was in custody for one year and five months, when the maximum punishment provided for the offence was to the extend of 7 years.

24. In **Deepak Virendra Kochhar Vs. Directorate of Enforcement & Anr. (Criminal Bail Application No.1322 of 2020)** the Hon'ble Bombay High Court granted bail in the similarly situated money-laundering offence, wherein the accused had undergone 6 months of judicial custody when the maximum punishment provided for the said offence which may extend of 7 years with fine. In **Chandra Prakash Khandelwal Vs. Directorate of Enforcement (Bail Application No.2470 of 2022 decided on 14.02.2023)**, also the Hon'ble Bombay High Court granted bail to the accused in a similarly situated offence of money-laundering wherein the said accused had undergone 8 months judicial custody, for an offence under Sec.3 punishable under Sec.4 of the PML Act providing punishment which shall not be less than 3 years but which may extend to 7 years.

25. In **Sajay Agarwal Vs. Directorate of Enforcement [Criminal Appeal No. of 2023, Arising out of SLP (Crl.) No.768 of 2023]** wherein the accused is similarly situated hold that he (Sanjay Agarwal) does not appear or delays/prolongs the proceedings, it will be open to the trial court to cancel the bail granted by the present order.

In **Vipul Chitaliya s/o Chunilal Chitalia Vs. CBI and Anr (Bail Application No.3810 of 2021, decided on 11.08.2022)**. This case relates to PNB fraud, wherein the Hon'ble Bombay High Court in paragraph 20 held that, merely because accused is to face a trial in an economic offence, he cannot be robed of his liberty. His long incarceration for more than 4 years also deserve to set him at liberty, pending the trial for the accusation faced by him. The offence charged against the accused Vipul in this case provide maximum punishment of life imprisonment. It is also an economic offence wherein public money is involved.

26. All this, which is referred above, clearly indicates that there is no bar in considering an application under Sec.436A of Cr.P.C. for an offence under Sec.3 punishable under Sec.4 of the PML Act. Of course, parameters for granting bail under Sec.436A Cr.P.C. certainly require examination of other circumstances which will be discussed afterwards. Therefore, I hold that technically in view of the maximum sentence provided under the PML Act, the applicant Rana Kapoor (A1) has already crossed more than a half the period of maximum sentence. Hence, the application is qualified under Sec.436A Cr. P. C.

#### **WHETHER THE APPLICANT (A1) CAUSED DELAY IN PROCEEDING ?**

27. Limitations, restrictions and riders while granting relief under Sec.436A Cr.P.C. are given in the Explanation thereof, which is as follows,

**Explanation** – In computing the period of detention under this section for granting bail the period of detention passed due to delay in proceeding caused by the accused shall be excluded.

Also first Proviso to Sec.436A Cr.P.C. gives discretion to the

Court for justified reasons to order the continued detention of such person for a period longer than one half of the said period or release him on bail instead of personal bond with or without sureties. Whether the applicant (A1) is entitled to such discretion in his favour, is being examined and discussed herewith.

28. **ECIR/MBZO-I/03/2020 dt.07.03.2020** was recorded by ED on the basis of **RCNO.219-2020-E0004 dt.07.03.2020**, i.e. on the same day when FIR was recorded by the CBI. **ECIR/MBZO-I/03/2020** was under Sec.3 r.w. Sec.4 of the PML Act and the said offence provides punishment with rigorous punishment for a term which **shall not be less than 3 years but which may extend to 7 years**. ED arrested the applicant (A1) on the very next day 08.09.2020 for this ECIR. The applicant (A1) preferred bail applications, the details thereof are as follows :

Sr. No	Particulars	Date of Order
1.	First bail application rejected by the PMLA Court. Date of	21.07.2020
2.	The Hon'ble High Court rejected Criminal Bail Application No.(St) 4999 of 2020.	25.01.2021
3.	Criminal Bail Application No.586 of 2023 rejected by the Hon'ble High Court.	04.05.2023
4.	Special Leave Petition No.77009 of 2023 preferred before the Hon'ble Supreme Court was permitted to be withdrawn with a liberty to file the present application.	11.05.2023

It is material to note that right from the beginning, during the aforesaid period of bail applications till date the applicant (A1) never initiated any proceeding to protract the trial nor has he restricted ED's proceedings before this Court on the reason of pendency of his

above referred bail applications. Even ED has nowhere contended that bail applications preferred by the applicant (A1) are causing them delay in conducting their further investigation as per Explanation (ii) to Sec.44(1) of the PML Act. So, pendency of the applicant's (A1) bail applications was/is never the reason for ED in not beginning the trial. Whether the ED had finished their investigation, they would have filed Purshis and intimated this fact in the background of their clause in every Prosecution Complaint as "further investigation is in progress". Though ED has pretended to file draft charge, the same has no bearing unless and until they file a Purshis informing the Court that further investigation undertaken by them as mentioned in the last subsequent Prosecution Complaint, is finally finished. Therefore, filing of draft charge does not represent true and genuine intention of ED that their bonafides are clear. The applicant (A1) is the first person arrested in this case when he was not arrested by CBI, who were investigating the Scheduled Offences.

29. Following are the details of various Prosecution Complaints filed in respect of this ECIR.

<b>Sr. No</b>	<b>Prosecution Complaints.</b>	<b>Date of filing Prosecution Complaint/s</b>	<b>Date of Cognizance</b>	<b>Number of Accused persons</b>	<b>Number of witnesses cited by ED</b>
<b>1.</b>	<b>Main</b> Prosecution Complaint (Special Case No.452/2020)	<b>23.05.2020</b>	<b>23.05.2020</b>	<b>08</b>	<b>11</b>
<b>2.</b>	<b>First Subsequent</b> Prosecution Complaint (Special Case No.579/2020)	<b>21.07.2020</b>	<b>23.07.2020</b>	<b>11</b>	<b>16</b>
<b>3.</b>	<b>Second Subsequent</b> Prosecution	<b>14.03.2022</b>	<b>06.04.2022</b>	<b>12</b>	<b>12</b>

	Complaint				
4.	<b>Third Subsequent Prosecution Complaint</b>	<b>18.08.2022</b>	<b>25.08.2022</b>	<b>12</b>	<b>31</b>
	<b>Total ...</b>			<b>43 Accused</b>	<b>70 witnesses</b>

This indicates that till date ED has proposed in all 43 accused and wants to examine at least 70 prosecution witnesses. This Table clearly indicates that from 23.05.2020 till 18.08.2023 ED has been investigating the said ECIR. At the end of every Prosecution Complaint ED has specifically mentioned as follows,

**“Investigation is still in progress in respect of other properties/transactions/persons/entities. The Complainant craves leave of this Court for conducting further investigation and as and when investigation is complete in other aspects, to file supplementary complaint (s) in due course”.**

This clearly indicates that, since more than 3 years and 8 months ED has been investigating this ECIR under the umbrella of **Explanation (ii) to Sec.44(1) which nowhere prescribes any logical end i.e. outer limit, for the conclusion of the investigation.** It further indicates that by taking resort of Explanation (ii) to Sec.44(1) of the PML Act, ED wants to exhaust whole period of maximum sentence which may extend to 7 years only in investigating this ECIR. When there is no logical end to such long investigation, certainly there is no provision under the PML Act debarring an undertrial prisoner to claim his right under Sec.436A Cr. P. C. **ED may investigate endlessly, but the same confers right on accused to apply under Sec.436A Cr.PC.** In other words it can be said that further investigation as contemplated in **Explanation (ii) to Sec.44 (1) of the PML Act, if causes delay in trial,**

that itself gives cause of action to any accused like the instant one (A1) who has been unduly incarcerated without trial, for agitating his right under Sec.436A Cr.P.C. which has roots in Art.21 of the Constitution of India.

#### NUMBER OF PROSECUTION COMPLAINTS FILED BY ED.

30. Another aspect requires consideration regarding Volume of each and every PMLA case and its huge record. In the instant case there are in all 4 Prosecution Complaints, yet further investigation is going on. The details thereof are as follows,

		Number of Volumes of Documents	Total Number Pages.
1.	<b>Main Prosecution Complaint</b> (Special Case No.452/2020)	1	311
2.	<b>First Subsequent Prosecution Complaint</b> (Special Case No.579/2020)	2	1157
3.	<b>Second Subsequent Prosecution Complaint</b>	2	909
4.	<b>Third Subsequent Prosecution Complaint</b>	17	9212
	<b>Total ...</b>	<b>22 Volumes</b>	<b>11,589 pages</b>

Why am I referring these details, has some reasons and significance with respect to the mandate of Sec.44(1)(c) of the PML Act which is the procedure for trial of the PMLA Prosecution Case and the same has to be followed mandatorily. This aspect will be discussed in detail afterwards. As referred above, even after near about 3 years and 8 months when the undertrial prisoner applicant (A1) has been suffering incarceration, further investigation is claimed to have been going on by taking shelter under the umbrella of Explanation (ii) to

Sec.44(1) of the PML Act, when the PML Act does not provide any logical end to such further investigation. If this modus continues as has been continued till date, no one is sure as to when ED and CBI will conclude their investigations finally.

31. In such situation, if the application under Sec.436A Cr.P.C. is rejected, certainly, that would lead the ED investigation to cross the outer limit of maximum sentence which may extend to 7 years by keeping the undertrial prisoner applicant (A1) in the jail throughout the said period. In that event also ED would go on justifying the same that their further investigation is still ongoing as per Explanation (ii) to Sec.44(1) of the PML Act. When the PML Act does not provide any outer limit for the period of completing investigation, particularly in the background of Explanation (ii) to Sec.44(1) thereof, it is obligatory on the part of the Agency (ED) to conclude the same as early as possible, particularly when the applicant (A1) is an undertrial prisoner. When there is no provision regarding outer limit for concluding the investigation under the PML Act, in my opinion there should be a logical end and it should be finished within a reasonable time as proposed/directed by the Hon'ble Supreme Court in the recent case of Manish Sisodia (supra). The ED has already consumed more than the reasonable time which is double than what has been directed in Manish Sisodia (supra). In such situation this Court, which is custodian of rights of accused under Art.21 of the Constitution of India, cannot simply observe such ongoing situation as a mute spectator, but is under obligation not to allow the ED to cross the whole term of the prescribed period of maximum sentence and further travel beyond it i.e. 7 years, saying that Statute has permitted them to do so, as per Explanation (ii) to Sec.44 (1) of the PML Act. Nor the true spirit, purport and object of

Explanation (ii) to Sec.44(1) of the PML Act is as such as assumed and presumed by the ED.

**NUMBER OF CHARGESHEETS IN RESPECT OF PREDICATE OFFENCE  
FILED BY CBI**

32. It is necessary to refer similar facts and details in respect of the chargesheets filed for the Predicate Offences investigated by the CBI. It is as follows,

		Date of filing Prosecution Complaint/s	Number of Accused persons	Number of witnesses cited by ED	Volumes
1.	Chargesheet (Special Case No.830/2021)	25.06.2020	07 (1 accused discharged)	33 Proposed out of 187	2 Big Trunks containing number of volumes
2.	Second Supplementary Chargesheet	27.06.2022	13	36 Proposed out of 187	2 Big Trunks containing number of volumes
3.	Third Supplementary Chargesheet	25.07.2022	21	13 out of 187	2 Big Trunks containing number of volumes
		<b>Total</b>	<b>41</b>	<b>82</b>	<b>6 Big Trunks</b>

So, there 41 accused at the moment and 82 proposed Prosecution witnesses with 6 huge trunks of documents in the cases relating to the Predicate Offence. This table clearly indicates that the case relating to Predicate Offence investigated by CBI vide RC No. 219-2020-E0004 constitutes in all 3 Chargesheets (1 main + 2 supplementary). Total witnesses cited in all these chargesheets are around 187 to 190. Documents are incorporated in number of huge volumes stored in big 6 large trunks and the same run in thousands of



pages. Even in each CBI chargesheet there is specific mention as, “Further investigation to ascertain funds diverted by the accused to other persons/entities is continuing”. In this way, both Agencies i.e. ED and CBI have been making further investigation for their respective cases and in none of them investigation is over in all respect. In such situation how the trial can begin? Unless the total proceeds of crime in the PMLA case which are crime proceeds in the cases relating to the Scheduled Offence, are ascertained and the criminal activity involved while committing the Predicate Offence which generated proceeds of crime, is ascertained as required under Sec.2(1)(u) r.w. Sec.3, Explanation (ii) to Sec.44(1) of the PML Act and both r.w. guidelines laid down by the Hon’ble Supreme Court in paragraphs 31, 32 and 33 of **Vijay Madanlal Choudhary (supra)**, charge in the PMLA Special Case cannot be framed. Therefore, contention of ED that they have filed draft charge, has to be viewed from this perspective.

**TRIAL OF THE PMLA CASE AND ITS VOLUME AS PER MANDATE OF SECTION 44(i)(c) OF THE PML ACT.**

33. Another aspect requires to be considered to indicate how huge is the volume of trial of the PMLA case as mandated under Sec.44(1)(c) of the PML Act. In the instant case following details are necessary to be considered.

PMLA CASE NO.452/2020			CBI CASE NO.830 & 965 / 2021		
No. of Accused	Volumes of documents	Number of Witnesses	No. of Accused	Volumes of documents	Number of Witnesses
43 till date	22 volumes @ 11589 pages	70 initially proposed	41 till date	6 large trunks	92 initially proposed

Mandate under Sec.44(1)(c) of the PML Act does not permit the Court to try the PMLA case and CBI case (Predicate Offence)

individually and differently. On the contrary Sec.44(1)(c) of the PML Act mandates as under,

“Sec.44 Offences triable by Special Courts -

(a) ...

(b) ...

(c) if the court which has taken cognizance of the scheduled offence is other than the Special Court which has taken cognizance of the complaint of the offence of money-laundering under sub-clause (b), **it shall, on an application by the authority authorised to file a complaint under this Act, commit the case relating to the scheduled offence to the Special Court and the Special Court shall, on receipt of such case proceed to deal with it from the stage at which it is committed”.**

Even recently the Hon’ble Supreme Court in the case of **Rana Ayyub Vs. Directorate of Enforcement, (2023)4 SCC 357**, in paragraphs 38, 39, 41, 42, 44, 47 and 49 laid down as follows,

“38. The only contingency that could not have been provided in the above provisions of the Cr.P.C., is perhaps where the offence of money-laundering is committed. This is why Section 44(1) begins with a non-obstante clause. The whole picture is thus complete with a combined reading of Section 44 of the PMLA and the provisions of Sections 177 to 184 of the Cr.P.C.

39. Once this combined scheme is understood, it will be clear that in view of the specific mandate of clauses (a) and (c) of sub- section (1) of Section 44, it is the Special Court constituted under the PMLA that would have jurisdiction to try even the scheduled offence. Even if the scheduled offence is taken cognizance of by any other Court, that Court shall commit the same, on an application by the concerned authority, to the Special Court which has taken cognizance of the offence of money-laundering. This answers the first question posed before us”.

**In KA Rauf Sherif Vs. Directorate of Enforcement & Ors.**

**[Transfer Petition (Criminal) No.89 of 2023, decided on 10.04.2023]**

the Hon'ble Supreme Court laid down in paragraphs 7 and 8 as follows,

“7. In Rana Ayyub (supra), two questions arose for consideration and they were as follows :

“16. ... (i) whether the trial of the offence of money-laundering should follow the trial of the scheduled/predicate offence or vice versa; and (ii) whether the Court of the Special Judge, Anti-Corruption, CBI Court No. 1, Ghaziabad, can be said to have exercised extra-territorial jurisdiction, even though the offence alleged, was not committed within the jurisdiction of the said Court.”

8. While dealing with the question No.1, in Rana Ayyub, this Court considered the interplay between Sections 43 and 44 of PMLA on the one hand and the provisions of Sections 177 to 184 of the Code on the other hand and held in paragraph 36 as follows:

“Once this combined scheme is understood, it will be clear that in view of the specific mandate of clauses (a) and (c) of subsection (1) of Section 44, it is the Special Court constituted under the PMLA that would have jurisdiction to try even the scheduled offence. Even if the scheduled offence is taken cognizance of by any other Court, that Court shall commit the same, on an application by the concerned authority, to the Special Court which has taken cognizance of the offence of money-laundering. This answers the first question posed before us.”

So, it is clear that the cases relating to the Predicate Offences have to be compulsorily tried with the PMLA Special Case may it be a single case of Predicate Offence or they may be even hundreds of cases. Therefore, volume of trial of the PMLA case is exceptionally gigantic and case/s relating to the Scheduled Offence required to be tried with it simultaneously. Therefore, the charges in the PMLA case and CBI Special Cases in the instant case have to be framed

simultaneously.

34. It has to be noted that fate of the PMLA case always depends on the fate of case/s relating to the Predicate Offence. If any accused is discharged or acquitted in the case related to the Scheduled Offence, certainly the PMLA case cannot continue against such accused. If trial of both cases is conducted simultaneously as per Sec.44(1)(c) of the PML Act, in that event also if any accused is discharged or acquitted in the Predicate Offence the same adversely affects the fate of the PMLA case. In **Vijay Madanlal Choudhary (supra)** this aspect is discussed at length and even in subsequent dictums of the Hon'ble Supreme Court in - (i) **Parvathi Kollur And Anr. Vs. State By Directorate of Enforcement (Criminal Appeal No.154 of 2022, decided on 16.08.2022)**, (ii) **Directorate of Enforcement Vs. M/s Obulapuram Mining Company Pvt. Ltd (Criminal Appeal No(s).1269/2017) alongwith SLP(Crl) No.3474/2020 (II-C) and SLP (Crl.) No.10627/2019 (II-C) and (iii) Indrani Patnaik & Anr. Vs. Enforcement Directorate & Ors [Writ Petition (Civil) No.368 of 2021, decided on 03.11.2022]** relying on paragraph 33, 51, 52, 53 and 187(v)(d), it has been laid down as such. Therefore, simultaneous trials which are individually voluminous exceptionally have great impact and significance for beginning and concluding the same within a specific period. Such trial in spite of hard efforts cannot be concluded within a short period.

35. It is pertinent to note that ever since I took the charge of this Designated PMLA Special Court, till I gave first direction to the ED, I had noticed that there were absolutely no efforts made by the ED for commitment of cases relating to the Scheduled Offence. Trials of PMLA cases pending in this Court were going on independently when trials

relating to the Predicate Offences were going on at altogether different places and in different courts. Noticing this fact and having perceived that if the matters pending in this Court continue with such system, the cases relating to the Predicate Offence would never get committed in order to conduct the trials of the PMLA special cases with the true spirit of Sec.44(1)(c) of the PML Act. Even though the ED is under obligation to follow the mandate of Sec.44(1)(c) and make an application for commitment of the case/s relating to the Predicate Offence, yet never made any application as such. This Court therefore felt that if such scenario continues, no trial of PMLA case will reach to the finality and that, all that what has been going on was in sheer breach of Sec.44(1)(c) of the PML Act. Hence, this Court started giving direction in each and every case to the ED to apply for the commitment of case/s relating to the Predicate Offence. The present case was not exception for the same.

36. The language of Sec.44(1)(c) of the PML Act is very clear, unambiguous casting obligation on ED to file application for commitment of the case to the Court trying the case/s related to the Scheduled Offence. ED has not done so in the instant case. It is the applicant (A1) who moved the Court under Sec.436A Cr.PC. but it was rejected by the Court concerned by pointing out his locus. It is pertinent to note that when this matter reached to the Hon'ble High Court, both ED and CBI made a statement before the Hon'ble High Court to move appropriate application in consonance with Sec.44(1)(c) of the PML Act. At least thereafter ED should not have filed the application under Sec.44(1)(c) of the PML Act in a wrong forum i.e. the Hon'ble Principal Judge. Yet, it was filed to the Hon'ble Principal Judge, but it was rejected. The text of Sec.44(1)(c) of the PML Act coupled

with seasoned Prosecution Team of ED should have followed the true mandate of Sec.44(1)(c).

37. ED on its own was not doing anything and this fact being the Court of First Instance perceived by this Court. It was also perceived that unless compliance under Sec.44(1)(c) of the PML Act made scrupulously no trial of PMLA case could begin. It is this Court who by continuous direction in various PMLA cases pointed out the ED the true purport of Sec.44(1)(c) to the ED and tried to accelerate them to initiate proceedings under Sec.44(1)(c) if they are genuinely interested to conduct the trials of long pending PMLA cases. I am constrained to note that not even a single case out of all cases, until I gave direction as such under Sec.44(1)(c), ED, on its own, voluntarily initiated any proceedings under Sec.44(1)(c) in respect of all cases relating to the Scheduled Offence of which PMLA cases were pending in this Court. In almost each and every matter as such, this Court was to wake ED up and accelerate them to observe and follow the mandate of Sec.44(1)(c). Only thereafter the proceedings under Sec.44(1)(c) at the instance of ED began slowly. This is a matter of record pending in this Court wherein number of such directions given by this Court are available. In this way, from **03.09.2021** when the applicant (A1) filed first application under Sec.44(1)(c) until 17.03.2023 substantial time consumed for ED taking proper and appropriate step. Also, though the language of Sec.44(1)(c) is crystal clear prescribing who and where to file such application, ED chose a wrong forum of the Hon'ble Principal Judge, wherein their said application got rejected. Admittedly, ED had not challenged the said order before the Hon'ble High Court, which speaks volumes. Certainly the applicant (A1) was not responsible for

such latches and discrepancies committed by ED in respect of vital and very important stage of Sec.44(1)(c)

38. I am constrained to refer that one of such directions dt.21.12.2022 given by this Court in the case of **Special Case No.1090 of 2020 (Directorate of Enforcement Vs. Ajay Ajit Peter Kerkar and Ors.)** was acknowledged by the Hon'ble Supreme Court. The proceedings dt.21.12.2022 containing such direction of this Court is referred in paragraphs 4 to 6 in the matter of **Naresh T. Jain Vs. Union of India and Ors. [Petition (s) for Special Leave to Appeal (Crl.) No.(s). 2175/2022 dt.13.01.2023]**, as follows,

**“4. Mr. Siddhartha Dave has relied on the order dated 21 December 2022 of the Court of the Additional Sessions Judge in the City Sessions Court, Mumbai. The trial Judge has noted that the ED should have taken urgent steps to commence the trial as early as possible, particularly having regard to the provisions of Section 44(1)(c) of the Prevention of Money Laundering Act 2002. Mr S V Raju, Additional Solicitor General, submits that draft actions of charge have been tendered and the ED will cooperate in the early conclusion of the trial. The Additional Solicitor General opposed bail on the ground of the seriousness of the role of the petitioner in the alleged offence.**

5. Having perused the material which has been placed on the record in the counter affidavit filed by the respondents, we are not inclined to entertain the Special Leave Petition, at this stage. **However, we direct that the ED shall take all necessary steps to ensure that it cooperates with the trial Judge in the expedition and early conclusion of the trial.**

6. If no substantial progress is made in the trial by 31 May 2023, the petitioner would be at liberty to apply for bail afresh and such an application, if filed,

shall be considered by the trial Judge having due regard to the delay which has taken place in making progress in the trial and the period of custody which has already been undergone.”

All this clearly indicates how the compliance of mandate of Sec.44(1)(c) of the PML Act plays an important role without which trial of PMLA case cannot begin. It also indicates that if the said mandate and compliance is not observed and followed in true spirit thereof, the same adversely affect the period of conclusion of trial and in that event accused who is an undertrial prisoner can apply for bail, particularly when he completes half the period of maximum sentence provided under Sec.4 of the PML Act.

39. In this context it is also necessary to note how the PMLA cases have been pending in this Court since long for compliance of mandate under Sec.44(1)(c) and the non-compliance thereof held up the trials of PMLA cases as per Sec.44(1)(c) of the PML Act. It is material to note that some of the accused persons therein are still undertrial prisoners since long time. Those cases are as follows,

PMLA Spl. Case	Name of the accused	Case/s related to the Scheduled Offences.	Status of accused	Has ED made full compliance of Sec.44(1)(c).
03/2013	Sayed Masood and ors.	<b>132 cases</b> which are scattered all over India and have to be tried with PMLA Special Case as directed by the Hon'ble Supreme Court.	Accused are on bail.	<b>Despite repeated several directions given to ED for deputing staff to collect 132 cases scattered all over India, no compliance is made till date.</b>
1090/2020	Ajay Ajit Peter Kerkar and ors.	<b>6 cases. But total 12 crimes were registered with EOW and certainly the</b>	<b>Accused No.1,3 and 4 are undertrial prisoners.</b>	<b>Compliance of direction under Sec.44(1)(c) dt.21.12.2022</b>



		cases relating to them will have to be tried with PMLA Special Case.		not made
07/2019	Humayun Merchant and ors.	5 crimes bearing No. 27/201992, 38/1993, 07/1994, 83/1994 and 176/1994, expecting five cases, which are yet to be committed.	Accused No.1 is an undertrial prisoner.	No. All cases of Predicate Offence, not committed
08/2019	Wadhawan s and ors.	Number of cases and Prosecution Complaint indicate no certainty.	Two accused are undertrial prisoners.	Partly complied recently.

These are few examples to show that,

- i) Trial of one PMLA case at Sr.No.1 i.e. 03/2013, is a simultaneous trial of 1 PMLA case + 132 cases relating to the Scheduled Offence = **133 cases**.
- ii) Likewise trial of PMLA case at Sr.No.2 i.e. 1090/2020, is a simultaneous trial of 1 PMLA case + 5 cases relating to the Scheduled Offence = **7 cases**.
- iii) Similarly, trial of PMLA at Sr.No.3 i.e. 07/2019, is simultaneous trial of 1 PMLA case + 5 cases relating to the Scheduled Offence = **6 cases**.

In the instant case also there is one PMLA case with 3 Subsequent Prosecution Complaints and 1 + 2 Supplementary Chargesheets = 3 cases related to Predicate Offence. Certainly one can imagine how the volume and length of trial of PMLA case is as per mandate of Sec.44(1)(c) of the PML Act. All such reasons have to be considered which are inevitably causing delay in beginning and conclusion of trial of the PMLA cases, while applying 2 Provisos and Explanation to Sec.436A Cr.PC. while examining the merits of application under Sec.436A Cr.PC.

40. At the cost of length of this order, I am constrained to refer

one of such attempts made by the Court in **Order dt.20.07.2022** in **Special Case No.24/2018 Below Exh.73**, wherein this Court accelerated the matter by fixing the stage of discharge as the case is old. Exactly at the same time accused No.11 filed an application under Sec.91 Cr.P.C. This Court rejected the same with detailed speaking order and also fixed the matter for argument on discharge application (Exh.74). It has to be noted that the said Order has been challenged immediately before the Hon'ble High Court vide Criminal Writ Petition No.2604 and 2605 of 2022, wherein on 02.08.2022 the **Hon'ble High Court directed this Court to defer the hearing of Discharge Application preferred by the Petitioner beyond 22.08.2022 and in the meantime the order directing Petitioner to appear before the trial court on 08.08.2022 is stayed till 22.08.2022.** This Order of the Hon'ble High Court since **02.08.2022** is continued till **12.01.2024**, as per recent Order of the Hon'ble High Court dt.12.12.2023 which is as follows,

“ The learned counsel appearing for respondent No.1 assures the Court that during the course of the day, a copy of the reply affidavit shall be provided to the other side.

**2. Stand over to 12 January 2024.**

**3. Interim relief granted earlier, if any, shall continue to operate till the next date”.**

In the instant case considering number of accused persons in PMLA Special Case and in CBI Special Case, even if the trial is conducted on day-to-day basis, the charge cannot be framed at the earliest unless compliance of Sec.227 Cr.P.C. is made by giving opportunity to accused persons in both cases. Co-accused have been engaged in filing various proceedings on medical grounds, which have taken to the Hon'ble High Court e.g. Dheeraj Wadhawan, who is

accused scheduled offence also. Ignoring all this and without attending such proceedings straightway charge cannot be framed.

41. Trial of PMLA case is really gigantic in view of Sec.44(1)(c) of the PML Act. Therefore, such trials proceed with very slow speed. This Court being the Court of First Instance dealing with such 79 gigantic trials of PMLA Special Cases facing lot of such difficulties. This is the situation all over India and the same is reflected in the official website of Enforcement Directorate under the Head of “**Performance – Statistics of ED cases**”. This data is published till **31.01.2023**. The said data till 31.01.2023 published on the website of ED is as follows,

**TILL 31.01.2023**

Sr No.	Status of the Cases	
1	Number of ECIR recorded	5906
2	Number of Prosecution Complaints filed	1142
3	Number of cases in which trial completed under PMLA	25
4	Number of trial cases resulted in conviction under PMLA	24
5	Number of accused convicted in PMLA	45
6	Number of trial cases resulted in acquittal	01
7	Percentage of conviction (15=12/11*100)	96

This table which is available on the official website of ED clearly indicates that right from the beginning **till 31.01.2023** in all **1142 Prosecution Complaints** have been filed but till date only **25 cases** could be disposed off within such a long span. **Only 25 cases could achieve the finality.** This itself indicates that in spite of huge efforts **only 25 cases out of 1142** could be disposed off in India right from the beginning till 31.01.2023. In City Civil & Sessions Court, Gr. Bombay as

on today there are around **97 PMLA cases** have been pending making this Court overburdened. This statistics clearly indicates that 10% PMLA cases out of total PMLA cases in all over India, are pending in Mumbai City Sessions Court particularly Court Room No.16. In each and every case records are voluminous and there are multiple cases relating to Scheduled Offence which have to be tried with PMLA case as mandated under Sec.44(1)(c) of the PML Act. Only **25 cases** which are disposed off throughout India as appears from the ED's own record. ED claims the rate of conviction being **99%** as **24** thereof turned into conviction. However, when the ED and all Ld. Prosecutors asked whether those 25 cases which are finally disposed off, were tried as per the mandate of Sec.44(1)(c) of the PML Act alongwith the cases relating to Scheduled Offence. Till date they could not give any details to show that those disposed off 25 cases were simultaneously tried with the cases relating to Predicate Offence as per mandate of Sec.44(12)(c) and as held by the Hon'ble Supreme Court in Rana Ayyub (supra) as well as KA Rauf (supra).

42. In this background it is necessary to note as to who has been accelerating the ED since last 2 years to apply immediately to the various Courts wherein the cases relating to the Predicate Offences have been scattered, pending and awaiting for their commitment as mandated under Sec.44(1)(c) of the PML Act? It is this Court noticing the fate of non-compliance of Sec.44(1)(c) gave repeated directions to the ED only thereafter ED started making few applications to the Courts in Maharashtra dealing with the cases relating to the Scheduled Offence. If this Court had not given any direction as such, even after decade cases relating to the Predicate Offence would have been lying all over Maharashtra and these PMLA cases would have remained with this

Court and such parallel situation would have never been amalgamated as per Sec.44(1)(c). Therefore, no one is sure whether those 25 cases were tried and disposed off in all over India since last 20 years, were really as per the mandate and true spirit of Sec.44(1)(c) of the PML Act.

43. The Prevention of Money Laundering Act, 2002 came in force in 2002. Eversince till date, it is near about **21 years**. Even if statistics of disposal of cases available on the official website of ED is considered as it is, in last **21 years** out of **1142 cases** hardly **25 cases** could be disposed off, indicating that per year ratio is **1 case per year** in all over India. No one is sure those disposed off 25 cases are with simultaneous disposal of cases relating to Scheduled Offence as per Sec.44(1)(c) of the PML Act and as laid down by the Hon'ble Supreme Court in Rana Ayyub (supra) and KA Rauf (supra). In this situation, I am of the opinion that even if the present case is kept everyday there is no likelihood of its disposal at least in coming 2 years. **Whether the applicant (A1) who has already undergone the period of detention which is more than the period prescribed for minimum punishment under Sec.4 of the PML Act, can be allowed to be incarcerated unduly for remaining uncertain period? Is the serious question involved in this case.**

44. The next aspect cannot be ignored that in order to begin the trial, the Court cannot circumvent the provision under **Sec.227 Cr.P.C. i.e. Discharge**, and prior to framing charge accused persons always avail this provision. Experience is that when there are number of accused, all of them are generally represented by different Ld. Advocates. In such situation all accused persons never apply the Court simultaneously i.e. at once, for claiming discharge under Sec.227

Cr.P.C., but discharge applications are always filed one after another and any order if passed against accused is immediately challenged before the Hon'ble High Court and the Hon'ble Supreme Court. Unless there is final adjudication on such discharge applications, Court cannot proceed for framing charge. Experience is that the provision for discharge under Sec.227 Cr.P.C. is much utilized as litigational strategy rather than for any bonafide claim of relief thereunder.

45. It is pertinent to note that in the instant case the applicant (A1) was arrested on **08.03.2020** and till date he is an undertrial prisoner. ED ought to have noted this fact at the relevant time and would have applied immediately for commitment of the cases relating to the Scheduled Offence. However, on its own ED never applied for commitment of CBI Special Cases for there simultaneous trial with this PMLA Special Case as per Sec.44(1)(c) of the PML Act. The applicant (A1), who is 66 year old, has been suffering undue incarceration, though not eligible to file application under Sec.44(1)(c), was constrained to file such application as ED was silent. Unfortunately, his efforts got rejected. Thereafter, ED made such application, which was also rejected. The details thereof are as follows,

Sr No	Date of filing	Who filed the application under Sec.44(1)(c)	Date of Order	Result
1	03.09.2021	Rana Kapoor (A1)	22.09.2021	Rejected.
2	13.10.2021	Rana Kapoor (A1) in Hon. High Court	24.06.2022	Disposed as ED and CBI made the statement before the Hon. High Court to move appropriate application in consonance as per Sec.44(1)(c).

3	16.12.2021	ED approached the Hon. Principal Judge, but sought transfer of case relating to the Scheduled Offence	15.02.2022	ED was pointed out to approach the Special Court trying the Scheduled Offence.
4	15.07.2022	ED approached the Special CBI Court	27.07.2022	CBI Court Rejected the application.
5	11.08.2022	Rana Kapoor (A1) approached the Hon. High Court	23.02.2023	Hon. High Court transferred cases relating to the Scheduled Offence to the PMLA Special Court.

In the aforesaid premises when ED's application dt.15.07.2022 under Sec.44(1)(c) of the PML Act was rejected on 27.07.2022, it was clear that unless the said order is challenged and set aside by the Hon'ble High Court, the trial of this PMLA case could not have begun as per Sec.44(1)(c) of the PML Act. If ED had genuine concern with respect to unduly incarcerated 66 year old undertrial prisoner i.e. the applicant (A1), they would have immediately challenged the said Order of rejection dt.27.07.2022 before the Hon'ble High Court and could have showed that their bonafides are clear. However, ED has not challenged the same which itself speaks volumes and reflects their intention by their conduct as such, the trial could not begin and detention of the applicant (A1) would continue under the umbrella of Explanation (ii) to Sec.44(1) of the PML Act for an uncertain period.

46. It is the applicant (A1) on his own challenged the said Order dt.27.07.2022 before the Hon'ble High Court wherein the Hon'ble High Court directed transfer of CBI cases to this Court (C.R. No.16). At last on 17.03.2023 all the CBI cases relating to the Predicate Offence

were transferred/committed to this Court (C.R.No.16). In this way, right from the beginning and after rejection of ED's application on 27.07.2022, ED never actively and voluntarily applied for commitment of case/s. It has to be noted that when by the Order dt.27.07.2022 ED's application was rejected by the Ld. Special Judge (CBI) and ED had not preferred any appeal against it, no alternative remained with the applicant (A1) rather than to challenge the said order before the Hon'ble High Court. Accordingly, he challenged the same vide **Rana Kapoor Vs. Directorate of Enforcement with Kapil Wadhawan Vs. Directorate of Enforcement (Criminal Applications No.795 of 2022 alongwith 911 of 2022, decided on 23.02.2023)**, wherein the Hon'ble High Court clearly laid down as follows,

"It is reiterated that phraseology of Section 44(1)(c) of PMLA admits to interpretations. In view of the said provision being mandatory in nature and so has been held by the Hon'ble Apex Court in the case of **Rana Ayyub Vs. Directorate of Enforcement through its Assistant Director** (supra), the learned Special Judge (CBI), Greater Bombay ought not to have rejected the application (Exhibit-144). Interference with the impugned order is therefore warranted.

16. In the result, both the applications are allowed setting aside the order impugned therein dated 27/07/2022 passed by learned CBI Special Court on the application (Exhibit-144) in Special Case No.830/2021.

17. CBI Special Case No.830/2021 & 965/2021 in FIR RC 219-2020-E0004 dated 07/03/2020 filed by respondent No.2/CBI against the applicant, pending on the file of learned Special Judge (CBI), Greater Bombay stand transferred to PMLA Court seized of the Special PMLA Case Nos.452/2020 & 579/2020, for trial in accordance with law".



Therefore, following questions glaringly arise :

1. Is the applicant (A1) responsible for all this ?
2. Is he (A1) responsible for protracting and delaying the trial ?
3. Whether the challenge given by him (A1) to the Order dt.27.07.2022 passed by the Ld. CBI Special Judge, which strategically not challenged by ED, amounts creatin hurdles in the trial ?
4. Whether these bonafide efforts on the part of the applicant (A1) can be held as malfide?
5. Whether such a long undue incarceration of the applicant (A1) for about 3 years and 9 months can be thrown in the Explanation (ii) to Sec.436A Cr.P.C. for blindly denying him the relief prayed for?
6. Whether due to these and various other reasons being discussed hereafter, should this Court continue detention of the applicant (A1) for a period longer than one half of the said period as per the First Proviso to Sec.436A Cr.P.C.?

Answers to all these questions are in the negative. At the same time it has to be noted that if the passive approach of the ED in not challenging the order dt.27.07.2022 had continued, certainly till date none of the cases relating to the Predicate Offence would have been committed to this Court for their trial as per Sec.44(1)(c) of the PML Act. The situation discussed above is self-speaking and self-demonstrative giving answers to all these questions.

47. The next aspect which requires consideration is the method of trial of the PMLA case, as mandated in Sec.44(1)(c) and the legal requirements for framing charges. At the cost of excessive length of this order it is necessary to rely on the law laid down by the Hon'ble Supreme Court in the case of **Vijay Madanlal Choudhary (supra)**, which

is as follows,

**“33. Tersely put, it is only such property which is derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence can be regarded as proceeds of crime. The authorities under the 2002 Act cannot resort to action against any person for money-laundering on an assumption that the property recovered by them must be proceeds of crime and that a scheduled offence has been committed, unless the same is registered with the jurisdictional police or pending inquiry by way of complaint before the competent forum. For, the expression “derived or obtained” is indicative of criminal activity relating to a scheduled offence already accomplished. Similarly, in the event the person named in the criminal activity relating to a scheduled offence is finally absolved by a Court of competent jurisdiction owing to an order of discharge, acquittal or because of quashing of the criminal case (scheduled offence) against him/her, there can be no action for money-laundering against such a person or person claiming through him in relation to the property linked to the stated scheduled offence. This interpretation alone can be countenanced on the basis of the provisions of the 2002 Act, in particular Section 2(1)(u) read with Section 3. Taking any other view would be rewriting of these provisions and disregarding the express language of definition clause “proceeds of crime”, as it obtains as of now.**

**52. The next question is: whether the offence under Section 3 is a standalone offence? Indeed, it is dependent on the wrongful and illegal gain of property as a result of criminal activity relating to a scheduled offence. Nevertheless, it is concerning the process or activity connected with such property, which constitutes offence of money-laundering. The property must qualify the definition of “proceeds of crime” under Section 2(1)(u) of the 2002 Act. As observed earlier, all or whole of the crime property linked to scheduled offence need not be regarded as proceeds of crime, but all properties qualifying the definition of “proceeds of crime” under Section 2(1)(u) will necessarily be crime properties. Indeed, in the event of**

acquittal of the person concerned **or being absolved from allegation of criminal activity relating to scheduled offence**, and if it is established in the court of law that the crime property in the concerned case has been rightfully owned and possessed by him, **such a property by no stretch of imagination can be termed as crime property and ex-consequenti proceeds of crime within the meaning of Section 2(1)(u) as it stands today**. On the other hand, in the trial in connection with the scheduled offence, the Court would be obliged to direct return of such property as belonging to him. **It would be then paradoxical to still regard such property as proceeds of crime despite such adjudication by a Court of competent jurisdiction**. It is well within the jurisdiction of the concerned Court trying the scheduled offence to pronounce on that matter.

**187(v)(d) The offence under Section 3 of the 2002 Act is dependent on illegal gain of property as a result of criminal activity relating to a scheduled offence. It is concerning the process or activity connected with such property, which constitutes the offence of money-laundering.** The Authorities under the 2002 Act cannot prosecute any person on notional basis or on the assumption that a scheduled offence has been committed, unless it is so registered with the jurisdictional police and/or pending enquiry/trial including by way of criminal complaint before the competent forum.”

Unless the above tests laid down by the Hon'ble Supreme Court are applied to the facts involved in both i.e. PMLA and CBI cases, and, the criminal activity relating to the Scheduled Offence by which proceeds of crime had been generated as per Sec.2(1)(u) of the PML Act, is ascertained, the Court cannot proceed for framing charge in the PMLA Special Case, particularly when the ED is repeatedly contending that their further investigation as per Explanation (ii) to Sec.44(1) is still in progress and undergoing. Similarly, CBI who are dealing with the cases relating to the Predicate Offence, are also contending the same that their **further investigation** is going on. Both Agencies have

not yet allegedly reached to the finality in locating the end-use of alleged Proceeds of Crime and total criminal activity by which the said POC/crime proceeds were generated. What is the use of filing draft charge as quickly filed by the ED noticing that the applicant (A1) is likely to qualify entire period of undue incarceration as per Sec.436A Cr.P.C. ? The passive approach of the ED while initiating the proceedings for commitment of cases relating to the Scheduled Offence herein coupled with strategical prompt move in filing draft charge speaks volumes that the said draft charge is put as a clog in the way of applicant's right under Sec.436A Cr.P.C.

**WHETHER THE COURT CAN FRAME THE CHARGE IN CBI  
(PREDICATE) AND PMLA CASES SIMULTANEOUSLY TO BEGIN THE  
TRIAL AS PER SEC.44(1)(c) PMLA ACT.**

48. I have already made exhaustive discussion regarding the importance of step to be taken under Sec.44(1)(c) and how the same is qualification to begin trial of the PMLA case as mandated therein. I have also discussed in detail how discharge applications even if filed one after another have to be decided prior to framing charge. Even recently in **Kiran Prakash Kulkarni Vs. State of Maharashtra (Criminal Revision Application No.61 of 2023, decided on 27.03.2023)** the Hon'ble High Court while setting aside Order for framing charge passed by the Court of First Instance held as follows,

“4. Result of exercise of power by the Special Court is that the opportunity of accused to satisfy the Court about the lack of sufficient material to frame charge is taken away. It appears that the contentions raised on behalf of the accused that there is no material to frame charge/ground to proceed against the applicant has not been adjudicated upon by the Special Court. Therefore, the order of rejection of discharge

application and framing of charges against the applicant needs to be quashed and set aside”.

This clearly indicates that neither the Court nor the parties including ED can circumvent the provisions under Sec.227 (Discharge) Cr.P.C. and straightway proceed to frame the charge. In the instant case the fourth Subsequent Prosecution Complaint and third Supplementary Chargesheets, both ED and CBI specifically contended that their further investigation is going on to ascertain the proceeds of crime and crime proceeds. In this way both cases are kept on the mode of '**Further Investigation**' by the respective Agencies.

49. In Vijay Madanlal Choudhary (supra) the Hon'ble Supreme Court has clearly laid down that, **there should be a criminal activity relating to the Scheduled Offence. Proceeds of Crime should have been generated from the criminal activity related to the Scheduled Offence.** Unless these factors are ascertained how the charge can be framed as required under Ss.211 to 215 Cr.P.C. r.w. Sec.228 Cr.P.C. all r.w. Sec.2(1)(u) and 3 of the PML Act? Particularly when the ED as per Explanation (ii) to Sec.44 (1) and CBI are still ascertaining the proceeds of crime, criminal activities related to it and alleged hatching of conspiracy by way of further investigation. Can the Charge as per Ss.211 to 215 r.w. Sec.228 Cr.P.C. all r.w. Sec.2(1)(u) and 3 of the PML Act be framed with such incomplete investigation, incomplete details relating to the criminal activity, vague proceeds of crime and unidentified end-use thereof, which is yet to be investigated by both Agencies? This is most important and serious aspect and such clauses related to further investigation in both, Prosecution Complaints and Chargesheets, clearly indicate that even the criminal activity relating to the Scheduled

Offence as required under Sec.2(1)(u) r.w. Sec.3 of the PML Act is not yet finally investigated and discovered. Therefore, how the ED can file draft charge? Such strategic filing of draft charge promptly itself is nothing but shutting all doors of the undertrial prisoners, like the applicant (A1), for claiming any right under Sec.436A Cr.P.C.

50. Contention of ED as per Explanation (ii) to Sec.44(1) as well as CBI that their further investigations are still underway and progressing, itself is a clog in their way in framing the charge against accused persons. ED also knows well that unless this clog is removed, the Court cannot frame charge, yet embattlement in filing draft charge speaks volumes and nothing but to pretend that ED is ready to proceed with the trial even today. Whether the Court can begin the trial today by framing charge? ED knows its answer. It is, therefore, clear that framing of charge with such voluminous records in both cases and after provision under Sec.227 Cr.P.C. in this case is not an easy task and requires long time. So, in the instant case framing charge and disposing the case in near future is not possible. The applicant (A1) is not responsible for all this.

51. Another aspect requires consideration. Ld. SPP Mr. Sunil Gonsalves heavily placed reliance on **Gautam Kundu Vs. Enforcement Directorate [the Hon'ble Calcutta High Court in C.R.M. (SB) 237 of 2022, decided on 16.01.2023]**, wherein whole details of proceedings of the said case are reproduced and on the basis thereof the Hon'ble Calcutta High Court held as follows,

“13. On careful perusal of the above chart it is ascertained that primarily delay in trial is attributable to the accused. Though the complaint was filed in the year 2018. The trial court could deliver the copies under Section 207 of the Cr.P.C.

only on 22<sup>nd</sup> March, 2022 to the accused. Prosecution cannot be blamed for causing delay in conducting ML Case No.2 of 2018.

14. It is also not out of place to mention that the petitioner is involved in money laundering of huge sum of money amounting to Rs.1750 crores (approximately). He has already siphoned out a sum of Rs.6666 crores which are proceeds of crime. The Enforcement Directorate has also produced reports and documents as to how the petitioner tried to coerce the present director of M/s Chocolate Group of Hotels for extortion of money and wrongful gain. Repayment process by the High Court constituted Asset Disposal Committee has been going on”.

In this background Ld. SPP Mr. Sunil Gonsalves placed whole Rojnama of the instant case till **06.10.2023** and contended not to grant relief as prayed by the applicant. I carefully examined this contention. Also, I carefully gone through the whole Rojnama of the instant case and in last column noted my findings as follows,

Sr. No	Business on Date	Hearing Date	Purpose of Hearing	Gist of Rozanama	Role of Accused
1	23-05-2020	05-06-2020	APPEARANCE	Adv. Mr. Subhash Jadhav and Adv Mr. Chandan Shekawat already filed vakalatnama on 14.05.2020 for accused No.1 Rana Kapoor. It be marked as exhibit in today&#039s date at Exh.2. Learned SPP has provided copies of complaint and relied upon documents/statements of witnesses to Learned advocate for accused No.1. Matter is adjourned for appearance of accused persons to 05.06.2020.	Applicant [A1] cannot be blamed for the delay
2	05-06-2020	17-06-2020	APPEARANCE	As per circular No.78 of 2020 Adjournment of cases in view of declaration of Novel Corona Virus (Covid-19) as global pandemic by WHO. (Lockdown), matter is adjd.	Applicant [A1] cannot be blamed for the delay
3	17-06-2020	30-06-2020	APPEARANCE	National Lock Down	Applicant [A1] cannot be blamed for the delay
4	30-06-2020	14-07-2020	APPEARANCE	As per the Advisory received from Hon&#039ble High Court in view of the outbreak of Corona	Applicant [A1] cannot be blamed for the delay

				virus (2019-NCOV) matter is adjourned.	
5	14-07-2020	28-07-2020	APPEARANCE	As per the Advisory received from Hon&#039ble High Court in view of the outbreak of Corona virus (2019-NCOV) matter is adjourned.	Applicant [A1] cannot be blamed for the delay
6	28-07-2020	31-07-2020	APPEARANCE	Adjourned due to Covid-19	Applicant [A1] cannot be blamed for the delay
7	31-07-2020	03-08-2020	COMPLIANCE	SFIO is an investigating agency established under Companies Act, 2013 and investigating the affairs of HDIL and seeks the permission of this Court to record statement of Sarang Rakeshkumar Wadhwan and Rakesh kumar Wadhawan. Order Applicant is directed to serve the copy of application to other sides. Hence, matter adjourned to 03-08-2020 for compliance, reply and hearing.	Applicant [A1] cannot be blamed for the delay
8	03-08-2020	04-08-2020	COMPLIANCE	CORAM- PR. SINTRE Addl. Sessions Judge (C.R.No.17) (Incharge Court Matter Pertains to C. R. No. 16 Adv. Pradeep Yadav Prosecutor, SFIO present. ld. advocate for the applicant is absent. ld. APP requested to adjourn the matter on 04.08.2020 before the regular Court. Considering the request of the Ld. APP Pradeep yadav, matter is adjd. to 04.08.2020.	Applicant [A1] cannot be blamed for the delay
9	04-08-2020	06-08-2020	COMPLIANCE	PP Mr. Pradeep Yadav Prosecutor, SFIO present and endorsed on application Exh.4 as withdrawn with liberty to file similar application in appropriate matter. O- In view of endorsement made by Ld. APP, application Exh.4 is disposed off with liberty to SFIO to file fresh application in appropriate proceeding. Main matter is already adjd. to 06.08.2020.	Applicant [A1] cannot be blamed for the delay
10	06-08-2020	11-08-2020	COMPLIANCE	Adjourned due to Covid-19	Applicant [A1] cannot be blamed for the delay
11	11-08-2020	21-08-2020	APPEARANCE	SPP Mr. Gonsalves for ED-Mumbai present. Shri.Rajeev Kumar with Kuldeep Singh Assistant Director ED-Mumbai are present. Matter adjourned for appearance to 21.08.2020.	Applicant [A1] cannot be blamed for the delay
12	21-08-2020	03-09-2020	APPEARANCE	Adjd. due to COVID-19	Applicant [A1] cannot be blamed for the delay
13	03-09-2020	09-09-2020	APPEARANCE	Adjd. due to COVID-19	Applicant [A1] cannot be blamed



					for the delay
14	09-09-2020	23-09-2020	APPEARANCE	adjournment due to Covid 19	Applicant [A1] cannot be blamed for the delay
15	23-09-2020	28-09-2020	APPEARANCE	Due to heavy rain, holiday declared.	Applicant [A1] cannot be blamed for the delay
16	28-09-2020	09-10-2020	APPEARANCE	Adjourned due to Covid-19	Applicant [A1] cannot be blamed for the delay
17	09-10-2020	21-10-2020	APPEARANCE	As Court is on leave Matter adj	Applicant [A1] cannot be blamed for the delay
18	21-10-2020	04-11-2020	APPEARANCE	COURT IS ON LEAVE hence Matter adjourned	Applicant [A1] cannot be blamed for the delay
19	04-11-2020	12-11-2020	APPEARANCE	Court is on leave.	Applicant [A1] cannot be blamed for the delay
20	12-11-2020	27-11-2020	APPEARANCE	SPP Mr. Gonsalves for ED Mumbai present. Accused not produced from J.C. Advocate for accused absent. Adj. for reply to 27.11.2020.	Applicant [A1] cannot be blamed for the delay
21	27-11-2020	11-12-2020	APPEARANCE	Accused No.1 in jail not produced. Other accused not appeared. SPP Mr. Gonsalves for ED Mumbai present. Adv Mr. Ponda present for aced No.1. Matter is adj. for appearance to 11.12.2020.	Applicant [A1] cannot be blamed for the delay
22	11-12-2020	21-12-2020	APPEARANCE	Bail granted to Bindu Kapoor & roshini Kapoor u/s 439.Matter is adjourned for appearance to 21.12.2020.	Applicant [A1] cannot be blamed for the delay
23	21-12-2020	23-12-2020	APPEARANCE	Court is on leave.	Applicant [A1] cannot be blamed for the delay
24	23-12-2020	24-12-2020	APPEARANCE	Court is on leave.	Applicant [A1] cannot be blamed for the delay
25	24-12-2020	05-01-2021	APPEARANCE	Bail granted to Radha Kapoor u/s 439.Matter is adjourned for appearance to 05.01.2021.	Applicant [A1] cannot be blamed for the delay
26	05-01-2021	11-01-2021	APPEARANCE	A-1 not produced from JC. A-2 and 5 on bail Present. A-3,4 on bail absent. A-6 to 8 are companies. Ld counsel for the accused filed exemption application of A-03. Order-Heard. Due to reason shown for today only exemption granted to A-03. Ld counsel for the accused filed application for exemption application u/s. 205 r/w 317 of the Code of Criminal Procedure, 1973 of A-4. t.o.r. Order- Call say of SPP Order- Heard. Due to reason shwon for today only exemption granted to A-4. Adj. For Appearance on 11/01/2021.	Applicant [A1] cannot be blamed for the delay

27	11-01-2021	22-01-2021	APPEARANCE	<p>Adv. Subhash Jadhav present for the A-1 to 5. A-1 not produced from JC. A-2 to 5 on bail absent. A-6 to 8 are companies. Ld. Adv. for accused filed application for exemption of the accused no.02. t.o.r. call say of otherside. Ld SPP/APP Say filed overleaf the application. Order- Heard. Due to reason shown exemption is granted for today only to A-02. Ld. Adv. for accused filed application for exemption of the accused no.03. t.o.r. call say of otherside. Ld SPP/APP Say filed overleaf the application. Order-Heard. Due to reason shown exemption is granted for today only to A-03. Ld. Adv. for accused filed application for exemption of the accused no.04. t.o.r. call say of otherside. Ld SPP/APP Say filed overleaf the application. Order- Heard. Due to reason shown exemption is granted for today only to A-04. Ld. Adv. for accused filed application for exemption of the accused no.05. t.o.r. call say of otherside. Ld SPP/APP Say filed overleaf the application. Order- Heard. Due to reason shown exemption is granted for today only to A-05. Adj. For Appearance and compliance of Bail by A-04 on 22/01/2021.</p>	Applicant [A1] cannot be blamed for the delay
28	22-01-2021	27-01-2021	APPEARANCE	<p>SPP filed application for production of accused Rana Kapoor and grant of the custody accused. t.o.r. Order- Heard. LD SPP along with Mr. Kuldeep Singh Asst. Director of ED. As per the submission. ECIR/MBZO-1/39/2020 was registered u/s.3 r/w 4 of PMLA Act 2002 on getting knowledge in respect of Registration of FIR No.RC0262020A0012 dt. 23/09/2020 u/s. 120-B of IPC r/w 420 of IPC and 13(2) r/w 13 (1)(d) of Prevention of Corruption Act 1988 are schedule offence in which they are need of custody of the accused Rana Kapoor who is in custody of this Court in PMLA Case no.452/2020 and 579/2020. Hence considering the submission and the purpose mentioned accused Mr.Rana Kapoor be produced before this Court on 25/01/2021. Issue production warrant of</p>	Applicant [A1] cannot be blamed for the delay

				Accused Rana Kapoor for producing him before this Court to Jail Superintendent Taloja Jail on 27/01/2021 for further orders at 11.00am. Production warrant be handedover to Mr. Kuldeep Singh Assit. Director of ED. Adj. For Appearance and compliance of Bail by A-04 on 01/02/2021.	
29	27-01-2021	01-02-2021	APPEARANCE	Accused Rana Kapoor produced from JC. In view of PMLA RA 112/21 application Ex.23 for grant of custody stands disposed off. Accused is remanded to ED custody till 30/01/2021. Already Adj. For Appearance and Compliance of bail by A-04 on 01/02/2021.	Applicant [A1] cannot be blamed for the delay
30	01-02-2021	11-02-2021	APPEARANCE	A-1 not produced from JC. A-2, 3 and 5 on bail Present. a-4 on bail absent. A-6 to 8 are companies. Ld counsel for the accused filed application for extension time to furnish surety of A-2. t.o.r. Order-call say of SPP. Ld SPP filed say overleaf the application. Heard both sides. F.R.S.R following order passed below Ex.24. 1. Application (Exh.24) in P.M.L.A. Special Case No.452/2020 is allowed. 2. Eight weeks time from today is granted to the applicant/accused Mrs. Roshini Kapoor to furnish sureties as per order passed below Exh.7. 3. All other terms of bail order shall remain stand as it is. 4. Application stands disposed of accordingly. Ld counsel for the accused filed application for extension time to furnish surety of A-3. t.o.r. Order- call say of SPP. Ld SPP filed say overleaf the application. Heard both sides. F.R.S.R following order passed below Ex.25. 1. Application (Exh.25) in P.M.L.A. Special Case No.452/2020 is allowed. 2. Eight weeks time from today is granted to the applicant/accused Mrs. Radha Kapoor Khanna to furnish sureties as per order passed below Exh.13. 3. All other terms of bail order shall remain stand as it is. 4. Application stands disposed of accordingly. Ld counsel for the accused filed application for extension time to furnish surety of A-5. t.o.r. Order-call say of SPP. Ld SPP filed say overleaf the application. Heard both sides. F.R.S.R following	Applicant [A1] cannot be blamed for the delay

				order passed below Ex.26. 1. Application (Exh.26) in P.M.L.A. Special Case No.452/2020 is allowed. 2. Eight weeks time from today is granted to the applicant/accused Mrs. Bindu Kapoor to furnish sureties as per order passed below Exh.8. 3. All other terms of bail order shall remain stand as it is. 4. Application stands disposed of accordingly. Adj. For Appearance on 11/02/2021	
31	11-02-2021	26-02-2021	HEARING	Ld. advocate for accused no.3 sought time for hearing on Bail Application (Ex.34). Granted as a last chance. Adj. For hearing Interim Bail application Ex.34 of A-03 Hearing and Appearance on 26.02.2021.	Applicant [A1] cannot be blamed for the delay
32	26-02-2021	03-03-2021	HEARING	Adj. For hearing Interim Bail application Ex.34 of A-03 Hearing on 12/03/2021.	Applicant [A1] cannot be blamed for the delay
33	03-03-2021	12-03-2021	HEARING	Ld counsel for the accused no.10 filed application for Homefood, medicines, toothbrush, shaving machine, mosquito net and sports shoes. at Ex.30	Applicant [A1] cannot be blamed for the delay
34	12-03-2021	09-04-2021	HEARING	Adj. For hearing Interim Bail application Ex.34 of A-03 in Spl case 452/20 on on 09/04/2021.	Applicant [A1] cannot be blamed for the delay
35	09-04-2021	20-04-2021	HEARING	By consent adjourned for hearing on B.A.(Ex.34) of A/10 and for reply on Ex.36 and 37 on 20.04.2021.	Applicant [A1] cannot be blamed for the delay
36	20-04-2021	06-05-2021	HEARING	Adjourned due to covid	Applicant [A1] cannot be blamed for the delay
37	06-05-2021	13-05-2021	HEARING	Adj. hearing on B.A.(Ex.34) of A/10 and Ex.38 and compliance of medical report on 13/05/2021.	Applicant [A1] cannot be blamed for the delay
38	13-05-2021	31-05-2021	HEARING	Issue notice to Jail authority for called fresh report. Necessary medical assistant be given to the accused if required. Adjourned to 31/05/2021.	Applicant [A1] cannot be blamed for the delay
39	31-05-2021	01-06-2021	HEARING	Due to clubing of case 452 & 579 Sheristedar was directed to prepare the list of exhibits to be de-exhibited and again to be exhibited after merger of two mattes. Adj. hearing on B.A. (Ex.34) of A/10 and Ex.38 and compliance of medical report on 01.06.2021	Applicant [A1] cannot be blamed for the delay
40	01-06-2021	07-06-2021	SAYHEARING ON EXH.READY	A-1 filed application to direct the officials of Taloja Jail to procure the signature of Mr. Rana Kapoor (Accused no.1) on a letter. t.o.r at Ex.56. Order in Exh. 34 filed by	Applicant [A1] cannot be blamed for the delay

				A-10, partly allowed (treatment in Pvt hospital).Adj. For Say on Ex.56 on 07/06/2021.	
41	07-06-2021	19-06-2021	HEARING	Ld SPP filed say overleaf the application at Ex.56. Adj. for Hearing on Ex.56 on 19/06/2021.	Applicant [A1] cannot be blamed for the delay Applicant [A1] cannot be blamed for the delay
42	19-06-2021	21-06-2021	HEARING	As per Officer Order No. 106 of 2021 dt. 14/06/2021, Court shall remain closed every Saturday. Hence matter adjourned next working day.	Applicant [A1] cannot be blamed for the delay
43	21-06-2021	05-07-2021	APPEARANCE	Order in Exh. 56. Adj. For Appearance on 05/07/2021.	Applicant [A1] cannot be blamed for the delay
44	05-07-2021	03-08-2021	REPLY/SAY	Ld counsel for the A-11 filed application for suspension of proceedings under section 32 A of the Insolvency and Bankruptcy Code 2016. t.o.r. Order- ED for Say. Copy be supplied to them. Adj. For Appearance and Reply on Ex.67 by ED on 10/08/2021.	Applicant [A1] cannot be blamed for the delay
45	03-08-2021	04-08-2021	REPLY/SAY	Ld SPP filed application for seeking permission to examine Dheeraj Wadhawan and Kapil Wadhawan under 37 of Foreign Exchange Management Act, 1999 (Hereinafter Referred As FEMA,1999) in respect of a case investigated by Directorate of Enforcement. t.o.r. Heard Ld SPP on Ex.70. Adj. For Order on Ex.70 on 04/08/2021.	Applicant [A1] cannot be blamed for the delay
46	04-08-2021	10-08-2021	REPLY/SAY	Application (Exh.70) is allowed. Already matter adj to 10/08/2021.	Applicant [A1] cannot be blamed for the delay
47	10-08-2021	20-08-2021	REPLY/SAY	Ex.76. Ld SPP filed application for seeking permission to examine Mr. Rana Kapoor under section 50 of Prevention of Money Laundering Act, 2002 (hereinafter referred as PMLA, 2002) in respect of a case investigated by Directorate of Enforcement. Order at Exh. 77, thereby allowed Nikunj Kumar Goyal, Assistant Director, Headquarters Office along with two accompanying Officers along with case files, laptop and digital devices are permitted to examine/interrogate Mr. Rana Kapoor vide Section 50 of P.M.L.A. as prayed from 25.08.2021 to 27.08.2021	Applicant [A1] cannot be blamed for the delay
48	20-08-2021	23-08-2021	REPLY/SAY	Application for intervention in Ex.67 of the applicant in the accused No.11 application for	Applicant [A1] cannot be blamed for the delay

				suspension of the proceedings u/s. 32-A of the Insolvency and Bankruptcy Code- Prosecution to file say. Adj. For Appearance and Reply on Ex.67 of A-11(company) by ED and Ex.75 on 20/08/2021.	
49	23-08-2021	24-08-2021	HEARING	Application by and on behalf of applicant/ accused No.1 Rana Kapoor seeking necessary orders and directions praying for recall of the order dt.20/08/2021 or in the alternative to permit the interrogation of the applicant by Enforcement Directorate on 25/08/2021 to 22/08/2021 under CCTV recording and in the presence of lawyer for the applicant. - Call say of prosecution. Adj. To 24/08/2021 for hearing.	Applicant [A1] cannot be blamed for the delay
50	24-08-2021	02-09-2021	HEARING	Application (Exh.80) is partly allowed. 2. Prayer (a) in application (Exh.80) is rejected. 3. Alternative prayer (b) is allowed. The Advocate for Rana Kapoor should be allowed to be present during the statement of Rana Kapoor under Section 50 PMLA.	Applicant [A1] cannot be blamed for the delay
51	02-09-2021	16-09-2021	HEARING	Adj. To 20/09/2021 for Appearance and Reply on DA Ex.67 of A-11(company) by ED and Ex.75.	Applicant [A1] cannot be blamed for the delay
52	16-09-2021	20-09-2021	HEARING	Report of compliance submitted by AD, HIU-2(1)(2) having recorded statement of Rana Kapoor in jail. - Filed. Medical update report of Mr. Dheeraj Wadhawan received through Email. Already adj. To 20/09/2021.	Applicant [A1] cannot be blamed for the delay
53	20-09-2021	08-10-2021	HEARING	Adj. to 08/10/2021 for Appearance and Reply on DA Ex.67 of A-11(company) by ED and Ex.75.	Applicant [A1] cannot be blamed for the delay  <i>The only date as admitted by the Applicant, wherein adjournment was sought by A1</i> however the same was in relation to owing to the pendency of Application filed by present Applicant seeking transfer of Scheduled offence to the PMLA Court in strict

				adherence of mandate u/S44(1)(c) of PML Act	
54	08-10-2021	29-10-2021	HEARING	Adj. To 29/10/2021 Appearance and Hearing on DA Ex.67 of A-11(company) and Ex.75.	Applicant [A1] cannot be blamed for the delay
55	29-10-2021	23-11-2021	HEARING	Adj. To 23/11/2021 Appearance and Hearing on DA Ex.67 of A-11(company) and Ex.75.	Applicant [A1] cannot be blamed for the delay
56	23-11-2021	09-12-2021	HEARING	Ld SPP sought time to file reply to Intervention application Ex.74. Granted. Adj. To 09/12/2021 for Appearance and Hearing on DA Ex.67 of A-11(company) and Ex.74.	Applicant [A1] cannot be blamed for the delay
57	09-12-2021	23-12-2021	HEARING	As per Circular dt. 22.11.2021, r/w paras 2(1) and 2(2) of Chapter VI criminal Manual Supplementary chargesheet which was separately numbered as SPL Case No. 579/2020 is merged with main chargesheet i.e. PMLA SPL Case No.452/20. Accused are already renumbered. In view of this SPL Case No. 579 of 2020 stands disposed of for statistical purpose. Adj. To 23/12/2021 for Hearing on DA Ex.67 of A-11(company) and Ex.74 reply by SPP	Applicant [A1] cannot be blamed for the delay
58	23-12-2021	10-01-2022	HEARING	Adv for accused No.11 filed additional affidavit for Suspension of Proceedings Under Section 32 A of the Insolvency and Bankruptcy Code, 2016. - Call say of prosecution. Copy be served to ED. Adj. To 10/01/2022 for Hearing on DA Ex.67 of A-11(company) and Ex.67-B and Ex.74 reply by SPP	Applicant [A1] cannot be blamed for the delay
59	10-01-2022	24-01-2022	HEARING	Adj. To 24/01/2022 for Hearing on DA Ex.67 of A-11(company) and Ex.74 reply by SPP	Applicant [A1] cannot be blamed for the delay
60	24-01-2022	08-02-2022	HEARING	Adj. To 08/02/2022 for Hearing on DA Ex.67 of A-11(company) and Ex.74 reply by SPP	Applicant [A1] cannot be blamed for the delay
61	08-02-2022	10-02-2022	HEARING	Adj. To 21/02/2022 for Hearing on DA Ex.67 of A-11(company) and Ex.74 reply by SPP	Applicant [A1] cannot be blamed for the delay
62	10-02-2022	21-02-2022	HEARING	PSI Mr.Appa Shedge attached to Unit-11, Banking-3, DCB CID, Mumbai present. Ld APP filed an application seeking permission to record statements of accused Kapil Wadhwan and Dheeraj Wadhwan in the hospital wherein they are admitted as indoor patient, in Crime Registration No.84/2021 registered with EOW,	Applicant [A1] cannot be blamed for the delay

				Mumbai. O- Call opinion of doctors treating both accused as to whether the same is permissible.	
63	21-02-2022	25-02-2022	HEARING	No discharge application is filed by other accused in spite of opportunity available to them. Hence case will proceed with discharge application. If one of such accused files discharge application after decision of present discharge application it will be held that they are filing such application only to prolong the trial by not availing opportunity at appropriate time. Adj. To 07/03/2022 for Hearing on DA Ex.67 of A-11(company) and Ex.74 reply by SPP.	Applicant [A1] cannot be blamed for the delay
64	25-02-2022	07-03-2022	HEARING	LR under sec 57 & 60 allowed in Exh. 153-156.	Applicant [A1] cannot be blamed for the delay
65	07-03-2022	11-03-2022	HEARING	Order below Ex.74. This is an Intervention application. Intervention is allowed only to assist ED and point out that ED is not putting up the case of intervener properly. Adj. To 11/03/2022 for Hearing on DA Ex.67 of A-11(company) and 22/03/2022	Applicant [A1] cannot be blamed for the delay
66	11-03-2022	22-03-2022	HEARING	The applicant Kapil Wadhawan (A10) has made three prayers in application (Exh.166)	Applicant [A1] cannot be blamed for the delay
67	22-03-2022	25-03-2022	HEARING	dj. To 28/03/2022 for report of accused Dheeraj Wadhawan and for Hearing on DA Ex.67 of A-11(company) on 06/04/2022.	Applicant [A1] cannot be blamed for the delay
68	25-03-2022	28-03-2022	HEARING	Ld Adv. for accused No.2 filed application for permission to travel abroad.- ED to say. Adj. to Say on Ex.175 on 28/03/2022.	Applicant [A1] cannot be blamed for the delay
69	28-03-2022	29-03-2022	HEARING	Ld SPP sought time for reply to Ex.175 of A-2. Adj. To 06/04/2022 for Say on Ex.175 TA of A-2 and report of accused Dheeraj Wadhawan and for Hearing on DA Ex.67 of A-11(company).	Applicant [A1] cannot be blamed for the delay
70	29-03-2022	06-04-2022	HEARING	Medical report of accused Dheeraj Wadhwan received from Sir J. J. Hospital- Filed. Reply of Jailer to the food application filed by accused Kapil Wadhawan along with medical reports of accused. Already Adj. To 06/04/2022 for Say on Ex.175 TA of A-2 and for Hearing on DA Ex.67 of A-11(company).	Applicant [A1] cannot be blamed for the delay
71	06-04-2022	08-04-2022	ORDER EXH.	Applications (Exh.175) is allowed. 2. Applicant Ms. Roshini	Applicant [A1] cannot be blamed



				Kapoor, accused No.2, is permitted to travel New York, USA from 13.04.2022 to 05.05.2022, as prayed. Issue process against accused No.20 to 24 for offence under Sec.3 punishable under Sec.4 of the Prevention of Money Laundering Act,2002. Adj. To 08/04/2022 for Order on Ex.166 and main matter Adj. To 21/04/2022 for Hearing on DA Ex.67 of A-11(company) and BA (Exh.180).	for the delay <b>Second Supplementary Complaint came to be filed as on 14.04.2022</b>
72	08-04-2022	21-04-2022	HEARING	Prayer of the applicant-accused No.10 Kapil Wadhawan for home food is temporarily granted till 05.05.2022 from today. Already Adj. To 21/04/2022 for Hearing on DA Ex.67 of A-11(company) and BA (Exh.180).	Applicant [A1] cannot be blamed for the delay
73	21-04-2022	28-04-2022	REPLY/SAY	Appl. U/s 88 filed by A-21 to 24. All allowed. Adj. To 02/05/2022 for Say BA of A-9 and 10and On 05/05/2022 for Hearing on DA Ex.67 of A-11(company).	Applicant [A1] cannot be blamed for the delay
74	28-04-2022	29-04-2022	REPLY/SAY	Call report from treating docotrs of accused No.10 Dheeraj Wadhawan with clear opinion about the illness, treatability thereof present treatment and future treatment. Already adj. to 02/05/2022.	Applicant [A1] cannot be blamed for the delay
75	29-04-2022	02-05-2022	REPLY/SAY	Travel abroad application on behalf of Accused No.24 Rajiv Anand.- Call say of ED. Already adj. To 02/05/2022.	Applicant [A1] cannot be blamed for the delay
76	02-05-2022	04-05-2022	REPLY/SAY	court is on leave	Applicant [A1] cannot be blamed for the delay
77	04-05-2022	05-05-2022	REPLY/SAY	Adj. to 05/05/2022 for Say BA of A-9 and 10, Hearing on DA Ex.67 of A-11(company), TA of A-24 (Ex.196).	Applicant [A1] cannot be blamed for the delay
78	05-05-2022	09-05-2022	HEARING	Adj. to 05/05/2022 for Say BA of A-9 and 10, Hearing on DA Ex.67 of A-11(company), TA of A-24 (Ex.196).	Applicant [A1] cannot be blamed for the delay
79	09-05-2022	12-05-2022	REPLY/SAY	Travel abroad application on behalf of A-22. - Call say of ED. Adj. to 06/06/2022 for Hearing on BA of A-9 and 10 (Exh.184), Hearing on DA Ex.67 of A-11(company), TA of A-24 (Ex.196),	Applicant [A1] cannot be blamed for the delay
80	12-05-2022	13-05-2022	HEARING	NA	Applicant [A1] cannot be blamed for the delay
81	13-05-2022	17-05-2022	HEARING	SPP endorsed say to Home food application (Ex.211). Adj. to 17/05/2022 for hearing on Home food (Ex.211). Main matter	Applicant [A1] cannot be blamed for the delay

				Already Adj. to 06/06/2022 for Hearing on BA of A-9 and 10 (Exh.184), Hearing on DA Ex.67 of A-11(company), TA of A-24 (Ex.196)	
82	17-05-2022	18-05-2022	ORDER EXH.	Heard arguments both sides on Home food application (Exh.211). Adj. to 19/05/2022 for order on Home food (Ex.211). Main matter Already Adj. to 06/06/2022 for Hearing on BA of A-9 and 10 (Exh.184), Hearing on DA Ex.67 of A-11(company), TA of A-24 (Ex.196).	Applicant [A1] cannot be blamed for the delay
83	18-05-2022	19-05-2022	ORDER EXH.	Extension of time to furnish surety four weeks is granted to A-21, 22, 23, 24. Already adj. to 19/05/2022.	Applicant [A1] cannot be blamed for the delay
84	19-05-2022	20-05-2022	ORDER EXH.	Call report of JJ Hospital regarding medical conditions of accused Dheeraj Wadhawan on or before 23.05.2022. Adj. to 20.05.2022 for order on Ex.211 and on 23.05.2022 for report and Main matter adj. to 06.06.2022.	Applicant [A1] cannot be blamed for the delay
85	20-05-2022	23-05-2022	REPORT	order passed below Ex.211. Application (Exh.211) is partly allowed. Applicant-accused Dheeraj Wadhawan is permitted to avail home cooked food for one month i.e. till 19.06.2022. Already adj. To on 23.05.2022 for report and Main matter adj. to 06.06.2022.	Applicant [A1] cannot be blamed for the delay
86	23-05-2022	24-05-2022	REPORT	Exh. 216 ED submitted compliance report @ report / opinion of JJ. Hospital which is in a sealed envelope. Matter already adj on 06.06.2022. I/c Judge	Applicant [A1] cannot be blamed for the delay
87	24-05-2022	25-05-2022	REPORT	Superintendent, Talaja Prison, Mumbai is directed to permit PI Balasaheb Shinde attached to DCB, CID Unit I to record the statement of Dhiraj Wadhwan in jail premises at 11.00 am. Ex.221 Report filed by APP t.o.r. O-Filed. Authenticated copy be given to the both parties. Matter already adj to 06-06-2022. I/C JUDGE	Applicant [A1] cannot be blamed for the delay
88	25-05-2022	26-05-2022	REPORT	Ex.222 Ld adv for accused no. 24 filed application for passing appropriate order t.o.r. O- Call explanation from jail Superintendent, Talaja. Matter adjd for say to 26-05-2022. Main matter already adjd to 06-06-2022.	Applicant [A1] cannot be blamed for the delay
89	26-05-2022	27-05-2022	REPORT	Exh. 226 Ld. Adv for Accd No. 21 filed application for TOB-allowed. Exh. 227 Ld. Adv for Accd no. 21 filed application for Travel abroad. - O-Call say of ED.	Applicant [A1] cannot be blamed for the delay

				Ld. Adv for A.21 served copy to SPP Mr. Yadav. Matter already adj to 06-06-2022. I/C JUDGE	
90	27-05-2022	30-05-2022	REPORT	Report received from Supdt. Taloja jail about compliance of order passed below Exh.211 of home food. Matter already adj to 06-06-2022. I/C JUDGE	Applicant [A1] cannot be blamed for the delay
91	30-05-2022	06-06-2022	REPORT	Ex.222 seeking directions for immediate production of Accused/ Applicant and some other relief regarding shifting of Accused from Taloja Jail. Today, he is seeking production warrant for production of accused before this Court. He has submitted some new facts on record which show that, applicant/ accused is in Police Custody till 02.06.2022. At present, he is not in the Custody of any Jail Authority. Under such circumstances, at this Stage, Production warrant as prayed under Section 267 of Cr. PC cannot be issued. Case is already adjd on 06.06.2022. Judge	Applicant [A1] cannot be blamed for the delay
92	06-06-2022	07-06-2022	HEARING	Letter of Request alongwith production warrant to the Ld. CBI Special Court (C.R.No.47) in respect of Mr. Sanjay Rajkumar Chhabaria. 3. Enforcement Directorate shall produce Mr. Sanjay Rajkumar Chhabaria immediately before this Court once he is taken into custody pursuant production warrant. Exh 227 allowed, Applicant Mr. Ashish Agarwal is permitted to travel Serbia from 02.07.2022 to 10.07.2022. Applicant Mr. Ashish Agarwal is permitted to travel Serbia from 02.07.2022 to 10.07.2022	Applicant [A1] cannot be blamed for the delay
93	07-06-2022	09-06-2022	HEARING	Ld SPP filed application for remand custody of accused Sanjay Chhabria. ED remand till 14.06.2022. Already adj. To 09.06.2022 for hearing and Adj. To 14/06/2022 for Remand of accused Sanjay Chhabriya.	Applicant [A1] cannot be blamed for the delay
94	09-06-2022	10-06-2022	HEARING	Adj. To 14/06/2022 for Remand of accused Sanjay Chhabriya and on 17/06/2022 for hearing.	Applicant [A1] cannot be blamed for the delay
95	10-06-2022	14-06-2022	PRODUCTION OF ACCUSED	Already Adj. To 14/06/2022 for Remand of accused Sanjay Chhabriya.	Applicant [A1] cannot be blamed for the delay
96	14-06-2022	16-06-2022	PRODUCTION OF ACCUSED	ED custody remand of the Sanjay Chhabria is extended till 17/06/2022. Ld Adv for accused filed application for seeking	Applicant [A1] cannot be blamed for the delay

				directions to the ED to forthwith make appropriate applications under section 44 of PMLA for Transfer/committal of CBI SPL Case No.830 of 2021 and 965 of 2021.- Call say of ED. Already adj. To 17/06/2022 for hearing and Remand of accused Sanjay Chabriya and Say on Ex.249 by SPP.	
97	16-06-2022	17-06-2022	PRODUCTION OF ACCUSED	Application for permitting the third party to meet Mr.Sanjay Chhabria- Call say of ED. Matter already adjd. To 17.06.2022 for reply.	Applicant [A1] cannot be blamed for the delay
98	17-06-2022	27-06-2022	HEARING	remanded to JC of Sanjay Chhabria .till 30.06.2022 Adj. to 30.06.2022 for Appearance of accused Sanjay Chabriya and appearance.	Applicant [A1] cannot be blamed for the delay
99	27-06-2022	28-06-2022	HEARING	ED officers Mr. Rajiv Kumar and Mr. Kuldeep Singh, Assistant Directors of ED are permitted to take the custody of accused Avinash Bhosale from the jail and produce him before this Court forthwith. Already adjd. 30.06.2022.	Applicant [A1] cannot be blamed for the delay
100	28-06-2022	30-06-2022	HEARING	Remand Application (Exh.262) is partly allowed to the extent of ED custody till 05.07.2022 and accused is remanded in ED custody till 05.07.2022,	Applicant [A1] cannot be blamed for the delay
101	30-06-2022	05-07-2022	HEARING	Matter is adjd. to 05.07.2022 for hearing.	Applicant [A1] cannot be blamed for the delay
102	05-07-2022	11-07-2022	HEARING	Further extension of ED custody of accused Avinash Nivrutti Bhosale is granted till 11.07.2022. Ajd. To 11.07.2022 for production of Accused Avinash Bhosale and for hearing.	Applicant [A1] cannot be blamed for the delay
103	11-07-2022	16-07-2022	PRODUCTION OF ACCUSED	Adj. to 19.07.2022 for production of accd Nos.9 and 10 . Main matter adjd. to 21.07.2022.	Applicant [A1] cannot be blamed for the delay
104	16-07-2022	21-07-2022	PRODUCTION OF ACCUSED	Already adjd.to 19.07.2022 for production of accd Nos.9 and 10 . Main matter adjd. to 21.07.2022.	Applicant [A1] cannot be blamed for the delay
105	21-07-2022	27-07-2022	ARGUMENTS	Ld. SPP filed application for JC of Accused Avinash Bhosale at Exh. 297. Ld.SPP filed application for JC extension of accd Sanjay Chhabria at Exh.298. Adv for accd No.1 filed application for eye treatment at J.J. Hospital at Exh.299. O-Refer the applicant to J.J.Hospital Ophthalmology Department and begin treatment immediately. Letter received from District Jail, Lucknow that accused Dheeraj Wadhawan and	Applicant [A1] cannot be blamed for the delay  Application for simply seeking checkup of eye treatment due to swelling in a government hospital.  No admission was

				Kapil Wadhawan are in custody of CBI, Delhi till 27.07.2022. Adj. to 03.08.2022 for argument on Exh.252.	prayed by Applicant.
106	27-07-2022	03-08-2022	ARGUMENTS	CMO is directed to look after eye treatment of accused No. 1 and report this court immediately. Already adj. to 03.08.2022.	Applicant [A1] cannot be blamed for the delay
107	03-08-2022	05-08-2022	ORDER EXH.	Medical report regarding eye treatment of accused Rana Kapoor in J.J. Hospital. Adj. for order on Exh.294 to 05.08.2022 and adj. to 18.08.2022 for production of accd Nos.9 and 10 .	Applicant [A1] cannot be blamed for the delay
108	05-08-2022	08-08-2022	PRODUCTION OF ACCUSED	Adj. for production of accused to 18.08.2022. Judge L.O. Supplementary chargesheet and documents are under scrutiny, hence cognizance be taken on schedule date. Already adj. To 18.08.2022.	Applicant [A1] cannot be blamed for the delay <b>Third Supplementary Prosecution Complaint came to be filed as on 04.08.2022</b>
109	08-08-2022	11-08-2022	REPLY/SAY	Sanjay Chhabria filed application for permission to furnish bail bond u/s 167(2) of Cr.PC at Exh.308. filed application for permission to furnish bail bond u/s 167(2) of Cr.PC at Exh.308	Applicant [A1] cannot be blamed for the delay
110	11-08-2022	18-08-2022	REPLY/SAY	Court is on leave.	Applicant [A1] cannot be blamed for the delay
111	18-08-2022	19-08-2022	HEARING	Application filed on behalf of accused No.21 Ashish Agarwal for seeking permission to travel abroad (USA) from 7th October,2022 to 18th October, 2022 at Exh.313. O-Call say of ED. Matter is adj. to 19.08.2022 for hearing on Exh.308 Main Matter is adj. to 25.08.2022 for say .	Applicant [A1] cannot be blamed for the delay
112	19-08-2022	25-08-2022	ORDER	Heard arguments of both the sides on BA Exh 308. Adj. to 25.08.2022 for Order on Exh 308.	Applicant [A1] cannot be blamed for the delay
113	25-08-2022	30-08-2022	REPLY/SAY	Adj. to 30.08.2022 for say on Exh.315.	Applicant [A1] cannot be blamed for the delay
114	30-08-2022	07-09-2022	REPLY/SAY	Matter is adj. to 07.09.2022 for say on Exh.315 and hearing on bail applications.	Applicant [A1] cannot be blamed for the delay
115	07-09-2022	15-09-2022	HEARING	Application (Exh. 315) is allowed. 2. Applicant-accused Rajiv Anand is permitted to travel United Kingdom from 21.09.2022	Applicant [A1] cannot be blamed for the delay

				to 12.10.2022, as prayed. There is no chance to get time to pass order on Exh.324. Arguments are already heard. Hence, the order will be passed next date. In the meantime home food allowed for the applicant Avinash Bhosale shall be continued till the next date. Matter is adjd. for hearing on bail applications. to 15.09.2022.	
116	15-09-2022	22-09-2022	HEARING	Home food allowed for the applicant Avinash Bhosale shall be continued till the next date. Matter is adjd. for Bail Application of A9,A10 on 22.09.2022 and main matter is adjd. to 30.09.2022.	Applicant [A1] cannot be blamed for the delay
117	22-09-2022	23-09-2022	HEARING	Main matter already adj. to 30.09.2022 for hearing.	Applicant [A1] cannot be blamed for the delay
118	23-09-2022	30-09-2022	HEARING	A-22 filed application for extension of time to deposit the passport. O: Call say of ED/respondent. Matter is already adj. to 30/09/2022.	Applicant [A1] cannot be blamed for the delay
119	30-09-2022	06-10-2022	HEARING	Court is on Leave.	Applicant [A1] cannot be blamed for the delay
120	06-10-2022	07-10-2022	HEARING	A-27 filed application seeking necessary directions and orders to allow the accused No.27 to sign the forms annexed hereto at Exh.346. O-Call say of ED. Already adjd. to 07.10.2022.	Applicant [A1] cannot be blamed for the delay
121	07-10-2022	08-10-2022	HEARING	Matter is adjd. for order on Exh.336 and reply on Exh. 349 (DA of A7) and Exh.350 (DA of A8) to 14.10.2022. Judge L.O. at 4.30 p.m. Holter Monitoring report (Court Compliance) regarding Avinash Bhosale received from CMO, Mumbai Central Prison through E-mail . Already adjd. to 14.10.2022.	Applicant [A1] cannot be blamed for the delay
122	08-10-2022	14-10-2022	HEARING	Medical Report of accused Avinash Bhosale received from Mumbai Central Prison. Matter already adjourned to 14.10.2022.	Applicant [A1] cannot be blamed for the delay
123	14-10-2022	19-10-2022	REPORT	Matter is adjd. for report on Exh.336 to 19.10.2022 and for reply on Exh. 349 (DA of A7) and Exh.350 (DA of A8) to 04.11.2022.	Applicant [A1] cannot be blamed for the delay
124	19-10-2022	01-11-2022	REPLY/SAY	Already adjd. to 04.11.2022.	Applicant [A1] cannot be blamed for the delay
125	01-11-2022	03-11-2022	REPLY/SAY	A-10 filed an application Exh.370	Applicant [A1]

				for withdrawing Bail Application Exh.198. the application(Exh.198) for bail on behalf of accused Dheeraj Wadhawan is allowed to be withdrawn. Hence, disposed off accordingly. Already adjd.to 04.11.2022.	cannot be blamed for the delay
126	03-11-2022	04-11-2022	REPLY/SAY	Matter is adjd.17.11.2022 for reply on Exh. 349 (DA of A7) and Exh.350 (DA of A8). Judge	Applicant [A1] cannot be blamed for the delay
127	04-11-2022	17-11-2022	REPLY/SAY	By consent matter adjd. to 29.11.2022 for hearing on B.A of accd.no.9 and 10. I/c.Judge	Applicant [A1] cannot be blamed for the delay
128	17-11-2022	24-11-2022	REPLY/SAY	By consent matter adjd. to 29.11.2022 for hearing on B.A of accd.no.9 and 10. I/c.Judge	Applicant [A1] cannot be blamed for the delay
129	24-11-2022	29-11-2022	REPLY/SAY	A-35 filed application seeking permission to sign on KYC forms for bank accounts. O -SPP to say. SPP Mr. Gonsalves for ED, Mumbai present. Matter is already adjd. to 29.11.2022.	Applicant [A1] cannot be blamed for the delay
130	29-11-2022	01-12-2022	HEARING	Matter is adjd. for further hearing on Exh.180 and hearing on Exh.67(DA of A11), Exh.245,Exh. 349 (DA of A7) and Exh.350 (DA of A8) to 07.12.2022.	Applicant [A1] cannot be blamed for the delay
131	01-12-2022	07-12-2022	HEARING	ED filed compliance report on behalf of ED regarding present medical condition of accused No.27 Avinash Bhosale. SPP Mr. Gonsalves for ED, Mumbai present. Matter is already to 07.12.2022.	Applicant [A1] cannot be blamed for the delay
132	07-12-2022	13-12-2022	ARGUMENTS	Heard further argument of Ld. Sr. Counsel Mr. Amit Desai on BA Exh.180 of A/10 and finished his side. Matter is adjd. for arguments on BA of Accd No.9 Exh.181 to 13.12.2022.	Applicant [A1] cannot be blamed for the delay
133	13-12-2022	14-12-2022	ARGUMENTS	Matter is adjd. for hearing on Exh.384(BA-A27) and arguments of SPP on BA of Accd No.9,10 Exh.180 and 184 to 20.12.2022. Till then JC of accd no.1 is extended till next date as per Sec.309 of Cr.PC.	Applicant [A1] cannot be blamed for the delay
134	14-12-2022	15-12-2022	ARGUMENTS	Matter is adjd.for say on 20.12.2022.	Applicant [A1] cannot be blamed for the delay
135	15-12-2022	20-12-2022	ARGUMENTS	A-26 filed application on behalf of accused No.26 seeking permission to travel abroad. O-Call say of ED. SPP Mr. Gonsalves for ED, Mumbai present. Matter is adjd.for say on 20.12.2022.	Applicant [A1] cannot be blamed for the delay

136	20-12-2022	28-12-2022	ARGUMENTS	Heard argument of Ld. SPP Mr. Hiten Venegokar through out the morning session but he could not conclude and requires more sessions. Hence, adjourned for further argument of Ld.SPP Mr. Venegaokar. Due to argument of prosecution in bail applications of accused No.8 and 10 no sufficient time to hear argument of Ld. Counsel Mr. Ashok Mundergi for accused Avinash Bhosale. Hence adjd. for his argument. Matter is adjd. for arguments of SPP on BA of Accd No.9 Exh.181 and 184 and order on Exh.334 to 30.12.2022.	Applicant [A1] cannot be blamed for the delay
137	28-12-2022	30-12-2022	ARGUMENTS	A-24 is given further extension by four weeks to furnish surety is granted as a last chance. Matter is already adjd.to 30.12.2022.	Applicant [A1] cannot be blamed for the delay
138	30-12-2022	10-01-2023	ARGUMENTS	PO. is on leave.	Applicant [A1] cannot be blamed for the delay
139	10-01-2023	11-01-2023	ARGUMENTS	Matter is adjd. to 16.01.2023 for arguments of SPP on BA of Accd No.9 Exh.181 and 184 and order on Exh.334.	Applicant [A1] cannot be blamed for the delay
140	11-01-2023	13-01-2023	REPLY/SAY	Application on behalf of CBI seeking the exact status and reasons of hospitalization of accused No.27 Avinash Bhosale by way of intervention. It is made clear that CBI can collect information from JJ Dean, on all questions which they have raised in this application. Matter is adjd.for say on 13.01.2023. Main matter already adjd. 16.01.2023	Applicant [A1] cannot be blamed for the delay
141	13-01-2023	16-01-2023	CHARGE	Applicant Rahuul Ramesh Shah (A26) is permitted to travel Dubai from 15.01.2023 to 18.01.2023. Matter already adjd.to. 16.01.2023.	Applicant [A1] cannot be blamed for the delay
142	16-01-2023	20-01-2023	REPORT	Ld.Adv. Mr. Mithe on application Exh. 397 he still wants to make some submissions when ED will clear the real circumstances of transaction in respect of LOC. On the other hand Ld.SPP Mr. Sunil Gonsalves submitted that he has to get it confirmed from the ED officials whether Look Out Circular has been issued against applicant Roshani Kapoor and seeks time for the same. Matter is adjd. for compliance of ED and CBI and for further hearing on Exh.397 on 20.01.2023 and main matter is adjd. to. 23.01.2023 for passing order on Exh.180 and	Applicant [A1] cannot be blamed for the delay



				184. Till then JC of accused No.1 and 25 extended as per section 309 of Cr.PC.	
143	20-01-2023	23-01-2023	COMPLIANCE	matter is adjd. to. 25.01.2023 for compliance by CBI and hearing thereon. Till then JC of accused No.1 and 25 extended as per section 309 of Cr.PC.	Applicant [A1] cannot be blamed for the delay
144	23-01-2023	25-01-2023	COMPLIANCE	Dictation in bail application Exh.180 and 184 is going on. Adj. for hearing on bail Application of Accd.No.27 and for order on Exh.180 and 184and for compliance by CBI on 25.01.2023.	Applicant [A1] cannot be blamed for the delay
145	25-01-2023	02-02-2023	COMPLIANCE	Ld.SPPMr. Sunil Gonsalves submitted across the bar that ED has issued LOC against Accused Roshini Kapoor in March 2020. On this Ld.Adv.Mr. Mithe wants to submit. Hence, adjourn to 02.02.2023. Till then JC of accused No.1,25 and 27 extended as per section 309 of Cr.PC.	Applicant [A1] cannot be blamed for the delay
146	02-02-2023	04-02-2023	REPORT	Matter adjourn to 04.02.2023 for report of jailor on Exh.403 and main matter is adjd to 10.02.2023 for hearing on Exh.384 and Exh.397 and for passing order on Exh.181 and 184. Till then JC of accused No.1,25 and 27 extended as per section 309 of Cr.PC.	Applicant [A1] cannot be blamed for the delay
147	04-02-2023	06-02-2023	HEARING	Matter is adjd to 10.02.2023 for hearing on Exh.384 and Exh.397 and for passing order on Exh.181 and 184. Till then JC of accused No.1,25 and 27 extended as per section 309 of Cr.PC.	Applicant [A1] cannot be blamed for the delay
148	06-02-2023	10-02-2023	REPLY/SAY	application on behalf of accused No.22 for Travel Abroad. O-Call say of ED. SPP Mrs. Gonsalves for ED, Mumbai present. Matter is already adjd. to 10.02.2023 for say.	Applicant [A1] cannot be blamed for the delay
149	10-02-2023	13-02-2023	REPLY/SAY	PO. is on Leave.	Applicant [A1] cannot be blamed for the delay
150	13-02-2023	17-02-2023	REPLY/SAY	Ld.Adv. for accd.No.26 filed application for seeking permission to travel abroad. O - Call say of ED. Matter is already adjd. to 17.02.2023 for say.	Applicant [A1] cannot be blamed for the delay
151	17-02-2023	18-02-2023	REPORT	Matter adjourned to 18.02.2023 for report of jailor and main matter is adjd to 04.03.2023 for report of jailor on Exh.403 and hearing on Exh.384 and Exh.397 and for passing order on Exh.181 and 184. Till then JC of accused	Applicant [A1] cannot be blamed for the delay

				No.1,25 and 27 extended as per section 309 of Cr.PC.	
152	18-02-2023	23-02-2023	REPORT	Matter already adjd to 04.03.2023 for report of jailor on Exh.403 and hearing on Exh.384 and Exh.397 and for passing order on Exh.181 and 184. Till then JC of accused No.1,25 and 27 extended as per section 309 of Cr.PC.	Applicant [A1] cannot be blamed for the delay
153	23-02-2023	27-02-2023	REPORT	accd.No. 21 filed application for seeking permission to travel abroad. O - Call say of ED. Matter is already adjd. to 04.03.2023 for say.	Applicant [A1] cannot be blamed for the delay
154	27-02-2023	04-03-2023	REPORT	Matter is already adjd. to 04.03.2023 for report.	Applicant [A1] cannot be blamed for the delay
155	04-03-2023	<u>08-03-2023</u>	REPORT	Heard arguments of Ld. Counsel Mr. Mundargi on BA (Exh.384) of Accd. No.27 partly. Matter is adjd to 13.03.2023 for report of jailor on Exh.403 and further hearing on Exh.384 and Exh.397 and for passing order on Exh.181 and 184. Till then JC of accused No.1,25 and 27 extended as per section 309 of Cr.PC.	Applicant [A1] cannot be blamed for the delay
156	08-03-2023	<u>10-03-2023</u>	REPORT	accd.No.24 filed application for seeking permission to travel abroad. O - Call say of ED. He also filed application for seeking refund cash bail amount. O - Call say of AR(s). Matter is already adjd. to 13.03.2023 for report.	Applicant [A1] cannot be blamed for the delay
157	10-03-2023	<u>13-03-2023</u>	HEARING	Matter is already adjd. to 13.03.2023 for hearing on Exh.384.	Applicant [A1] cannot be blamed for the delay
158	13-03-2023	<u>16-03-2023</u>	ARGUMENTS	Mr. Parag Gajendra Gorakshakar is permitted to travel United Kingdom from 23.03.2023 to 05.04.2023 as prayed. Applicant-accused Rajiv Anand is permitted to travel South Korea, Japan, Hong Kong and Thailand from 28.04.2023 to 20.05.2023. Ld.SPP filed say on application Exh.436. T.O.R. at Exh.436A. - Heard further arguments of Ld.Sr. Counsel Mr. Mundargi in detail. He requires to more session but he is not available next week. Hence with consent matter adjourned for further arguments of Ld. Sr. Counsel Mr. Mundargi on 27.03.2023. Matter is adjd to 27.03.2023 for arguments on Exh.436 and further hearing on Exh.384 and Exh.397 and for	Applicant [A1] cannot be blamed for the delay

				passing order on Exh.181 and 184. Till then JC of accused No.1,25 and 27 extended as per section 309 of Cr.PC.	
159	16-03-2023	<u>23-03-2023</u>	ARGUMENTS	Rahuul Ramesh Shah (A26) is permitted to travel Dubai from 18.03.2023 to 22.03.2023. Matter is already adjd to 27.03.2023 for arguments on Exh.436 and further hearing on Exh.384 and Exh.397 and for passing order on Exh.181 and 184. Till then JC of accused No.1,25 and 27 extended as per section 309 of Cr.PC.	Applicant [A1] cannot be blamed for the delay
160	23-03-2023	27-03-2023	ARGUMENTS	Matter is already adjourned to 27.03.2023. Judge	Applicant [A1] cannot be blamed for the delay
161	27-03-2023	29-03-2023	ARGUMENTS	Court is busy in urgent time bound ABA Matters, hence matter is adjd to 29-03-2023 for passing order on Exh.181 and 184. And main matter is adjourned to 03-04-2023 for arguments on Exh.436 and further hearing on Exh.384 and Exh.397 and for reply on Exh.449. Till then JC of accused No.1,25 and 27 extended as per section 309 of Cr.PC.	Applicant [A1] cannot be blamed for the delay
162	29-03-2023	03-04-2023	ARGUMENTS	Ld. Adv. Urvi Gupte for accused No. 9 and 10 submitted that passing order in Bail application Exh. 181 and 184 be postponed in view of recent order of the Hon&rsquobel Supreme Court in Cri. Appeal Nos. 701-702 of 2020, whereby the Hon&#039bel Supreme Court dismissed the appeal preferred by the ED confirming the order passed by the Hon&#039ble High Court and granted both accused relief under Section 167(2) Cr.PC. However it has to noted that the dictation of order below Exh. 181 and 184 is going on. Therefore both applicant shall make it clear what to do the same and kept on 03-04-2023 for the same. Matter already adjourned to 03-04-2023 for arguments on Exh.436 and further hearing on Exh.384 and Exh.397 and for reply on Exh.449.	Applicant [A1] cannot be blamed for the delay
163	03-04-2023	10-04-2023	HEARING	Matter is adjd to 10.04.2023 for Passing order on Exh.181 and Exh.184 and for hearing on Exh.384 and reply on Exh.449	Applicant [A1] cannot be blamed for the delay
164	10-04-2023	13-04-2023	HEARING	Application for adjournment of Exh.184 and Exh.180 filed by Ld.	Applicant [A1] cannot be blamed

				Adv. for accused no. 9 and 10 at Exh. 455. Order - Already previous application was granted as strict last chance hence this application, seeking adjournment on this or that pretest, stands rejected. Dictation was partly given and could not continue in view of similar prayer for adjournment made on behalf of applicants. Hence adjourned for Order on bail application. Heard further argument of Ld. Counsel Mr. Girish Kulkarni at length along with the documents subsequently filed. ED has to be heard on whole bail application as well as the additional document which are filed by today by the advocate for accused. Exh.456 Ld. Adv. for accused No.22 filed application to travel abroad. O - Call say o ED. Matter is adjd to 13-04-2023 for hearing on Exh. 449. Main matter adjourned to 25-04-2023 for Passing order on Exh.181 and Exh.184 and for hearing on Exh.384.	for the delay
165	13-04-2023	19-04-2023	REPLY/SAY	Applicant Mr. Parag Gajendra Gorakshakar is permitted to travel Phuket from 29.04.2023 till 02.05.2023 as prayed. Matter adjourned to 19-04-2023 for reply argument of SPP. Main matter adjourned to 25-04-2023 for Passing order on Exh.181 and Exh.184 and for hearing on Exh.384. Judge	Applicant [A1] cannot be blamed for the delay
166	19-04-2023	25-04-2023	ARGUMENTS	Today the Court has to dictate orders in voluminous ABAs No.2044/2022, 2832/2022, 2835/2022 and 464/2023. Even order in ABA No.610/2023 is to be passed and for passing all these orders today's entire day will also fall short. However, Ld. Counsel Mr. Krishna is not ready to take next date. Yet, the matter is adj for argument of prosecution to 25.04.2023 when the argument of Ld. ASG Mr. Singh is to be heard in B.A. (Exh.384). Matter adjourned to 25-04-2023 for argument of Ld. ASG., passing order on Exh.181 and Exh.184 and for hearing on Exh.384.	Applicant [A1] cannot be blamed for the delay
167	25-04-2023	27-04-2023	ARGUMENTS	PO. is on leave	Applicant [A1] cannot be blamed for the delay
168	27-04-2023	28-04-2023	ARGUMENTS	Exh.458 Ld. Counsel Mr. Krishna	Applicant [A1]

				submitted relevant dates and events, and further prayed for deciding default bail application on the same date itself. Exh.459 Application on behalf of Avinash Bhosale (A27) claiming default bail under Sec.167(2) Cr.PC. r.w. Sec.65 of the PML Act. Heard argument of Ld. ASG on BAs. Exh. 384 and Exh. 449. Adjourned to 28.04.2023 for order below Exh. 384 & 449 and also say/submissions of ED and Exh. 458 and 459. Till then JC of accused No.1, 25 and 27 extended as per section 309 of Cr.PC.	cannot be blamed for the delay
169	28-04-2023	29-04-2023	ARGUMENTS	Heard arguments of Ld. Adv. Mr. Vibhav Krishna on application Exh.458. He also filed written notes of argument t.o.r. at Exh.458A. Heard arguments of Ld. Adv. Mr. Vijay Agrawal on application Exh.459. He also filed written notes of argument t.o.r. at Exh.459A. On request of Ld. SPP Matter adjourned to 03.05.2023 for arguments of SPP on application Exh.458 and 459. Till then JC of accused No.1, 25 and 27 extended as per section 309 of Cr.PC.	Applicant [A1] cannot be blamed for the delay
170	29-04-2023	03-05-2023	ARGUMENTS	Matter already ajd. to 03.05.2023 for argument.	Applicant [A1] cannot be blamed for the delay
171	03-05-2023	06-05-2023	ARGUMENTS	Ld. SPP filed written argument on Exh.449 and 384. Exemption application filed on behalf of accused No. 13,22,23,24 and 26 at Exh.462(colly). O- Granted for today only. On request of Ld. SPP Matter adjourned to 06.05.2023 for arguments of SPP on application Exh.458 and 459. Till then JC of accused No.1, 25 and 27 extended as per section 309 of Cr.PC.	Applicant [A1] cannot be blamed for the delay
172	06-05-2023	10-05-2023	REPLY/SAY	Exh.464 Application filed by Ld. Adv. for accused Roshini Kapoor A2 for permission to travel abroad. Matter adjourned to 10.05.2023 for say on Exh.464. Main matter adjourned to 12.05.2023 for arguments of SPP on application Exh.458 and 459 and also for passing order on BAs. Exh.181 and 184. Till then JC of accused No.1, 25 and 27 extended as per section 309 of Cr.PC	Applicant [A1] cannot be blamed for the delay
173	10-05-2023	12-05-2023	REPLY/SAY	Ld.SPP endorsed say on Exh.464	Applicant [A1]

				at Exh.464A. Order passed in BAs Exh.181 and 184 preferred by accd.no.9 and 10, rejected both the bail applications of KW & DW (A-9 & A-10). Main matter adjourned to 12.05.2023 for hearing on Exh.464A, arguments of SPP on application Exh.458 and 459. Till then JC of accused No.1, 25 and 27 extended as per section 309 of Cr.PC	cannot be blamed for the delay
174	12-05-2023	16-05-2023	REPLY/SAY	SPP filed written argument on Exh.449 and 384. SPP filed reply on Exh.459 at Exh.459A. Matter adjourned to 16.05.2023 for hearing on Exh.464A, arguments of SPP on application Exh.458 and 459. Till then JC of accused No.1, 25 and 27 extended as per section 309 of Cr.PC	Applicant [A1] cannot be blamed for the delay
175	16-05-2023	17-05-2023	HEARING	application(Exh.458) stands dismissed having Not Pressed as per pursis Ex.468. Matter is adjourned to 30.05.2023 for hearing on Exh. 459, 464. Till then Judicial custody of accused no. 1, 25 and 27 extended as per section 309 of Cr. PC. I/c Judge	Applicant [A1] cannot be blamed for the delay
176	17-05-2023	30-05-2023	HEARING	Writ received from Hon&#039ble Supreme Court vide In. No. 2899/2023 dt 09.05.2023 Interlocutory Application No.74084 of 2023 in Criminal Appeal Nos. 701-702 of 2020	Applicant [A1] cannot be blamed for the delay
177	30-05-2023	05-06-2023	HEARING	Matter is adjourned to 05.06.2023 for hearing on Exh.459 (BA of A/27) and for order on Exh.464(TA of A2). Till then Judicial custody of accused no. 1 extended as per section 309(2) of Cr. PC. After contacting Jail Superintendent he informed that Avinash Bhosle and Sanjay Chhabria are admitted in St.George Hospital and Sir J.J. Hospital respectively. Hence Judicial Custody of accused No.25,27 is extended till 05.06.2023 as per section 309 (2)of Cr. PC. for the aforesaid reasons.	Applicant [A1] cannot be blamed for the delay
178	05-06-2023	08-06-2023	ORDER	Application (Exh.464) is allowed. 2. Applicant Ms. Roshini Rana Kapoor (A2) is permitted to travel out of India, to New Jersey, U.S.A. for a period of 22 days only i.e. from 09.06.2023 to 01.07.2023. Exh 474 Applicant Rahuul Ramesh Shah (A26) is permitted to travel Belgium, Germany and Switzerland from	Applicant [A1] cannot be blamed for the delay

				08.06.2023 to 25.06.2023. Judicial Custody of accused No.1,9,10 25 and 27 is extended till 12.06.2023 as per section 309 (2)of Cr. PC. for the aforesaid reasons. Matter adjd to 12.06.2023 for order on Exh.384 and Exh.449(BA of accused no. 27 and 25) and hearing on Exh.459.	
179	08-06-2023	09-06-2023	ORDER	medical report of accused Avinash Bhosale at Exh. 477. TOR. Matter already adjd to 12.06.2023.	Applicant [A1] cannot be blamed for the delay
180	09-06-2023	12-06-2023	ORDER	Exh.480 Application on behalf of applicant/accused Rana Kapoor seeking necessary orders and directions to produce him physically before this Honouble Court on all subsequent date of hearing in the present matter. Order- Considering reasons, Allowed. Inform Suptd. Talaja Jail. Matter already adjd to 12.06.2023.	Applicant [A1] cannot be blamed for the delay
181	12-06-2023	23-06-2023	ORDER	Judicial Custody of accused No.1,9,10 25 and 27 is extended till 23.06.2023 as per section 309 (2)of Cr. PC. for the aforesaid reasons. Matter adjd to 23.06.2023 for order on Exh.384 and Exh.449(BA of accused no. 27 and 25) and hearing on Exh.459.	Applicant [A1] cannot be blamed for the delay
182	23-06-2023	03-07-2023	ORDER	Judicial Custody of accused No.1,9,10 25 and 27 is extended till 03.07.2023 as per section 309 (2)of Cr. PC. for the aforesaid reasons. Matter adjd to 03.07.2023 for order on Exh.384 and Exh.449(BA of accused no. 27 and 25) and hearing on Exh.459.	Applicant [A1] cannot be blamed for the delay
183	03-07-2023	10-07-2023	ORDER	Judicial Custody of accused No.1,9,10 25 and 27 is extended till 10.07.2023 as per section 309 (2)of Cr. PC. for the aforesaid reasons. Matter adjd to 20.07.2023 for order on Exh.384 and Exh.449(BA of accused no. 27 and 25) and hearing on Exh.459.	Applicant [A1] cannot be blamed for the delay
184	10-07-2023	20-07-2023	ORDER	Judicial Custody of accused No.1,9,10 25 and 27 is extended till 10.07.2023 as per section 309 (2)of Cr. PC. for the aforesaid reasons. Matter adjd to 20.07.2023 for order on Exh.384 and Exh.449(BA of accused no. 27 and 25) and hearing on Exh.459.	Applicant [A1] cannot be blamed for the delay <b>Draft Charges came to be filed by ED</b>

185	20-07-2023	31-07-2023	ORDER	ORDER Bail Application (Exh.384) stands rejected. F.R.S.R following order is passed below Exh.459. ORDER Bail Application (Exh.459) stands rejected. - Matter adjd to 03.08.2023 for order on Exh.449 (BA of accused no.25). Judicial Custody of accused No.1,9,10 2 5 and 27 is extended till 03.8.2023 as per section 309 (2)of Cr. PC.	Applicant [A1] cannot be blamed for the delay
186	31-07-2023	01-08-2023	ORDER	Ld. Adv. for accused no.2 present and filed application for permission to travel abroad at Exh.489. O- SPP to say. Matter already adjourned to 03.08.2023.	Applicant [A1] cannot be blamed for the delay
187	01-08-2023	03-08-2023	ORDER	accused no.1 present and filed application seeking necessary orders and directions, thereby directing the Jail Supdt., Taloja Jail, Mumbai to allow the applicant to seek medical diagnosis/check up from J.J. hospital at Exh.491. O- Application is allowed. The applicant/accused Rana Kapoor be taken to Sir J.J. Hospital by taking appointment as early as possible for the given purpose. Matter already adjourned to 03.08.2023.	Applicant [A1] cannot be blamed for the delay  The Application was simply preferred for medical check up as the Applicant is 67 years old and did not pray for being admitted to any hospital.
188	03-08-2023	11-08-2023	ORDER	accused No. 25 filed purshis for permission to make additional submission on the bail application (Exh. 449) of accused No. 25 at Exh.449C. Order- Bail order in bail application Exh.449 is yet to be passed. Ld. Adv. Mr. Krishna has not come with additional submissions except purshis Exh.449C. On this Ld.SPP Mr. Gonsalves submitted that he wants to take instructions from the ED officers and file some submissions on Exh.449C. Therefore, bail order could not be passed. - Matter adjd to 11.08.2023 for written submission to purshis Exh.449C by Ld. SPP Mr. Gonsalves and order on Exh.449 (BA of accused no.25). Judicial Custody of accused No.1,9,10 25 and 27 for the above reasons is extended till 11.8.2023 as per section 309 (2)of Cr. PC.	Applicant [A1] cannot be blamed for the delay
189	11-08-2023	17-08-2023	REPLY/SAY	Matter adjd to 17.08.2023 for reply on Exh.489 and Main matter adjd to 24.08.2023. Judicial Custody of accused No.1,9,10 25 and 27 for the above reasons is extended till	Applicant [A1] cannot be blamed for the delay



				24.8.2023 as per section 309 (2)of Cr. PC.	
190	17-08-2023	18-08-2023	HEARING	Ld.SPP endorsed say on application Exh.489., Applicant Ms. Roshini Rana Kapoor (A2) is permitted to travel out of India for a period of 24 days to Dubai, UAE from 24.08.2023 to 02.09.2023 and onwards from thereto New Jersey, USA from 02.09.2023 to 16.09.2023, for the purposes mentioned in this application. Matter already adjd to 24.08.2023.	Applicant [A1] cannot be blamed for the delay
191	18-08-2023	19-08-2023	HEARING	Ld.SPP filed application seeking permission to record the statement of Waryam Singh at Exh. 498. F.R.S.R following order is passed below Exh.498. ORDER 1. The Superintendent, Taloja Central Jail, Navi Mumbai shall permit Investigating Officer Mr. Rajiv Kumar, Assistant Director along with his two officers to record the statement of Kapil Wadhawan and Dheeraj Wadhawan, who are currently in judicial custody in ECIR/MBZO-I/03/2020 under Sec.50 of the Prevention of Money Laundering Act, between 28/08/2023 to 01/09/2023.	Applicant [A1] cannot be blamed for the delay
192	19-08-2023	24-08-2023	HEARING	he interim bail granted to the respondents Kapil Wadhawan and Dheeraj Wadhawan vide order dtd. 10.05.2023 is extended till the next date of hearing. F.R.S.R following order is passed below Exh.447. ORDER Application (Exh.447) stands rejected, as already the Jail Superintendent was informed not to produce Rana Kapoor (A1) unless the Court informs accordingly. Matter already adjd to 24.08.2023	Applicant [A1] cannot be blamed for the delay
193	24-08-2023	31-08-2023	HEARING	Ld.SPP endorsed reply on application Exh.449C. Matter adjd to 31.08.2023. Judicial Custody of accused No.1,9,10 25 and 27 for the above reasons is extended till 31.8.2023 as per section 309 (2)of Cr. PC.	Applicant [A1] cannot be blamed for the delay
194	31-08-2023	01-09-2023	HEARING	Matter adjd to 05.09.2023 for hearing on Exh.499. Judicial Custody of accused No.1,9,10 25 and 27 for the above reasons is extended till 05.09.2023 as per section 309 (2)of Cr. PC.	Applicant [A1] cannot be blamed for the delay
195	01-09-2023	02-09-2023	REPLY/SAY	Adv. for accused no.26 present and filed application seeking permission to travel to London	Applicant [A1] cannot be blamed for the delay

				between 4th Sep 2023 to 12th Sep 2023 at Exh.509. O- Call say of ED. Matter adjourned to 02.09.2023 for say on Exh.509 and Main matter already adjd to 05.09.2023.	
196	02-09-2023	04-09-2023	REPLY/SAY	PO.is on leave.Matter adjd to 04.09.2023 and Main matter adjd to 11.09.2023.	Applicant [A1] cannot be blamed for the delay
197	04-09-2023	05-09-2023	REPLY/SAY	PO. is on leave.	Applicant [A1] cannot be blamed for the delay
198	05-09-2023	06-09-2023	HEARING	Application (Exh.509) is allowed. Applicant Rahuul Ramesh Shah (A26) is permitted to travel to London from 04.09.2023 to 12.09.2023. The applicant (A26) shall undertake to return India forthwith if the trial achieves the stage of framing charge and no reason will be entertained in that event. Matter adj to 06.09.2023 for hrg. on Exh.499.	Applicant [A1] cannot be blamed for the delay
199	06-09-2023	08-09-2023	ORDER	Heard arguments of Ld.Adv. Mr. Vibhav Krishana and Ld.SPP on interim bail application Exh.499. Matter adjd to 08.09.2023 for order on Exh.499 and Main matter adjd to 11.09.2023	Applicant [A1] cannot be blamed for the delay
200	08-09-2023	11-09-2023	HEARING	Accused No. 1, Rana Kapoor filed application under 436A (Exh. 513). The interim bail granted to the respondents Kapil Wadhawan and Dheeraj Wadhawan vide order dated. 10.05.2023 is extended till the next date of hearing. Matter adjd to 11.09.2023 for hearing on Exh.449 and for reply on Exh.513.	Applicant [A1] cannot be blamed for the delay
201	11-09-2023	12-09-2023	REPLY/SAY	Ld.SPP Mr. Sunil Gonsalves submitted that ED wants to file detailed report regarding the prayer under Sec.436A Cr.PC. made by accused Rana Kapoor, therefore requires sufficient time and sought adjournment. Prayer of ED is allowed. Matter adjd to 25.09.2023 for reply on Exh.513(BA of accd No.1) and Exh.515 (TA of accd no. 23). Judicial Custody of accused No.1,9,10 25 and 27 for the above reasons is extended till 25.09.2023 as per section 309 (2)of Cr. PC.	Applicant [A1] cannot be blamed for the delay
202	12-09-2023	13-09-2023	REPLY/SAY	Matter already adjd to 25.09.2023.	Applicant [A1] cannot be blamed for the delay

203	13-09-2023	14-09-2023	REPLY/SAY	Ld. Adv. for accused no.25 filed application for extension of order dt.08.09.2023 at Exh.522. O- Call say of ED. Matter adjourned to 14.09.2023 for say on Exh.522 and Main matter adjd to 25.09.2023.	Applicant [A1] cannot be blamed for the delay
204	14-09-2023	15-09-2023	REPLY/SAY	Ld.SPP endorsed say on application Exh.522. Heard both the sides. FR.S.R following order is passed below Exh.522- ORDER The order dt.08.09.2023 below Exh.499 is extended till 18.09.2023 and also for 22.09.2023 with all conditions mentioned in the order dt.08.09.2023 below Exh.499. - Matter already adjd to 25.09.2023.	Applicant [A1] cannot be blamed for the delay
205	15-09-2023	25-09-2023	REPLY/SAY	Copy of letter addressed to the Medical Officer, St. George Hospital from Supdt. Mumbai Central Prison about accused Avinash Bhosale (Inward No. 3611/2023 dt. 14.09.2023). Matter already adjd to 25.09.2023.	Applicant [A1] cannot be blamed for the delay
206	25-09-2023	26-09-2023	REPLY/SAY	Exh.524 Application filed on behalf of accused No.25 for extension of order dt. 08.09.2023. Ld.Sr. Counsel Mr. Aabad Ponda submitted his written notes a/w compilation of authorities. Exh.513B Ld.SPP filed reply on BA (Exh.513) of accused No.1. Ld.SPP Mr. Gonsalves submitted that he and Investigating Officer want to go through whatever submitted today on behalf of accused. Therefore, adjourned for argument on Exh.513. Ld. SPP endorsed say on application Exh.515. Application (Exh.515) is allowed. 2.Applicant Saurabh Jaiman (A23) is permitted to travel Seychelles, South Africa from 27.10.2023 to 05.11.2023. Matter adjd to 26.09.2023 for reply on Exh.524 and Main matter adjd to 06.10.2023 for hearing on Exh.513(BA of accused no.1). Judicial Custody of accused No.1,9,10 25 and 27 for the above reasons is extended till 06.10.2023 as per section 309 (2)of Cr. PC.	Applicant [A1] cannot be blamed for the delay

207	26-09-2023	06-10-2023	REPLY/SAY	Ld.SPP endorsed say on application Exh.524. Heard both the sides. FR.S.R following order is passed below Exh.524- ORDER Application (Exh.524) stands rejected. Letter received from Mumbai Central Prison regarding treatment of accused Avinash Bhosale at Exh.527.(Inward No.3748A/23 and 3748/23 dt.25.09.2023) Matter already adjd to 06.10.2023	Applicant [A1] cannot be blamed for the delay
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52. The last column clearly indicates my findings that the applicant (A1) is not responsible for the delay occurred in each and every date which ultimately delaying this trial. This is not the situation identical with the facts involved in the case of **Gautam Kundu (supra)**. Significant distinguishing factor is that in Gautam Kundu the Hon'ble Calcutta High Court has clearly held in paragraph 13 that **primarily delay in trial is attributed to the accused (Gautam Kundu)**. The above Rojnama in the instant case clearly indicates that **neither primarily nor even today the applicant (A1) is responsible for causing delay in the trial of this case**. On the contrary I have already noted above how the ED which is expected to follow the Statute in its true spirit did not initiate proceedings under Sec.44(1)(c) of the PML Act and it is the applicant (A1) who has done the said work of ED initially, but could not get any relief as discussed above. I have also noted above that the provisions of PML Act do not debar any undertrial prisoner to apply under Sec.436A Cr.PC. Even as per the law laid down in **Vijay Madanlal Choudhary (supra)** and First Proviso to Sec.436A Cr.PC. coupled with the above detailed discussion I am of the opinion that discretion given under First Proviso to Sec.436A Cr.PC. cannot be exercised in favour of ED by passing order to continue detention of the applicant (A1) further time to time for uncertain period.

53. I have already noted above, how the applicant (A1) is not responsible nor ever attempted to protract the trial. Therefore question of computing such period as per Explanation to Sec.436A Cr.P.C. does not arise. On the contrary I hold that the case of the applicant (A1), who is 66 year old, in the given circumstances is well qualified to give him relief under Sec.436A Cr.P.C. As per the guidelines laid down by the Hon'ble Supreme Court, applicability of Sec.436A Cr.P.C. has to be decided on the case-to-case basis and in this particular case I am of the opinion that the trial is not delayed at the instance of accused. On the contrary it is the accused who had tried and undertaken the work which ED was under obligation of Sec.44(1)(c) of the PML Act and ought to do.

54. Next argument of Ld.SPP Mr. Sunil Gonsalves is that huge public money of Yes Bank is involved in this crime. This being an Economic Offence should be dealt with stern hands and merit of the case does not permit to grant any relief to the applicant (A1) under Sec.436A Cr.P.C. I carefully examined this argument. For such argument and even for the merits of the case the applicant (A1) has already undergone undue incarceration more than the half period given for maximum punishment. The offence under Sec.4 provides punishment with rigorous imprisonment for a term which shall not be less than 3 years but which may extend to 7 years with fine. 3 years and 9 months till date incarcerated unduly by the applicant (A1) is nothing but a deemed conviction and sentence he has undergone for the rigors of twin conditions under Sec.45(1) of the PML Act. **The applicant may not have merit, but he has merit under Sec.436A Cr.P.C., particularly when he had already undergone more period than the period of minimum sentence provided under Sec.4 of the PML Act. At present he (A1) has**

to be presumed convicted with minimum sentence provided for the offence under Sec.4 of the PML Act without framing charge, without recording evidence, without conducting trial and without delivering judgment on merits. Is this not a merit under Sec.436A Cr.PC.?

55. Apart from this, the basic principle of law is that accused is to be supposed innocent unless his guilt is proved beyond reasonable doubt. In case in future accused is acquitted what about his undue incarceration amounting minimum sentence which he has undergone for no reasons? This is really a serious question. Prolonged undue incarceration of 3 years 9 months of applicant (A1) without trial and without even beginning the initial stage of framing charge and also without prompt step by the ED as mandated under Sec.44(1)(c) of the PML Act itself melt down the rigors of twin conditions under Sec.45(1) of the PML Act. Therefore, contention of ED to reject the bail application is nothing but giving implied grant to them to continue their further investigation as per Explanation (ii) to Sec.44(1) of the PML Act until the period of 7 years and also more than that.

56. Even if the merits and rigors of stringent conditions under Sec.45(1) of the PML Act, are considered as argued by the Ld. SPP Mr. Sunil Gonsalves, **undue incarceration for 3 years 9 months 13 days** is nothing but deemed conviction and sentence for an offence which has not been charged, tried on the basis of evidence and by giving opportunity of final arguments. Therefore, this prolonged undue incarceration, generally militates against most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation the conditional liberty must override the statutory embargo created under the Statute as held by the Hon'ble Supreme Court in the

case of **Ravi Prakash Vs. State of Odisha (2023 SCC OnLine SC 1109)**. Therefore, in the present case it has to be held that the applicant (A1) has satisfied rigors of twin conditions under Sec.45(1) of the PML Act.

57. The way in which further investigation is going on in this case, even after **3 years and 9 months** without any logical end, particularly when the maximum punishment is provided to the extend of 7 years, itself is a merit for this application under Sec.436A Cr.P.C. Explanation (ii) to Sec.44(1) of the PML Act cannot take away the right under Sec.436A Cr.P.C. which is based on Art.21 of the Constitution of India nor Explanation (ii) to Sec.44(1) of the PML Act can act as one more Proviso to or rider on Sec.436A Cr.P.C. particularly when the applicant (A1) has undergone more period than the period prescribed for minimum sentence as well as more than half the maximum punishment provided under Sec.4 of the PML Act i.e. **3 years 9 months and 13 days**.

58. The applicant (A1) has pointed out how in many other matters he was granted bail, which is as follows,

Sr No.	Case Particulars	Court	Date of Bail Order
1.	CBI v. DHFL&Ors. (Spl. Case No. 830/2021 arising out of RC No. 219-2020-E0004)	Mumbai	29.08.2023
2.	ED v. Rakesh Kumar Wadhawan & Ors. (Spl. Case No. 404/2021 arising out of ECIR No. MBZO-I/39/2020)	Mumbai	01.04.2023
3.	CBI v. Oyster Buildwell Pvt. Ltd. &Ors. (CBI Case No. 51/2022)	New Delhi	23.02.2023
4.	ED v. Gautam Thapar &Ors. (CNR No. DLCT11-000365-2021 arising out of ECIR No. 11/HIU/2021)	New Delhi	25.11.2022

5.	ED v. Rana Kapoor &Ors. (Spl. Case No. 1636/2021 arising out of ECIR/MBZO-I/04/2020)	Mumbai	16.02.2022
6.	ED v. Ajay Ajit Peter Kerkar&Ors. (Spl. Case No. 1090/2021 arising out of ECIR/MBZO-I/38/2020)	Mumbai	06.03.2021

It is clear from the above details that the applicant (A1) who is allegedly involved in similar situations in various other cases referred in the above table, was already released on bail. It has to be noted that the trial of the instant case cannot begin and conclude in view of the expectations and guidelines laid down by the Hon'ble Supreme Court in the case of Manish Sisodia (supra). Therefore, the applicant (A1) is entitled to the relief under Sec.436A Cr.P.C. and deserves to be released on bail.

59. It is made clear that the case of the applicant (A1) cannot be equated with the case of other co-accused persons, because other co-accused have initiated multiple proceedings which ultimately deprived the right of the present applicant (A1) of being tried expeditiously. The observations made in this order are to the extent of the case of the applicant (A1) only and will not influence the case of other co-accused. In the aforesaid premises, Point No.1 is answered in the negative and Point No.2 in the affirmative. With this, following order is passed :-

### ORDER

1. Application (Exh.513) is allowed.
2. Applicant Rana Kapoor (A1) be released on bail **IN THE PRESENT CASE ONLY** in respect of **ECIR/MBZO-I/03/2020 dt.07.03.2020** on executing PR bond of Rs.3,00,000/- (Rupees Three Lakh Only) with



one or more sureties in the like amount, **IF NOT REQUIRED IN ANY OTHER CRIMES/ECIRs/CASES.**

3. The applicant (A1) is permitted to furnish provisional cash security of Rs.3,00,000/- for a period of two months with PR bond as directed above.
4. The applicant (A1) shall furnish surety/ies within two months.
5. The applicant (A1) shall undertake not to leave India without prior permission of the Court.
6. The applicant (A1) shall undertake to remain present before the Court during the course of trial, unless exempted.
7. The applicant (A1) shall cooperate the Investigating Agency in further investigation, if any.
8. The applicant (A1) shall not directly or indirectly make any attempt to contact or influence the prosecution witnesses and also shall not tamper with the prosecution evidence.
9. The applicant (A1) shall provide ED, address of his residence with proof thereof and his contact numbers as well as contact numbers of his close relatives, who can be contacted and provide all details of the applicant (A1).
10. The applicant (A1) shall not indulge in any activity which is detrimental to the case and interest of ED.
11. Dictated and declared in the open Court.

Dt.: 21.12.2023.



( M.G. Deshpande )  
Designated Special Court,  
under the PML Act, 2002,  
Gr. Bombay.

Signed and uploaded on : 21.12.2023.

**“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”**

<b>21.12.2023 at 06.25 p.m. UPLOAD DATE AND TIME</b>	<b>(KISHOR PRAKASH SHERWADE) NAME OF STENOGRAPHER</b>
<b>Name of the Judge</b>	<b>HHJ M. G. DESHPANDE (COURT ROOM NO.16)</b>
<b>Date of pronouncement of judgment/order</b>	<b>21.12.2023</b>
<b>Judgment/order signed by P.O. on</b>	<b>21.12.2023</b>
<b>Judgment/order uploaded on</b>	<b>21.12.2023</b>

