Reserved on : 16.06.2026
Pronounced on : 01.07.2026

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 01ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.7565 OF 2026

BETWEEN:

G.T.DINESH KUMAR
S/O THIPPE RUDRAPPA,
AGED ABOUT 46 YEARS,
FLAT NO. A1-107, BLOCK-A,
VAISHNAVI NORTH,
HEBBAL, BENGALURU – 560 024
(CURRENTLY, THE PETITIONER IS
IN JUDICIAL CUSTODY)

... PETITIONER

(BY SRI SANDESH J. CHOUTA, SR. ADVOCATE A/W
SRI SUNIL KUMAR S., ADVOCATE)

AND:

DIRECTOR OF ENFORCEMENT
REPRESENTED BY ASSISTANT DIRECTOR,
GOVERNMENT OF INDIA,
REPRESENTED SPECIAL PP.,
BENGALURU ZONAL OFFICE,
3RD FLOOR, B BLOCK, BMTC,
SHANTHINAGARA-TTMC, K.H.ROAD,
SHANTHINAGARA,

BENGALURU – 560 027.

... RESPONDENT

(BY SRI K. ARVIND KAMATH, ASG A/W
SRI MADHU N.RAO, SPL.PP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 483 OF THE BNSS, 2023, (SECTION 439 OF CR.P.C.,) PRAYING TO ENLARGE THE PETITIONER ON REGULAR BAIL IN ECIR/BGZO/25/2024 REGISTERED FOR THE ALLEGED OFFENCE P/U/S 3 AND 4 OF THE PREVENTION OF MONEY LAUNDERING ACT 2002 (PMLA), WHICH IS NOW PENDING IN SPL.C.NO.917/2026 ON THE FILE OF THE HON'BLE PRINCIPAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-1).

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 16.06.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioner is before this Court seeking his enlargement on grant of regular bail in No.ECIR/BGZO/25/2024 registered for offences punishable under Sections 3 and 4 of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as 'the Act' for short).

2. Heard Sri Sandesh J. Chouta, learned senior counsel appearing for the petitioner and Sri K. Arvind Kamath, learned Additional Solicitor General appearing for the respondent.

3. Facts, in brief, germane are as follows: -

3.1. A private complaint by one Snehamayi Krishna comes to be filed invoking Section 223 of the BNSS against several persons including the then Chief Minister of Karnataka. Pursuant to the investigation conducted, accused Nos. 1 to 4 were dropped from the array of accused in the predicate offence which had become Crime No.11 of 2024. Who remained in the fray were other accused, one of whom is the petitioner. The issue in the *lis* does not pertain to the predicate offence. The issue pertains to the Enforcement Case Information Report ('ECIR') registered by the Enforcement Directorate against the petitioner and others. The petitioner, in the said ECIR, is accused No.1. The Enforcement Directorate on conduct of investigation and after registration of ECIR filed its complaint before the concerned Court under Sections

44 and 45 of the Act on 14-11-2025 now arraigning the petitioner as the sole accused in the ECIR.

3.2. The petitioner prefers an application seeking his enlargement on bail before the concerned Court, which comes to be rejected. After rejection of bail application before the concerned Court, the petitioner knocks at the doors of this Court in Criminal Petition No.14793 of 2025. A coordinate Bench by an order dated 20-01-2026 while answering the application seeking enlargement on bail, rejected it and has however observed that the petitioner could re-approach this Court on any changed circumstances within 3 months from the date of its rejection. Alleging that there is no progress in the trial, the petitioner/accused No.1 again knocks at the doors of the concerned Court seeking his enlargement on bail. For the second time, the application seeking bail comes to be rejected. The petitioner is now before this Court seeking his enlargement on bail, taking cue from the order passed by the coordinate Bench.

3.3. The coordinate Bench, while reserving liberty to the petitioner to approach this Court yet again, had observed as follows:

> "**[VII] <u>LONG INCARCERATION AND DELAYED TRIAL AS A CONSIDERATION FOR GRANT OF BAIL</u>:**
>
> **64. While the satisfaction of twin conditions under Section 45 of PMLA are indeed necessary in order to consider grant of bail, the question as to whether general principles of bail which may be considered to be the facets of Article 21 of the Constitution of India could be read into so as to enlarge the accused on bail in case the circumstances are made out, is a matter that has been dealt with by the Apex Court.** The observations made by Apex Court in **Manish Sisodia v. Central Bureau of Investigation – (2024) 12 SCC 691 [Manish Sisodia-1]** are extracted hereinbelow:-
>
> > "28. In view of the aforesaid discussion and for the reasons stated, we are not inclined to accept the prayer for grant of bail at this stage.
> >
> > 29. However, we are also concerned about the prolonged period of incarceration suffered by the appellant Manish Sisodia. In P. Chidambaram v. Enforcement Directorate – (2020) 13 SCC 791, the appellant therein was granted bail after being kept in custody for around 49 days [(2020) 13 SCC 337, the appellant therein was granted bail after being kept in custody for around 62 days], relying on the Constitution Bench in Gurbaksh Singh Sibbia v. State of Punjab – (1980) 2 SCC 565 and Sanjay Chandra v. CBI – (2012) 1 SCC 40, 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.

30. Again, in Satender Kumar Antil v. CBI – (2022) 10 SCC 51, this Court referred to Surinder Singh v. State of Punjab – (2005) 7 SCC 387 and Kashmira Singh v. State of Punjab – (1977) 4 SCC 291, to emphasise that the right to speedy trial is a fundamental right within the broad scope of Article 21 of the Constitution.

31. In Vijay Madanlal Choudhary – (2023) 12 SCC 1, 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 [See also Pankaj Bansal v. Union of India – (2024) 7 SCC 576].

32.Vijay Madanlal Choudhary – (2023) 12 SCC 1, also held that Section 436-A 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 436-A 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, 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.

34. 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.
>
> **35. 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."**

65. The observations at para-35 referred to above would indicate that constitutional protection flowing from a higher law could be read into the jurisprudence of bail and into Section 439 of Cr.P.C. and Section 45 of PMLA. The said principle has been reiterated in **Manish Sisodia v. Directorate of Enforcement – (2024) 123 SCC 660 [Manish Sisodia -3]**. The relevant portions of the decision are extracted hereinbelow:-

> "25. Before considering the submissions of the learned ASG with regard to maintainability of the present appeals on account of the second order of this Court, it will be apposite to refer to certain observations made by this Court in its first order.

66. The Court had reiterated the observation made in paras-29 to 35 of **Manish Sisodia-1** and has made certain other relevant observations that are extracted below:-

> 36. In view of the assurance given at the Bar on behalf of the prosecution that they shall conclude the trial by taking appropriate steps within next six to eight months, we give liberty to the appellant 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 pace in next three months. If any application for bail is filed in the above circumstances, the same would be considered by the trial court on

> merits without being influenced by the dismissal of the earlier bail application, including the present judgment. Observations made above, re.: right to speedy trial, will, however, be taken into consideration. The appellant Manish Sisodia may also file an application for interim bail in case of ill health and medical emergency due to illness of his wife. Such application would be also examined on its own merits."

67. The relevant facts indicating the length of imprisonment are:-

(a) Date of registration of FIR:- 27.09.2024 - Pursuant to direction of the Special Court in PCR No.28/2024, wherein matter was referred for investigation under Section 156(3) of Cr.P.C.

(b) Date of arrest:- 16.09.2025

(c) Period of incarceration as on date of pronouncement of order:- **127 days** (from the date of arrest till the date of pronouncement).

68. It is to be examined as to whether such period of incarceration would be sufficient to treat it as infringing upon rights of the petitioner under Article 21 of the Constitution of India and thus entitling the petitioner to be enlarged on bail.

69. It is to be noticed that the Apex Court in Manish Sisodia-3 (supra) while dealing with request for being enlarged on bail in light of the liberty granted under Manish Sisodia -1(supra) has granted bail on the sole ground of long incarceration compounded by prospects of a delayed trial. –

70. The Apex Court, while considering the objection of learned ASG that provisions of Section 45 of PMLA would come in the way of consideration of grant of bail to the accused has observed that the observations made in **Manish Sisodia -1 (supra)** at para-34 would be sufficient to proceed to consider grant of bail despite restrictions under Section 45 of PMLA. Para-37 of the decision in **Manish Sisodia-3 (supra)** is extracted hereinbelow:-

> "37. In the light of the specific observations of this Court in para 34 of the first order – [Manish Sisodia v. CBI – (2024) 12 SCC 691, we are not inclined to accept the submission of the learned ASG that the provisions of Section 45 of the PMLA would come in the way of consideration of the application of the appellant for grant of bail."

71. A close scrutiny of the context in which bail was rejected in **Manish Sisodia-1 (supra)** would reveal that the application for bail was rejected on its merits after recording a finding regarding prima facie case made out as regards the ingredients of the offence of money laundering. Such rejection is detailed in the discussion at para-1 to para-25, what would be of substantial significance is the latter part of the order from para-26 onwards. **The Apex Court has consciously adverted to the effect of long incarceration and the object of bail being to secure the accused to stand trial. The Apex Court has referred to the right of speedy trial flowing from Article 21 of the Constitution of India. A specific reference is made to the judgment in Vijay Madanlal Choudhary (supra) insofar as it refers to Section 436A of the Code as being applicable to offences under PMLA and observes that Section 436A effectuates the right to speedy trial being a facet of right to life, except where such delay is attributable to the accused himself. It re-emphasizes that:-**

> **"34. Detention or jail before being pronounced of guilty of an offence should not become punishment without crime. 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...."**

72. It is relevant to notice that it is in the context of an order granting bail under PMLA that the Apex Court has reiterated the principle, 'bail is rule and jail is exception'. The observations at para-52 of Manish Sisodia-3 reads as follows:-

> **"52. The Court in JavedGulam Nabi Shaikh case – (2024 9 SCC 813 further observed that,**

> **over a period of time, the trial courts and the High courts have forgotten a very well-settled principle of law that bail is not to be withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non-grant of bail even in straightforward open-and-shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial courts and the High Courts should recognize the principle that "bail is rule and jail is exception".**

73. It is significant that the decision in Manish Sisodia - 3(supra) reiterates that Section 45 of PMLA would not come in the way of considering grant of bail due to long incarceration and delay in time.

74. That apart, what is noticeable is that the reiteration of the principle, 'bail is rule and jail is exception', which observation is made even in the context of PMLA.

75. The other orders of the Apex Court in the same line of reasoning would require reference. The Apex Court in **Padamchand Jain v. Enforcement Directorate** – SLP No.(Crl.) 17476/2025 has specifically clarified that the law laid down in **Manish Sisodia-3 (supra)** was not under Article 142 of the Constitution of India and that the twin conditions under Section 45 of PMLA cannot override the constitutional safeguard as enshrined in Article 21 of the Constitution of India. The observations at paras-6 and 7 of the decision would read as hereunder:-

> "6. Learned Single Judge of the High Court, while considering the law laid down by this Court in Manish Sisodia v. Directorate of Enforcement, 2024 SCC OnLine 1920, has observed that this Court has granted bail in the said matter in exercise of powers under Article 142 of the Constitution of India.

> 7. We may clarify that in the case of Manish Sisodia (supra) the Court has not exercised the powers under Article 142 of the Constitution of India. The Court has held that the twin conditions under Section 45 of the PMLA cannot override the constitutional safeguards, as provided under Article 21 of the Constitution of India. This Court has held that a prolonged incarceration cannot be permitted to be converted pre-trial detention into a sentence without trial. Like in the case of Manish Sisodia (supra) in the present case also thousands of documents are required to be considered at the stage of trial, so also around 50 witnesses are required to be examined. The main evidence in the present case is documentary in nature, which is already seized by the prosecution agency. As such, there is no possibility of the same being tampered with."

76. What would be of significance is that the observations were made by the Apex Court as extracted hereinabove, while specifically dealing with the contention of the learned Additional Solicitor General that, no bail could be granted unless twin conditions of Section 45 of PMLA are complied with (see para-4).

77. Accordingly, the Three Judge Bench of Apex Court while reiterating the order in Manish Sisodia-3 (supra) has set at rest the primacy of constitutional rights flowing from Article 21 of the Constitution of India vis-à vis the statutory provisions of Section 45 of PMLA.

78. It is also an independent principle of bail jurisprudence that the object of pre-trial detention cannot be punitive nor could it be construed to constitute moral conviction.

79. The Apex Court has reiterated that the right to personal liberty under Article 21 of the Constitution of India that is to be safeguarded where there is indefinite detention in cases involving voluminous documents and heavy material where trial is unlikely to begin promptly. The observations of Apex Court at para-27 in **V. Senthil Balaji v. Deputy Director, Directorate of Enforcement – 2024 SCC OnLine SC 2626 [Senthil Balaji (supra)]** is extracted hereinbelow:-

"27. Under the Statutes like PMLA, the minimum sentence is three years, and the maximum is seven years. The minimum sentence is higher when the scheduled offence is under the NDPS Act. When the trial of the complaint under PMLA is likely to prolong beyond reasonable limits, the Constitutional Courts will have to consider exercising their powers to grant bail. **The reason is that Section 45(1)(ii) does not confer power on the State to detain an accused for an unreasonably long time, especially when there is no possibility of trial concluding within a reasonable time. What a reasonable time is will depend on the provisions under which the accused is being tried and other factors. One of the most relevant factor is the duration of the minimum and maximum sentence for the offence. Another important consideration is the higher threshold or stringent conditions which a statute provides for the grant of bail. Even an outer limit provided by the relevant law for the completion of the trial, if any, is also a factor to be considered. The extraordinary powers, as held in the case of K.A. Najeeb – (2021) 3 SCC 713, can only be exercised by the Constitutional Courts. The Judges of the Constitutional Courts have vast experience. Based on the facts on record, if the Judges conclude that there is no possibility of a trial concluding in a reasonable time, the power of granting bail can always be exercised by the Constitutional Courts on the grounds of violation of Part III of the Constitution of India notwithstanding the statutory provisions. The Constitutional Courts can always exercise its jurisdiction under Article 32 or Article 226, as the case may be. The Constitutional Courts have to bear in mind while dealing with the cases under the PMLA that, except in a few exceptional cases, the maximum sentence can be of seven years. The Constitutional Courts cannot allow provisions like Section 45(1)(ii) to become instruments in the hands of the ED to continue incarceration for a long time when there is no possibility of a trial of the scheduled offence and the PMLA offence concluding within a reasonable time. If the Constitutional Courts do not exercise their jurisdiction in such cases, the rights of the undertrials under Article 21 of the Constitution of India will be defeated. In a given case, if an undue**

> **delay in the disposal of the trial of scheduled offences or disposal of trial under the PMLA can be substantially attributed to the accused, the Constitutional Courts can always decline to exercise jurisdiction to issue prerogative writs. An exception will also be in a case where, considering the antecedents of the accused, there is every possibility of the accused becoming a real threat to society if enlarged on bail. The jurisdiction to issue prerogative writs is always discretionary."**

80. It thus becomes clear that the Apex Court has reiterated the supremacy of rights flowing from Part-III of the Constitution of India which stand abridged where there is no possibility of trial concluding within a reasonable time and the constitutional courts on such principle enlarge the accused on bail "notwithstanding the statutory provisions".

81. The observations in Senthil Balaji (supra) has been reiterated by the latest judgment of the Apex Court in Mahesh Joshi v. Directorate of Enforcement – SLP (Crl.) No.13737/2025 vide order dated 3-12-2025 at paras-13 and 14.

> **"13. In V. Senthil Balaji v. Deputy Director, Directorate of Enforcement, of which, one of us was a member (Augustine George Masih, J.,), this Court, particularly in para 27, held that where a trial cannot be reasonably concluded and incarceration becomes prolonged, constitutional courts must intervene to safeguard the right to personal liberty under Article 21. The Court further emphasised that Section 45(1)(ii) of the PMLA cannot be interpreted to justify indefinite detention in cases involving voluminous, document-heavy material where trial is unlikely to begin promptly.**
>
> 14. Upon considering the material placed before us, we find that several co-accused, whose alleged roles will ultimately be evaluated at trial, have already been granted bail. The Appellant has remained in custody for over seven months. The record is entirely documentary, as of now there are 66 witnesses, 184 documents, and

> more than 14,600 pages are involved, and the proceedings are still at the stage of supply of copy of the police report and other documents under Section 207, CrPC. In our view, these circumstances indicate that the commencement of trial is not imminent and that the trial itself is not likely to conclude once started in the near future. The continued detention of the Appellant requires closer scrutiny in light of constitutional considerations.

82. The Apex Court in **Udhaw Singh v. Enforcement Directorate** – Crl.A.No.799/2025 vide order dated 17-02-2025 has noticed the judgment in **Union of India Through Assistant Director v. Kanhaiya Prasad – 2025 SCC OnLinwe SC 306 [Kanhaiya Prasad (supra)]**which appeared to strike a discordant note has specifically observed at para-5 that the observations made in the said judgment was in the context of a particular factual matrix where the orders in **Senthil Balaji (supra)** were not applicable and accordingly, the order in **Kanhaiya Prasad (supra)** does not refer to the judgment in **Senthil Balaji (supra)**.

83. The latest judgment of the Apex Court in the context of long detention being a ground to seek release on bail is that of the Apex Court in **Arvind Dham v. Directorate of Enforcement** – 2026 SCC OnLine SC 30. The observations at para-15 to para-18 reiterate and sum up the legal position, which is as follows:-

> "15. We have given our thoughtful consideration to the rival submissions and have carefully perused the record. The court while dealing with the prayer for grant of bail has to consider gravity of offence, which has to be ascertained in the facts and circumstances of each case. One of the circumstances to consider the gravity of offences is also the term of sentence i.e., prescribed for the offence, the accused is alleged to have committed – [P.Chidambaram v. Directorate of Enforcement (2020) 13 SCC 791]. The court has also to take into account the object of the special Act, the gravity of offence and the attending circumstances along with period of sentence. All economic offences cannot be classified into one group as it may involve various activities and may differ from one case to another. Therefore, it is not advisable on the part of the Court to categorize all the offences into one group and deny bail on that basis – [Satender Kumar

Antil v. CBI, (2022) 10 SCC 51. **It is well settled that if the State or any prosecuting agency including, the court concerned has no wherewithal to provide or protect the fundamental right of an accused, to have a speedy trial as enshrined under Article 21 of the Constitution, then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime – [JavedGulam Nabi Shaikh v. State of Maharashtra – (2024) 9 SCC 813]. The aforesaid proposition was quoted with approval by another two-Judge Bench of this Court and it was held that long period of incarceration for around 17 months and the trial not even having commenced, the appellant in that case has been deprived of his right to speedy trial–[Manish Sisodia v. Enforcement Directorate (2024) 12 SCC 660].**

16. A two-Judge Bench of this Court in V. Senthil Balaji's case – [V.Sentil Balaji v. Deputy Director, Enforcement Directorate 2024 SCC OnLine SC 2626] has held that under the statutes such as PMLA, where maximum sentence is seven years, prolonged incarceration pending trial may warrant grant of bail by Constitutional Courts, if there is no likelihood of the trial concluding within a reasonable time. Statutory restrictions cannot be permitted to result in indefinite pretrial detention in violation of Article 21.

17. A three Judge Bench of this Court in Padam Chand Jain (supra), reiterated that prolonged incarceration cannot be allowed to convert pretrial detention into punishment and that documentary evidence already seized by the prosecution eliminates the possibility of tampering with the same.

18. The right to speedy trial, enshrined under Article 21 of the Constitution, is not eclipsed by the nature of the offence. Prolonged incarceration of an undertrial, without commencement or reasonable progress of trial, cannot be countenanced, as it has the effect of converting pretrial detention into form of

> **punishment. Economic offences, by their very nature, may differ in degree and fact, and therefore cannot be treated as homogeneous class warranting a blanket denial of bail."**

84. The Apex Court took note of the arrest of only the petitioner therein who was one of the 28 individuals, that the maximum sentence was seven years, that there was no likelihood in the commencement of trial in the near future. It is observed at para-19 as follows:-

> "19. ..There is no likelihood of trial commencing in the near future. The continued incarceration in such circumstances particularly where the evidence which is primarily documentary in nature, is already in custody of the Prosecution, violates the right of the appellant to speedy trial under Article 21 of the Constitution of India."

Accordingly, taking note of all the above factors, the Court in the above factual matrix enlarged the accused on bail.

85. The consistent legal reasoning adopted while enlarging the accused on bail is in the context of long detention, factually dense material relied upon and absence of any possibility of trial being concluded early. Further, the Apex Court in Senthil Balaji (supra) has emphasized that judicial discretion is vested in the constitutional courts which is to be exercised in light of the particular factual matrix.

86. Accordingly, it is clear that the ground of speedy trial, context of delay in trial and long incarceration are by itself independent grounds to seek for being enlarged on bail on the premise of rights flowing from Article 21 of the Constitution of India which could be pressed into service de hors merits of the application in terms of Section 45 of PMLA. The Apex Court has referred to constitutional mandate being higher law must be read into Section 439 of Cr.P.C.

87. In light of the above legal framework, the request of the petitioner for being enlarged on bail in the present case is to be considered.

88. However, taking note that the length of incarceration is 127 days as of now, it can be stated that it would not qualify to be long incarceration entitling the petitioner to be released on bail for the present.

[VIII] CONCLUSION:

89. The approach of Apex Court in Manish Sisodia - 1 (supra) could be adopted in the present case as well. The Apex Court while recording a positive finding though for the purposes of Section 45 of PMLA that the prayer for grant of bail could not be considered, as a prima facie case of involvement of the petitioner was made out, however, reserved liberty to approach, if there was delay in the trial while discussing the effect of prolonged incarceration.

90. The observations made at paras-29 to 32 extracted supra in Manish Sisodia-1 (supra) as well as the observation at para-36 which is extracted as hereunder:-

> **"36. In view of the assurance given at the Bar on behalf of the prosecution that they shall conclude the trial by taking appropriate steps within next six to eight months, we give liberty to the appellant 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 pace in next three months. If any application for bail is filed in the above circumstances, the same would be considered by the trial court on merits without being influenced by the dismissal of the earlier bail application, including the present judgment. Observations made above, re.: right to speedy trial, will, however, be taken into consideration. The appellant Manish Sisodia may also file an application for interim bail in case of ill health and medical emergency due to illness of his wife. Such application would be also examined on its own merits."**

would indicate that the Apex Court taking note of the stand of the Prosecution regarding trial, reserved liberty to the appellant therein to move a fresh application for bail in case of change in circumstances or if trial is protracted and proceeds at a snail's pace in the next three months or if the trial is not concluded within six to eight months.

91. Subsequently, in Manish Sisodia v. Directorate of Enforcement – 2024 SCC OnLine SC 1498 [Manish Sisodia-2] when the accused had approached the Apex Court once again, the Apex Court noticing that the period of six to eight months fixed by the previous order [Manish Sisodia-1 (supra)] not having expired, reserved liberty to revive his prayer to move afresh after filing of complaint/charge-sheet.

92. Finally, the Apex Court in the third round of approach whereby a challenge was made to the rejection of application by the High Court in Manish Sisodia-3 (supra) enlarged the petitioner on bail recording that there was remote possibility of trial being concluded in the near future, that keeping the appellant behind the bars for an unlimited period of time would deprive his fundamental right to liberty under Article 21 of the Constitution of India, that prolonged incarceration before being pronounced guilty of an offence should not be permitted to become punishment without trial.

93. Finally, the Apex Court proceeded to grant bail after taking note of the aspect of long incarceration. In the present case as well having held that the length of incarceration cannot qualify to be long incarceration, as the petitioner has been in custody for 127 days as of now, it would be appropriate to reserve liberty to the petitioner to approach this Court after a lapse of three months.

94. The petitioner then would have to point out as regards Prosecution having taken steps for commencement of trial and that there may be the possibility of joint trial contributing to further delay and that there was no possibility of trial concluding within a reasonable time.

95. The Prosecution also would have to keep such aspects in mind so as to demonstrate that trial would be concluded within a reasonable time. Upon consideration of such aspects, the Court may take an appropriate decision.

96. Reserving liberty would be justified while noticing that, as on date, it is the petitioner alone who has been arrested amongst the several accused, that prior to his arrest, he had subjected himself to interrogation and that the investigation of the predicate offence is not yet concluded.

97. Accordingly, in light of the observations made above, the grant of bail for the present is rejected. However, liberty is reserved to the petitioner to re-approach after a period of three months directly before this Court and to make a renewed plea for bail.

98. Accordingly, the petition is **rejected**, while reserving liberty to the petitioner to approach afresh in terms of the relevant observations supra."

4. The learned senior counsel Sri Sandesh J. Chouta appearing for the petitioner would vehemently contend that the coordinate Bench had in fact permitted the petitioner to knock at the doors of this Court yet again on twin circumstances viz., if there was no progress in the trial for over three months coupled with changed circumstances. He would submit that there are 9 changed circumstances in the case at hand for the petitioner to knock at the doors of this Court. He would further contend that at the time when the delay in trial was projected for the petitioner to be enlarged on

bail, the proceedings were only 127 days old. Today, the proceedings are about 275 days old and the stage remains the same. It is at a pre-cognizance stage. Therefore, the petitioner must be enlarged on bail owing to the facts obtaining at this juncture and change in circumstances.

5. *Per contra*, the learned Additional Solicitor General Sri K. Arvind Kamath would vehemently refute the submissions in contending that merely because changed circumstances have come about, the earlier order rejecting the bail cannot be brushed aside. He would submit that the Apex Court in **NARCOTICS CONTROL BUREAU v. MOHIT AGGARWAL** reported in **(2022) 18 SCC 374** has clearly held that delay in trial alone cannot be the reason for grant of bail to an accused, particularly when the offences are found to be grave. By taking this Court through the statement of objections, he would contend that economic offences must not be shown any indulgence, particularly for the petitioner to be enlarged on bail. He seeks dismissal of the petition.

6. The learned senior counsel for petitioner would join issue in contending that the coordinate Bench holds that the petitioner can approach this Court directly after completion of the period of three months. The period is now 6 months old. Law permits accused to be enlarged on bail, particularly on the facts obtaining in the case at hand, as identical allegations were made against one Natesh whose proceedings had been quashed.

7. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

8. The afore-narrated facts are not in dispute. The order passed by the coordinate Bench is on 20-01-2026. The Court had clearly observed that if the trial does not progress in three months or there were any changed circumstances, the petitioner was entitled to re-approach this Court seeking enlargement on bail. Therefore, I deem it appropriate to notice the contentions of changed circumstances post the order passed by the coordinate Bench. The changed circumstances that are projected are that the

petitioner is enlarged on bail in the predicate offence just two months after the order of the coordinate bench on 16-03-2026; that charge sheet is filed in the predicate offence; that cognizance is taken against the petitioner after the Enforcement Directorate filed its final report/complaint before the concerned Court; that against accused Nos.2 to 4 also supplementary prosecution complaint is filed in the ECIR; that the allegations are verbatim similar; that supplementary prosecution complaint filed by the Enforcement Directorate bring in accused Nos. 2 to 4; that Enforcement Directorate did not choose to arrest those accused Nos. 2 to 4; that the petitioner stands on the same footing; that there is no progress in the trial, as the issue is still at the pre-cognizance stage; that there are innumerable witnesses to be examined and documents running into 11400 pages; that witnesses in the predicate offences are CW-1 to CW-24. On the aforesaid changed circumstances, the learned senior counsel submits that liberty the coordinate Bench granted must enure to the benefit of the petitioner for his release on bail.

9. I therefore, deem it appropriate to notice the judicial landscape with regard to grant of bail on changed circumstances.

9.1. The Apex Court in **LT. COL. PRASAD SHRIKANT PUROHIT v. STATE OF MAHARASHTRA**[1] has held as follows:

"…. …. ….

> **30. Before concluding, we must note that though an accused has a right to make successive applications for grant of bail, the court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the court also has a duty to record the fresh grounds which persuade it to take a view different from the one taken in the earlier applications.**
>
> **31. At the stage of granting bail, a detailed examination of evidence and elaborate documentation of the merits of the case has not to be undertaken. The grant or refusal to grant bail lies within the discretion of the court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused."**

9.2. In **JAVED GULAM NABI SHAIKH v. STATE OF MAHARASHTRA**[2] the Apex Court has held as follows:

"…. …. ….

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[1] (2018) 11 SCC 458
[2] (2024) 9 SCC 813

7. Having regard to the aforesaid, we wonder by what period of time, the trial will ultimately conclude. **Howsoever serious a crime may be, an accused has a right to speedy trial as enshrined under the Constitution of India. Over a period of time, the trial courts and the High Courts have forgotten a very well-settled principle of law that bail is not to be withheld as a punishment.**

8. In the aforesaid context, we may remind the trial courts and the High Courts of what came to be observed by this Court in *Gudikanti Narasimhulu* v. *High Court of A.P.* [*Gudikanti Narasimhulu* v. *High Court of A.P.*, (1978) 1 SCC 240: 1978 SCC (Cri) 115] We quote: (SCC p. 243, para 5)

> **"*5*. ... What is often forgotten, and therefore warrants reminder, is the object to keep a person in judicial custody pending trial or disposal of an appeal. Lord Russel, C.J., said *R.* v. *Rose* [*R.* v. *Rose*, (1898) 18 Cox CC 717] :**
>
> **'I observe that in this case bail was refused for the prisoner. It cannot be too strongly impressed on the magistracy of the country that bail is not to be withheld as a punishment, but that the requirements as to bail are merely to secure the attendance of the prisoner at trial.' "**

9. The same principle has been reiterated by this Court in *Gurbaksh Singh Sibbia* v. *State of Punjab* [*Gurbaksh Singh Sibbia* v. *State of Punjab*, (1980) 2 SCC 565 : 1980 SCC (Cri) 465] that the object of bail is to secure the attendance of the accused at the trial, that the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial and that it is indisputable that bail is not to be withheld as a punishment.

10. Long back, in *Hussainara Khatoon (1)* v. *State of Bihar* [*Hussainara Khatoon (1)* v. *State of Bihar*, (1980) 1 SCC 81: 1980 SCC (Cri) 23], this Court had declared that the right to speedy trial of offenders facing

criminal charges is "implicit in the broad sweep and content of Article 21 as interpreted by this Court". Remarking that a valid procedure under Article 21 is one which contains a procedure that is "reasonable, fair and just" it was held that: (SCC p. 89, para 5)

> **"*5*. … Now obviously procedure prescribed by law for depriving a person of liberty cannot be "reasonable, fair or just" unless that procedure ensures a speedy trial for determination of the guilt of such person. No procedure which does not ensure a reasonably quick trial can be regarded as "reasonable, fair or just" and it would fall foul of Article 21. There can, therefore, be no doubt that speedy trial, and by speedy trial we mean reasonably expeditious trial, is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21. The question which would, however, arise is as to what would be the consequence if a person accused of an offence is denied speedy trial and is sought to be deprived of his liberty by imprisonment as a result of a long-delayed trial in violation of his fundamental right under Article 21."**

11. The aforesaid observations have resonated, time and again, in several judgments, such as *Kadra Pahadiya* v. *State of Bihar* [*Kadra Pahadiya* v. *State of Bihar*, (1981) 3 SCC 671: 1981 SCC (Cri) 791] and *Abdul Rehman Antulay* v. *R.S. Nayak* [*Abdul Rehman Antulay* v. *R.S. Nayak*, (1992) 1 SCC 225: 1992 SCC (Cri) 93]. **In the latter the court re-emphasised the right to speedy trial, and further held that an accused, facing prolonged trial, has no option: (*Abdul Rehman Antulay case* [*Abdul Rehman Antulay* v. *R.S. Nayak*, (1992) 1 SCC 225: 1992 SCC (Cri) 93], SCC p. 269, para 84)**

> **"*84*. … The State or complainant prosecutes him. It is, thus, the obligation of the State or the complainant, as the case may be, to proceed with the case with reasonable promptitude. Particularly, in this country, where the large majority of accused come from poorer and weaker sections of the society, not versed in the ways of**

law, where they do not often get competent legal advice, the application of the said rule is wholly inadvisable. Of course, in a given case, if an accused demands speedy trial and yet he is not given one, may be a relevant factor in his favour. But we cannot disentitle an accused from complaining of infringement of his right to speedy trial on the ground that he did not ask for or insist upon a speedy trial."

12. In *Mohd. Muslim* v. *State (NCT of Delhi)* [*Mohd. Muslim* v. *State (NCT of Delhi)*, (2023) 18 SCC 166: 2023 SCC OnLine SC 352: 2023 INSC 311], this Court observed as under: (SCC pp. 178-79, paras 23-25)

> **"*23*. Before parting, it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable.** Jails are overcrowded and their living conditions, more often than not, appalling. According to the Union Home Ministry's response to Parliament, the National Crime Records Bureau had recorded that as on 31-12-2021, over 5,54,034 prisoners were lodged in jails against total capacity of 4,25,069 lakhs in the country [National Crime Records Bureau, "Prison Statistics in India" <https://ncrb.gov.in/sites/default/files/PSI-2021/Executive_ncrb_Summary-2021.pdf>.]. Of these 1,22,852 were convicts; the rest 4,27,165 were undertrials.
>
> *24*. The danger of unjust imprisonment, is that inmates are at risk of "prisonisation" a term described by the Kerala High Court in *A Convict Prisoner* v. *State* [*A Convict Prisoner* v. *State*, 1993 SCC OnLine Ker 127], as "*a radical transformation*" whereby the prisoner: (SCC OnLine Ker para 13)
>
> > '*13*. … loses his identity. He is known by a number. He loses personal possessions. He has no personal relationships. Psychological problems result from loss of freedom, status, possessions, dignity any autonomy of personal life. The inmate culture of prison turns out to be dreadful. The prisoner becomes hostile by ordinary standards. Self-perception changes.'

> *25*. There is a further danger of the prisoner turning to crime, '*as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal*' [Working Papers — Group on Prisons & Borstals — 1966 U.K.] (also see Donald Clemmer's "*The Prison Community*" published in 1940 [Donald Clemmer, *The Prison Community* (1968) Holt, Rinehart & Winston, which is referred to in Tomasz Sobecki, "Donald Clemmer's Concept of Prisonisation", available at:<https://www.tkp.edu.pl/wp-content/uploads/2020/12/Sobecki_sklad.pdf> accessed on 23-3-2023).]). Incarceration has further deleterious effects — where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials — especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily."
>
> (emphasis in original)

13. The requirement of law as being envisaged under Section 19 of the National Investigation Agency Act, 2008 (hereinafter being referred to as "the 2008 Act") mandates that the trial under the Act of any offence by a Special Court shall be held on day-to-day basis on all working days and have precedence over the trial of any other case and Special Courts are to be designated for such an offence by the Central Government in consultation with the Chief Justice of the High Court as contemplated under Section 11 of the 2008 Act.

14. A three-Judge Bench of this Court in *Union of India* v. *K.A. Najeeb* [*Union of India* v. *K.A. Najeeb*, (2021) 3 SCC 713] had an occasion to consider the long incarceration and at the same time the effect of Section 43-D(5) of the UAP Act and observed as under : (SCC p. 722, para 17)

> "*17*. It is thus clear to us that the presence of statutory restrictions like Section 43-D(5) UAPA per se does not oust the ability of the constitutional courts to grant bail on grounds of violation of Part III of the Constitution. Indeed, both the restrictions under a

> statute as well as the powers exercisable under constitutional jurisdiction can be well harmonised. **Whereas at commencement of proceedings, the courts are expected to appreciate the legislative policy against grant of bail but the rigours 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. Such an approach would safeguard against the possibility of provisions like Section 43-D(5) UAPA being used as the sole metric for denial of bail or for wholesale breach of constitutional right to speedy trial."**
>
> **... ... ...**

18. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be.

19. We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution.

20. In view of the aforesaid, this appeal succeeds and is hereby allowed. The impugned order [*JavedGulamnabi Shaikh* v. *NIA*, 2024 SCC OnLine Bom 2372] passed by the High Court is set aside.

21. The appellant is ordered to be released on bail subject to the terms and conditions which the trial court may deem fit to impose. However, we on our own would impose the condition that the appellant shall not leave the limits of Mumbai City and shall mark his presence at the NIA office or police station concerned once every fifteen days. Any other condition which the trial court may deem fit to impose, it may do so in accordance with law."

9.3. In **MANISH SISODIA v. DIRECTORATE OF ENFORCEMENT**[3] the Apex Court has held as follows:

"..... ....

> **34.** Insofar as the contention of the learned ASG that since the conditions as provided under Section 45 of the PMLA are not satisfied, the appellant is not entitled to grant of bail is concerned, it will be apposite to refer to the first order [*Manish Sisodia* v. *CBI*, (2024) 12 SCC 691] of this Court. No doubt that this Court in its first order [*Manish Sisodia* v. *CBI*, (2024) 12 SCC 691] in para 28, after recapitulating in para 27 as to what was stated in the charge-sheet filed by CBI against the appellant, observed that, in view of the aforesaid discussion, the Court was not inclined to accept the prayer for grant of bail at that stage. However, certain paragraphs of the said order cannot be read in isolation from the other paragraphs. The order will have to be read in its entirety. **In para 36 of the said order, this Court observed that 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 439CrPC and Section 45 of the PMLA. The Court held 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. It further observed that when the trial is not proceeding for reasons not attributable to the accused, the court, unless there are good reasons, would be guided to exercise the power to grant bail. The Court specifically observed that this would be true where the trial would take years. It could thus clearly be seen that this Court, in the first round of litigation between the parties, has specifically observed that in case of delay coupled with incarceration for a long period and depending on the nature of the allegations, the right to bail will have to be read into Section 45 of PMLA.**

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[3] **(2024) 12 SCC 660**

35. A Division Bench of this Court in *Ramkripal Meena* v. *Enforcement Directorate* [*Ramkripal Meena* v. *Enforcement Directorate*, (2024) 12 SCC 682] was considering an application of the petitioner therein who was to receive a bribe of rupees five crore and from whom, an amount of Rs 46,00,000 was already recovered. In the said case, the petitioner was arrested on 26-1-2022 in connection with FIR No. 402 of 2021 registered against him for the offences punishable under Sections 406, 420, 120-BIPC and Sections 4/6 of the Rajasthan Public Examination (Prevention of Unfair Means) Act, 1992. He was released on bail by this Court vide order dated 18-1-2023 [*Ram Kripal* v. *State of Rajasthan*, (2024) 12 SCC 686] . Thereafter, the petitioner was arrested by ED on 21-6-2023.

36. The Court observed thus: (*Ram Kripal case* [*Ram Kripal* v. *State of Rajasthan*, (2024) 12 SCC 686] , SCC para 7)

> "*7*. Adverting to the prayer for grant of bail in the instant case, it is pointed out by learned counsel for ED that the complaint case is at the stage of framing of charges and 24 witnesses are proposed to be examined. The conclusion of proceedings, thus, will take some reasonable time. The petitioner has already been in custody for more than a year. Taking into consideration the period spent in custody and there being no likelihood of conclusion of trial within a short span, coupled with the fact that the petitioner is already on bail in the predicate offence, and keeping in view the peculiar facts and circumstances of this case, it seems to us that the rigours of Section 45 of the Act can be suitably relaxed to afford conditional liberty to the petitioner. Ordered accordingly."

37. In the light of the specific observations of this Court in para 34 of the first order [*Manish Sisodia* v. *CBI*, (2024) 12 SCC 691] , **we are not inclined to accept the submission of the learned ASG that the provisions of Section 45 of the PMLA would come in the way of consideration of the application of the appellant for grant of bail.**

38. From the first order [*Manish Sisodia* v. *CBI*, (2024) 12 SCC 691] of this Court, it would be clear that an assurance was given at the Bar on behalf of the prosecution that they shall

conclude the trial by taking appropriate steps within next 6-8 months. In view of the said statement, this Court did not consider the application of the appellant for bail at that stage, however, granted liberty to the appellant to move a fresh application for bail in case of change in circumstances, or in case the trial is protracted and proceeded at a snail's pace in next three months. Though, this Court observed that if any application for bail was filed on the grounds mentioned in para 36 of *Manish Sisodia case* [*Manish Sisodia* v. *CBI*, (2024) 12 SCC 691] , the same would be considered by the trial court without being influenced by the dismissal of the earlier bail applications including the present judgment, however, it clarified that the observations made by the Court with regard to right to speedy trial would be taken into consideration. The liberty was also granted to the appellant to file an application for interim bail in case of ill health and medical emergency due to illness of his wife.

39. A perusal of the impugned judgment and order [*Manish Sisodia* v. *Enforcement Directorate*, 2024 SCC OnLine Del 3731] would reveal that though the learned Single Judge of the High Court has dismissed the applications for bail on merits, on medical grounds, it has permitted the appellant to visit his residence to meet his wife in custody once every week.

40. It could thus clearly be seen that this Court expected the trial to be concluded within a period of 6-8 months. The liberty was reserved to approach afresh if the trial did not conclude within the period of 6-8 months. The liberty was also granted in case the trial proceeded at a snail's pace in next three months.

41. A perusal of the material placed on record would clearly reveal that far from the trial being concluded within a period of 6-8 months, it is even yet to commence. Though in the first order [*Manish Sisodia* v. *CBI*, (2024) 12 SCC 691] of this Court, liberty was reserved to move afresh for bail if the trial proceeded at a snail's pace within a period of three months from the date of the said order, the commencement of the trial is yet to see the light of the day. In these circumstances, in view of the first order [*Manish Sisodia* v. *CBI*, (2024) 12 SCC 691] of this Court, the appellant was entitled to renew his request. When the appellant renewed his request, the learned Special

Judge (trial court) as well as the High Court was required to consider the said applications in the light of the observations made by this Court in paras 34 and 36 of the first order [*Manish Sisodia* v. *CBI*, (2024) 12 SCC 691] . In para 36 of the first order [*Manish Sisodia* v. *CBI*, (2024) 12 SCC 691] , this Court specifically observed that **though the observations on the aspect of merit were not binding, the observations of right to speedy trial were required to be taken into consideration.**

42. The learned Special Judge and the learned Single Judge of the High Court have considered the applications on merits as well as on the grounds of delay and denial of right to speedy trial. We see no error in the judgments and orders of the learned Special Judge as well as the High Court in considering the merits of the matter. In view of the observations made by this Court in the first order [*Manish Sisodia* v. *CBI*, (2024) 12 SCC 691] , they were entitled to consider the same. However, **the question that arises is as to whether the trial court and the High Court have correctly considered the observations made by this Court with regard to right to speedy trial and prolonged period of incarceration. The courts below have rejected the claim of the appellant applying the triple test as contemplated under Section 45 of the PMLA. In our view, this is in ignorance of the observations made by this Court in para 34 of the first order [*Manish Sisodia* v. *CBI*, (2024) 12 SCC 691] wherein this Court specifically observed that right to bail in cases of delay coupled with incarceration for a long period should be read into Section 439CrPC and Section 45 of the PMLA.**

43. The trial court, in its order, has held that the appellant individually and along with different accused persons have been filing one or the other applications/making oral submissions frequently. It further observed that some of them were frivolous. It was observed that this was apparently done as a concerted effort for accomplishing the shared purpose of causing delay in the matter. The trial court therefore rejected the contention of the appellant that he had not contributed to delay in proceedings or that the case has been proceeding at a snail's pace. However, in the very subsequent paragraph i.e.

para 80, the court observed that, in order to avoid any delay and considering the time being taken by the counsel for the accused in inspecting the "un-relied upon documents", it had vide order dated 18-4-2024 put a query to the prosecution if the entire "un-relied upon documents" can be provided to the accused persons in a digitised form. It further recorded that ED accepted the suggestion that it would expedite the proceedings. However, some time was sought to consider the same. A perusal of the compliance report filed by the Assistant Director of ED dated 7-5-2024 which could be found at p. 757 of the paper book would reveal that the Cyber Lab has informed that it would take 70-80 days to prepare one copy (cloning) of the data contained in the said un-relied digital devices.

44. It could further be seen that, though it has been submitted on behalf of ED that hundreds of applications have been filed for supply of "un-relied upon documents", the record would not substantiate the said position. Though various applications have been filed by different accused persons, insofar as the present appellant is concerned, he has filed only 13 applications in CBI matter and 14 in ED matter. It would reveal that some of the applications are for seeking permission to meet his wife or permission to file vakalatnama, to put signature on the documents, seeking permission to sign a cheque, etc. Most of the applications are for supply of missing documents and legible copies under Sections 207/208CrPC. Some of the applications are for inspection of the "un-relied upon documents". It is pertinent to note that all these applications have been allowed by the learned trial court. It is further pertinent to note that some of these orders were also challenged before the High Court wherein stay was granted. However, a statement was made on behalf of the prosecution before this Court when the first order [*Manish Sisodia* v. *CBI*, (2024) 12 SCC 691] was passed that the said petitions filed under Section 482CrPC would be withdrawn. The said statement is recorded in para 33 of the first order [*Manish Sisodia* v. *CBI*, (2024) 12 SCC 691] of this Court. We may state that, when we specifically asked the learned ASG to point out any order wherein the learned trial Judge found any of the applications of the appellant to be frivolous, not a single order could be pointed out.

45. In that view of the matter, we find that the finding of the learned trial Judge that it is the appellant who is responsible for delaying the trial is not supported by the record. The learned Single Judge of the High Court endorses the finding of the trial court on the ground that the accused persons have taken three months' time from 19-10-2023 to 19-1-2024 for inspection of "un-relied upon documents" despite repeated directions from the learned trial court to conclude the same expeditiously. It is to be noted that there are around 69,000 pages of documents involved in both CBI and ED matters. Taking into consideration the huge magnitude of the documents involved, it cannot be stated that the accused is not entitled to take a reasonable time for inspection of the said documents. In order to avail the right to fair trial, the accused cannot be denied the right to have inspection of the documents including the "un-relied upon documents".

46. It is further to be noted that a perusal of the second order [*Manish Sisodia* v. *Enforcement Directorate*, 2024 SCC OnLine SC 1498] of this Court would itself reveal that this Court recorded the submissions of the learned Solicitor General, which were made on instructions, that the investigation would be concluded and final complaint/charge-sheet would be filed expeditiously and at any rate on or before 3-7-2024. Accordingly, 8th charge-sheet has been filed on 28-6-2024 by ED. It could thus be seen that, even according to the respondents, the investigation was to be concluded on or before 3-7-2024. In that view of the matter, we find that the contention raised by the learned ASG is self-contradictory. If the investigation itself was to conclude on or before 3-7-2024, the question is how could the trial have commenced prior to that? If the investigation itself was to conclude after a period of 8 months from the date of the first order [*Manish Sisodia* v. *CBI*, (2024) 12 SCC 691] of this Court, there was no question of the trial being concluded within a period of 6-8 months from the date of the first order [*Manish Sisodia* v. *CBI*, (2024) 12 SCC 691] of this Court. We find that both the High Court and the trial court have failed to take this into consideration.

47. We find that, on account of a long period of incarceration running for around 17 months and the trial even not having been commenced, the appellant has been deprived of his right to speedy trial.

48. As observed by this Court, **the right to speedy trial and the right to liberty are sacrosanct rights. On denial of these rights, the trial court as well as the High Court ought to have given due weightage to this factor.**

49. Recently, this Court had an occasion to consider an application for bail in *Javed Gulam Nabi Shaikh* v. *State of Maharashtra* [*Javed Gulam Nabi Shaikh* v. *State of Maharashtra*, (2024) 9 SCC 813 : (2025) 1 SCC (Cri) 222] wherein the accused was prosecuted under the provisions of the Unlawful Activities (Prevention) Act, 1967. This Court surveyed the entire law right from the judgment of this Court in *Gudikanti Narasimhulu* v. *High Court of A.P.* [*Gudikanti Narasimhulu* v. *High Court of A.P.*, (1978) 1 SCC 240 : 1978 SCC (Cri) 115] , *Gurbaksh Singh Sibbia* v. *State of Punjab* [*Gurbaksh Singh Sibbia* v. *State of Punjab*, (1980) 2 SCC 565 : 1980 SCC (Cri) 465] , *Hussainara Khatoon (1)* v. *State of Bihar* [*Hussainara Khatoon (1)* v. *State of Bihar*, (1980) 1 SCC 81 : 1980 SCC (Cri) 23] , *Union of India* v. *K.A. Najeeb* [*Union of India* v. *K.A. Najeeb*, (2021) 3 SCC 713 : 2021 INSC 50] and *Satender Kumar Antil* v. *CBI* [*Satender Kumar Antil* v. *CBI*, (2022) 10 SCC 51 : (2023) 1 SCC (Cri) 1] .

50. The Court observed thus: (*Javed Gulam Nabi Shaikh case* [*Javed Gulam Nabi Shaikh* v. *State of Maharashtra*, (2024) 9 SCC 813 : (2025) 1 SCC (Cri) 222] , SCC p. 820, para 17)

> "*17.* **If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime**."

51. The Court also reproduced the observations made in *Gudikanti Narasimhulu* [*Gudikanti Narasimhulu* v. *High Court of A.P.*, (1978) 1 SCC 240 : 1978 SCC (Cri) 115] , which read thus: (*Javed Gulam Nabi Shaikh case* [*Javed Gulam Nabi Shaikh* v. *State of Maharashtra*, (2024) 9 SCC 813 : (2025) 1 SCC (Cri) 222] , SCC p. 816, para 8)

> "*8.* In the aforesaid context, we may remind the trial courts and the High Courts of what came to be observed by this Court in *Gudikanti Narasimhulu* v. *High Court of A.P.* [*Gudikanti Narasimhulu* v. *High Court of A.P.*, (1978) 1 SCC 240 : 1978 SCC (Cri) 115] We quote (SCC p. 243, para 5):
>
> '*5.* … **What is often forgotten, and therefore warrants reminder, is the object to keep a person in judicial custody pending trial or disposal of an appeal.** Lord Russel, C.J., said [*R.* v. *Rose* [*R.* v. *Rose*, (1898) 18 Cox CC 717]]:
>
> **"I observe that in this case bail was refused for the prisoner. It cannot be too strongly impressed on the magistracy of the country that bail is not to be withheld as a punishment, but that the requirements as to bail are merely to secure the attendance of the prisoner at trial.**" ' "

52. The Court in *Javed Gulam Nabi Shaikh case* [*Javed Gulam Nabi Shaikh* v. *State of Maharashtra*, (2024) 9 SCC 813 : (2025) 1 SCC (Cri) 222] further observed that, **over a period of time, the trial courts and the High Courts have forgotten a very well-settled principle of law that bail is not to be withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non-grant of bail even in straightforward open-and-shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial courts and the High Courts should recognise the principle that "bail is rule and jail is exception".**

53. In the present case, in ED matter as well as CBI matter, 493 witnesses have been named. The case involves thousands of pages of documents and over a lakh pages of digitised documents. It is thus clear that there is not even the remotest possibility of the trial being concluded in the near future. In our view, keeping the appellant behind bars for an unlimited period of time in the hope of speedy completion of trial would deprive his fundamental right to liberty under Article 21 of the Constitution. As observed time and again, the prolonged incarceration before being pronounced guilty of an offence should not be permitted to become punishment without trial.

54. As observed by this Court in *Gudikanti Narasimhulu* [*Gudikanti Narasimhulu* v. *High Court of A.P.*, (1978) 1 SCC 240 : 1978 SCC (Cri) 115] , **the objective to keep a person in judicial custody pending trial or disposal of an appeal is to secure the attendance of the prisoner at trial.**

55. In the present case, the appellant is having deep roots in the society. There is no possibility of him fleeing away from the country and not being available for facing the trial. In any case, conditions can be imposed to address the concern of the State.

56. Insofar as the apprehension given by the learned ASG regarding the possibility of tampering the evidence is concerned, it is to be noted that the case largely depends on documentary evidence which is already seized by the prosecution. As such, there is no possibility of tampering with the evidence. Insofar as the concern with regard to influencing the witnesses is concerned, the said concern can be addressed by imposing stringent conditions upon the appellant."

9.4. In **MUKESH SALAM v. STATE OF CHHATTISGARH**[4] the Apex Court has held as follows:

"…. …. ….

> **5.** Bearing in mind the above circumstances and the nature of the alleged case, we are of the considered view that the continued detention of the petitioner would not subserve the ends of justice. There is no likelihood of the early conclusion of the trial. The petitioner is in custody since 6 May 2020. We accordingly order and direct that the petitioner be released on bail, subject to such terms and conditions as may be imposed by the Special Judge (NIA Act), Kanker, in connection with FIR No 9 of 2020."

9.5. In **ARVIND DHAM v. DIRECTORATE OF ENFORCEMENT**[5] the Apex Court has held as follows:

"…. …. …

> **14.** It is submitted that out of 210 witnesses to be examined during the trial, 25 witnesses are common in both the prosecution complaints. It is pointed out that out of 63,691 pages of relied upon documents, only few pages are relevant to prove the loss. It is further pointed out that ED has filed an application on 27.09.2025 for day-to-day hearing. It is submitted that the appeal is liable to be dismissed. Alternatively, it is also pointed out that in many serious cases, this Court has directed the parties to re-apply for bail after sometime and the appellant, depending upon the progress of the trial, be directed to renew the prayer for bail after six months.
>
> **15.** We have given our thoughtful consideration to the rival submissions and have carefully perused the record. **The court while dealing with the prayer for grant of bail has**

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[4] 2024 SCC OnLine SC 4021
[5] 2026 SCC OnLine SC 30

to consider gravity of offence, which has to be ascertained in the facts and circumstances of each case. One of the circumstances to consider the gravity of offences is also the term of sentence i.e., prescribed for the offence, the accused is alleged to have committed. The court has also to take into account the object of the special Act, the gravity of offence and the attending circumstances along with period of sentence. All economic offences cannot be classified into one group as it may involve various activities and may differ from one case to another. Therefore, it is not advisable on the part of the Court to categorize all the offences into one group and deny bail on that basis. It is well settled that if the State or any prosecuting agency including, the court, concerned has no wherewithal to provide or protect the fundamental right of an accused, to have a speedy trial as enshrined under Article 21 of the Constitution, then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime. The aforesaid proposition was quoted with approval by another two-Judge Bench of this Court and it was held that long period of incarceration for around 17 months and the trial not even having commenced, the appellant in that case has been deprived of his right to speedy trial.

16. A two-Judge Bench of this Court in *V. Senthil Balaji's case* has held that under the statutes such as PMLA, where maximum sentence is seven years, prolonged incarceration pending trial may warrant grant of bail by Constitutional Courts, if there is no likelihood of the trial concluding within a reasonable time. Statutory restrictions cannot be permitted to result in indefinite pretrial detention in violation of Article 21.

17. A three Judge Bench of this Court in *Padam Chand Jain* (supra), reiterated that prolonged incarceration cannot be allowed to convert pretrial detention into punishment and that documentary evidence already seized by the prosecution eliminates the possibility of tampering with the same.

18. The right to speedy trial, enshrined under Article 21 of the Constitution, is not eclipsed by the nature of the offence. Prolonged incarceration of an undertrial, without commencement or reasonable progress of trial, cannot be countenanced, as it has the effect of converting pretrial detention into form of punishment. Economic offences, by their very nature, may differ in degree and fact, and therefore cannot be treated as homogeneous class warranting a blanket denial of bail.

19. In the backdrop of aforesaid well settled parameters with regard to exercise of jurisdiction for grant of bail in economic offences, we now advert to the facts of the case in hand. The appellant has joined the investigation even prior to his arrest i.e., 19.06.2024 and 02.07.2024 as well as on 09.07.2024. Thus, he has cooperated with the investigation. Out of 28 individuals, only the appellant has been arrested. The order dated 20.08.2025 of the Special Court records the submission of ED that investigation *qua* the appellant has concluded. The maximum sentence which can be imposed on the appellant is seven years. The appellant is in custody for past around 16 months and 20 days. **It is pertinent to note that various Benches of this Court, while taking into account the period of incarceration which ranges from 3 months to 17 months in several cases have granted bail to the appellants therein. In the instant case, no cognizance has been taken on the prosecution complaint and the proceeding is at the stage of scrutiny of documents. No material has been placed on record to show the fate of the application filed by the ED on 27.09.2025 seeking day-to-day hearing even after period of approximately three months has expired. There are 210 witnesses to be examined in the proceeding. There is no likelihood of trial commencing in the near future. The continued incarceration in such circumstances, particularly where the evidence which is primarily documentary in nature, is already in custody of the prosecution, violates the right of the appellant to speedy trial under Article 21 of the Constitution of India."**

(Emphasis supplied at each instance)

10. The Apex Court, even in cases of offences under Unlawful Activities (Prevention) Act, 1967 has chosen to grant bail on grounds of delayed trial or on changed circumstances. The Apex Court holds that at the stage of granting bail, a detailed examination of evidence and elaborate documentation on merits should not be undertaken. The accused has a right to file successive applications for grant of bail. The Court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail application was rejected; the Court has a duty to record fresh grounds which persuaded it to take a different view from the one earlier taken on the bail application.

11. The Apex Court in **ARVIND DHAM** *supra* holds that right to speedy trial enshrined under Article 21 of the Constitution should not be eclipsed by the nature of the offence. Prolonged incarceration of an undertrial cannot be countenanced. Likewise, the Apex Court in each of the cases has considered the right of the accused to file bail applications on changed circumstances. **The changed circumstances contended are quoted hereinabove. Those should merit acceptance for the reason that in the**

predicate offence, the petitioner is enlarged on bail on 16-03-2026, two months after earlier rejection of bail. This would be the first changed circumstance. Charge sheet is filed in the predicate offence on 16-03-2026 and only after that bail is granted. This would be the second changed circumstance. Supplementary prosecution complaint is filed by the Enforcement Directorate bringing in three other accused – accused Nos. 2 to 4. This is on 28-03-2026. The Enforcement Directorate has not chosen to arrest them and the contention is that the petitioner stands on the same footing as accused Nos. 2 to 4. This is the third changed circumstance. The concerned Court on hearing the ECIR has taken cognizance on the prosecution complaint on 24-04-2026. This is the fourth changed circumstance. The coordinate Bench had permitted the petitioner to re-approach this Court in three months' time if the trial would not progress. The trial is still in pre-cognizance stage as against accused Nos. 2 to 4 who are now drawn in terms of the supplementary complaint. This is the fifth changed circumstance. These five circumstances are undoubtedly

changed circumstances to the order passed by the coordinate Bench on 20-01-2026, as every circumstance has happened subsequent to the rejection of bail application by the coordinate Bench.

12. The documents run to about 12000 pages is an admitted fact and a plethora of witnesses to be examined is again an admitted fact. The vehement opposition of the learned Additional Solicitor General would have merited acceptance if there was no changed circumstance at all. As contended by him and also settled principle of law that merely because trial would take a long time it would not give a right to the accused to seek bail. The judgment relied on by the learned Additional Solicitor General in the case of **MOHIT AGGARWAL** *supra* brooks no qualm about the principles laid down. The applicability is what is doubtful. The Apex Court was considering a case of drug trafficking in the case of **MOHIT AGGARWAL**. Therefore, the Apex Court observed that merely because the trial has not been conducted for one long year, the accused cannot claim that he should be released on bail, owing to seriousness of the offence. Before the Apex Court **MOHIT**

AGGARWAL was punishable with imprisonment of 20 years or more. The offences in the case at hand are the ones which bear imprisonment to a maximum of seven years, both in the predicate offence and in the Act. Therefore, the said judgment has become inapplicable to the facts obtained in the case at hand.

13. The coordinate Bench had clearly observed that bail is a rule and jail is an exception, reiterating the principles enunciated by the Apex Court throughout, but had observed with a rider that it would become applicable only in a subsequent bail application. In the aforesaid circumstances, I deem it appropriate to allow the petition and enlarge the petitioner on bail with stringent conditions.

14. For the aforesaid reasons, the following:

ORDER

The Criminal Petition is **allowed**. The petitioner-accused No.1 shall be released on bail in connection with ECIR/BGZO/25/2024 pending on the file of the Principal City Civil and Sessions Judge, Bengaluru in Spl.C.No.917 of 2026 for the aforesaid offences, subject to the following conditions:

(i) The petitioner shall execute a personal bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) with two solvent sureties for the like-sum to the satisfaction of the jurisdictional Court.

(ii) The petitioner shall not indulge in tampering the prosecution witnesses or hamper the investigation, either directly or indirectly.

(iii) The petitioner shall appear before the jurisdictional Court on all the future hearing dates, unless exempted by the Court for any genuine cause.

(iv) The prosecution is at liberty to prefer an application for cancellation of bail, if there is any violation of the aforesaid conditions.

Sd/-
(M.NAGAPRASANNA)
JUDGE

Bkp
CT:MJ