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Judicial Perspective On Right To Bail In Money Laundering Cases In India

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Abstract: ***The Prevention of Money Laundering Act, 2002 (PMLA) represents a stringent legislative response to financial crime, with Section 45 prescribing exceptionally restrictive bail conditions. Judicial engagement with these provisions has consistently reflected a constitutional tension between the State's interest in effective enforcement and the guarantee of personal liberty under Article 21. This paper examines the evolution of bail jurisprudence in money-laundering cases through key decisions of the Hon'ble Supreme Court. It analyses how courts have navigated statutory rigour, trial delays, and principles of criminal justice to recalibrate the bail framework. The study contends that recent judicial trends reaffirm the norm of liberty while preserving investigative efficacy under the PMLA.***

Keywords: Prevention of Money Laundering Act (PMLA), Section 45, Bail Jurisprudence, Article 21, Supreme Court, Twin Conditions, Personal Liberty, Judicial Discretion, Enforcement Directorate (ED).

"Though illicit fortunes blur the truth and trials slowly sail,
The Bench must keep the scales aligned in every plea for bail."

I. INTRODUCTION

The right to bail occupies a central place in the Indian criminal justice system, reflecting the constitutional commitment to personal liberty and the presumption of innocence. Rooted in Article 21 of the Constitution of India, bail serves as a safeguard against arbitrary detention and ensures that deprivation of liberty occurs only in accordance with due process of law. However, this fundamental principle encounters significant challenges in the context of economic offences, particularly those arising under the Prevention of Money Laundering Act, 2002 (PMLA).

Money laundering is regarded as a serious threat to the economic integrity and sovereignty of the nation. Recognising its transnational and organised nature, the legislature has incorporated stringent provisions under the PMLA, including special bail conditions under Section 45. These provisions, commonly referred to as the *twin conditions,* impose a higher threshold for granting bail, thereby departing from the general principles governing bail under the Code of Criminal Procedure, 1973. This legislative strictness has given rise to persistent constitutional and judicial debates concerning the balance between societal interest and individual liberty.

The judiciary has played a pivotal role in interpreting and reshaping the contours of the right to bail in money laundering cases. Over the years, Indian courts have delivered significant judgments examining the validity, scope, and application of the restrictive bail provisions under the PMLA. Judicial scrutiny has oscillated between upholding the gravity of the offence and reaffirming the primacy of fundamental rights, particularly in cases involving prolonged incarceration, procedural delays, and lack of prima facie evidence.

This research paper seeks to analyse the judicial perspective on the right to bail in money laundering cases in India. It aims to trace the evolution of judicial reasoning, examine landmark decisions, and assess how courts have attempted to strike a balance between effective enforcement of anti-money laundering laws and the protection of constitutional liberties. Through this analysis, the paper endeavours to highlight the dynamic role of the judiciary in harmonising statutory rigour with constitutional mandates.

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II. TWIN CONDITIONS WERE A DRASTIC PROVISION THAT TURNED ON ITS HEAD FUNDAMENTAL LIBERTIES WITHOUT A COMPELLING STATE INTEREST

In Nikesh Tarachand Shah vs Union of India, decided on 23 November 2017, a two-judge Bench of the Supreme Court (Justices R.F. Nariman and Sanjay Kishan Kaul) examined the constitutional validity of Section 45 of the Prevention of Money Laundering Act, 2002 (PMLA), which imposed stringent conditions for grant of bail in cases involving predicate offences under Part A of the Schedule. Section 45 required that the public prosecutor be heard and that the court, if opposed, be satisfied there were reasonable grounds to believe the accused was not guilty and would not commit further offences while on bail. The petitioners argued this inverted the presumption of innocence and was arbitrary, discriminatory and violative of Articles 14 and 21 of the Constitution. The Court analysed the statutory scheme and history of Section 45, noting that its conditions bore no rational nexus to the object of the Act — combating money-laundering — and could lead to manifestly arbitrary results dependent on procedural technicalities. The Court held that Section 45's twin conditions were a drastic provision that turned on its head fundamental liberties without a compelling state interest, and struck down Section 45(1) as unconstitutional. All bail matters denied under those conditions were ordered to be reconsidered on merits without applying Section 45.

A. ACCUSED MUST SHOW ABSENCE OF REASONABLE GROUNDS TO BELIEVE GUILT AND LOW RISK OF RE-OFFENDING

In *Rohit Tandon vs The Enforcement Directorate*, the Supreme Court upheld the Delhi High Court's refusal to grant bail to Rohit Tandon, who was arrested on 28 December 2016 in connection with an ECIR registered under the Prevention of Money-Laundering Act (PMLA), 2002. The ECIR stemmed from FIR No. 205/2016, where Delhi Police alleged a conspiracy involving demonetized currency deposits and issuance of demand drafts worth crores of rupees using forged documents post-demonetization. The Enforcement Directorate (ED) took up investigation for offences under Sections 3 and 4 of PMLA based on material suggesting laundering of proceeds of the scheduled offences in the FIR. Tandon's bail pleas before the trial court and Delhi High Court were rejected. The Supreme Court affirmed these orders, holding that the ED's investigation did not depend on the stage of predicate FIR investigation and that arrest under PMLA was valid based on reasonable belief from material in the agency's possession. Under Section 45 of PMLA, Tandon failed to show absence of prima facie guilt or low risk of reoffending. The Court found serious allegations, corroborative statements and financial analysis enough to deny bail, upholding the lower courts' conclusions.

B. THE APPEAL WAS DISMISSED, WITH LIBERTY TO SEEK REGULAR BAIL LATER

In *P. Chidambaram vs Directorate of Enforcement*, the Supreme Court examined an appeal against the Delhi High Court's refusal to grant anticipatory bail to senior politician P. Chidambaram in a money-laundering case arising from alleged irregularities in Foreign Investment Promotion Board (FIPB) approval given to INX Media, where foreign inflows of □305 crore were received despite approval for only □4.62 crore. The Enforcement Directorate (ED) had registered a case under Sections 3 and 4 of the Prevention of Money-Laundering Act (PMLA), preceded by a CBI FIR alleging offences under IPC and the Prevention of Corruption Act. The High Court held it a "classic case of money-laundering" and denied anticipatory bail, citing gravity of offence and alleged evasiveness by the appellant in ED questioning. The Supreme Court dismissed the appeal, affirming that in serious economic offences, custodial interrogation is often necessary and that anticipatory bail under Section 438 CrPC should be sparingly granted. The Court found no ground to interfere with the High Court's order and held that bail considerations at this stage could hamper investigation. The appeal was dismissed, with liberty to seek regular bail later.

C. JUDICIARY MUST ADOPT A *LIBERTARIAN APPROACH*

In the judgment of Arvind Kejriwal v. Directorate of Enforcement, the Supreme Court addressed the legality of the Delhi Chief Minister's arrest under the Prevention of Money Laundering Act (PMLA). The case originated from allegations by the Enforcement Directorate (ED) that Kejriwal was the *kingpin* of a conspiracy involving the 2021–22 Delhi Excise Policy, purportedly receiving kickbacks from a *South Group* in exchange for favourable policy tweaks. Kejriwal challenged his arrest on the grounds that it violated the procedural safeguards of Section 19 of the PMLA, asserting that the ED lacked *reasons to believe* he was guilty and had failed to establish the *necessity* of his arrest, especially given the timing during the 2024 General Elections.

The Court, while refraining from a final determination on the arrest's validity, upheld the primacy of Article 21 (Right to Liberty) and the power of judicial review over executive actions under PMLA. The Bench emphasized that the *reasons to believe* must be based on an objective assessment of both incriminating and exculpatory material, rather than a selective reading of the file. Crucially, the Court referred the legal question of whether the *need or necessity of arrest* constitutes a separate ground for challenging detention under Section 19 to a larger bench for clarification. In the interim, recognizing Kejriwal's prolonged incarceration of over 90 days and his lack of criminal antecedents, the Court upheld his right to interim bail, reinforcing that the judiciary must adopt a *libertarian approach* even under stringent special statutes.

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III. THE COURT DISMISSED ALL APPEALS, UPHELD THE HIGH COURT'S BAIL DENIAL, AND DIRECTED JAIN TO SURRENDER FORTHWITH

In *Satyendar Kumar Jain v. Directorate of Enforcement*, the Supreme Court of India dealt with consolidated appeals against the Delhi High Court's refusal to grant bail to former Delhi Minister Satyendar Kumar Jain and co‑accused Ankush and Vaibhav Jain in a Prevention of Money Laundering Act (PMLA), 2002 case. The underlying case stemmed from a CBI FIR of 24 August 2017 alleging disproportionate assets and corruption when Jain held public office, leading the Enforcement Directorate (ED) to file a PMLA prosecution complaint (ECIR No. ECIR/HQ/14/2017) alleging laundering of proceeds of crime of about □4.81 crore through accommodation entries in companies linked to the appellants.

The appellants sought bail under the twin conditions in Section 45 of the PMLA, arguing lack of prima facie guilt and other defences, including discrepancies in alleged proceeds of crime and their roles. The Supreme Court examined whether reasonable grounds existed to believe the appellants were not guilty and would not reoffend if released. After reviewing the material, the Court held there was sufficient prima facie material to show involvement in money‑laundering offences and that the appellants failed to satisfy the mandatory bail conditions under Section 45. It therefore dismissed all appeals, upheld the High Court's bail denial, and directed Jain to surrender forthwith, while observing that constitutional rights like speedy trial remain important but did not override statutory bail conditions in this case.

A. THE JUDGMENT LARGELY UPHELD THE VALIDITY OF THE PMLA'S KEY PROVISIONS AS CONSTITUTIONALLY PERMISSIBLE

In *Vijay Madanlal Choudhary vs Union of India*, a Triple Bench of the Supreme Court upheld the constitutional validity of significant provisions of the Prevention of Money‑Laundering Act, 2002 (PMLA), in a batch of over 200 petitions challenging the law. The petitioners had contested multiple aspects of the PMLA, including Section 50 (power to summon and record statements), Section 24 (reverse burden of proof), and the stringent bail regime under Section 45(1), which required accused persons to prove no prima facie case and that they would not commit further offences to secure bail. They argued that these provisions violated fundamental rights under Articles 14, 20(3), and 21 of the Constitution, including protection against self‑incrimination, due process, and fair trial guarantees. The Court examined the legislative intent and international obligations to combat money‑laundering and held that the Act's framework was a reasonable classification addressing a serious economic offence. Importantly, the Court affirmed that the controversial bail conditions and other procedural provisions were within Parliament's competence and did not suffer constitutional infirmity when read in context. Thus, the judgment largely upheld the validity of the PMLA's key provisions as constitutionally permissible.

B. EXERCISING ITS DISCRETION AND EMPHASIZING PROCEDURAL COMPLIANCE BY ADVOCATES, THE COURT UPHELD THE HIGH COURT'S REFUSAL OF BAIL AND DISMISSED THE APPEAL WITH COSTS.

In *Saumya Chaurasia vs Directorate of Enforcement*, the Supreme Court dismissed the appeal against the Chhattisgarh High Court's order refusing bail to the appellant, Saumya Chaurasia, arrested by the Enforcement Directorate ("ED") on 2 December 2022 in connection with ECIR/RPZO/09/2022 concerning alleged offences under various IPC provisions read with Sections 3 and 4 of the Prevention of Money Laundering Act ("PMLA"). The appellant, a Deputy Secretary in the Chief Minister's Office, was implicated in a complex investigation originating from an FIR against Suryakant Tiwari for extortion‑related crimes. ED alleged money laundering involving large extortion proceeds, including transactions and properties linked to the appellant and her relatives. Chaurasia's bail applications were rejected by the Special Court and the High Court. In her Special Leave Petition, she contended that the predicate offences were not properly established and thus no scheduled offence existed for PMLA proceedings; she also sought bail under the proviso to Section 45 of PMLA as a woman in custody for over a year. The Supreme Court found that key documents were not before the High Court, noted misrepresentation of facts in the appeal, and held prima facie evidence supported ED's case. Exercising its discretion and emphasizing procedural compliance by advocates, the Court upheld the High Court's refusal of bail and dismissed the appeal with costs.

C. COURT REMITTED THE MATTER FOR FRESH BAIL CONSIDERATION AFTER PROPER APPLICATION OF LAW

In *Directorate of Enforcement v. Aditya Tripathi*, the Supreme Court of India addressed appeals by the Enforcement Directorate (ED) against Telangana High Court orders granting bail to Aditya Tripathi in a money‑laundering case under the Prevention of Money Laundering Act (PMLA), 2002. The case arose from an FIR registered by the Economic Offences Wing, Bhopal, alleging tampering with e‑tenders worth approximately □1769 crore for the Madhya Pradesh Water Corporation, involving offences under Sections 120‑B, 420, 468 and 471 of the IPC, Section 66 of the IT Act and Section 7 read with Section 13(2) of the Prevention of Corruption Act. On investigation, ED initiated proceedings under the PMLA, and Tripathi was arrested in January 2021. The Telangana High Court granted bail on the ground that the charge‑sheet in the predicate offences had been filed and investigation was complete.

The Supreme Court set aside the High Court's bail orders, holding that investigation under the PMLA is distinct from the predicate offence inquiry and that the High Court failed to consider the stringent bail conditions under Section 45 of the PMLA, the ongoing nature of the ED investigation, and the seriousness of alleged money‑laundering offences. It remitted the matter for fresh bail consideration after proper application of law.

D. THE SUPREME COURT DISMISSED THE APPEAL, AFFIRMING THE HIGH COURT'S ORDER GRANTING BAIL

In *Directorate of Enforcement v. Subhash Sharma*, the Supreme Court upheld the grant of bail to Subhash Sharma by the Chhattisgarh High Court in a PMLA case, dismissing the Enforcement Directorate's (ED) appeal. The respondent was detained at Indira Gandhi International Airport after a Look Out Circular issued by the ED. Although ED claimed the arrest occurred at 1.15 a.m. on 6 March 2022 and that the respondent was produced before a magistrate within 24 hours, the Court examined the factual record and found that physical custody had been taken from the Bureau of Immigration at 11 a.m. on 5 March 2022. Because Sharma was not produced before a magistrate within 24 hours of actual custody, his arrest violated Article 22(2) of the Constitution, which mandates timely judicial production, and consequently infringed his fundamental right to liberty under Article 21. The Court held that Section 57 Cr.P.C., incorporated into PMLA proceedings via Section 65, applies to arrests under PMLA and that non‑compliance renders an arrest illegal. Once an arrest is found unconstitutional, bail must be granted regardless of the twin‑test conditions under Section 45(1)(ii) PMLA. Accordingly, the Supreme Court dismissed the appeal, affirming the High Court's order granting bail.

IV. THE COURT FOUND NO PERVERSITY IN THE HIGH COURT'S EXERCISE OF DISCRETION AND DISMISSED THE APPEAL, REFUSING BAIL

The appellant, *Gautam Kundu*, Chairman of Rose Valley Real Estate Construction Ltd., was arrested on 25 March 2015 for an alleged offence under Section 3 of the Prevention of Money Laundering Act (PMLA), 2002. The Enforcement Directorate registered a complaint alleging that Rose Valley fraudulently raised funds by issuing debentures and laundered the proceeds. Despite cooperating, Kundu was detained. After a brief interim bail to perform last rites of his father, he surrendered and applied for regular bail before the Calcutta High Court under Section 439 CrPC. The High Court rejected the bail application on 21 July 2015, noting that no competent court had yet held that no scheduled offence (particularly under Section 24 of the SEBI Act) was made out against him, and a criminal revision challenging those proceedings was pending. Aggrieved, Kundu appealed to the Supreme Court.

The Supreme Court upheld the High Court's refusal to grant bail, observing that money‑laundering is a serious economic offence and that Section 45 of PMLA (non-bailable and with stringent conditions for bail) has overriding effect over general CrPC provisions. The Court found no perversity in the High Court's exercise of discretion and dismissed the appeal, refusing bail.

A. THE HIGH COURT ERRED IN OVERLOOKING THE SERIOUSNESS OF ALLEGATIONS AND THE STATUTORY BAIL FRAMEWORK

In Directorate of Enforcement vs. M. Gopal Reddy, the Supreme Court of India dealt with an appeal by the Directorate of Enforcement (ED) against a Telangana High Court order granting anticipatory bail to M. Gopal Reddy, a former Additional Chief Secretary of Madhya Pradesh, in a money‑laundering investigation under the Prevention of Money Laundering Act, 2002 (PMLA). The case arose from an FIR by the Economic Offences Wing, Bhopal, alleging manipulation of e‑tenders on the Madhya Pradesh e‑procurement portal and involvement of infrastructure companies, government officials, and IT firms in a bribery‑driven scam. The ED's money‑laundering probe (ECIR/HYZO/36/2020) linked Reddy to an unexplained surge in tender allocations to one such company and sought his custodial interrogation.

The High Court had granted anticipatory bail, holding that Section 45 PMLA's stringent bail conditions did not apply to anticipatory bail under Section 438 of the Criminal Procedure Code. The Supreme Court disagreed, clarifying that Section 45's rigours do apply to anticipatory bail in PMLA cases and that the High Court erred in overlooking the seriousness of allegations and the statutory bail framework. Consequently, the Supreme Court set aside the anticipatory bail order and remanded the matter to be dealt with in accordance with law.

B. THE JUDGMENT UNDERSCORED THAT EVEN UNDER STRINGENT BAIL PROVISIONS LIKE SECTION 45 OF THE PMLA, CONSTITUTIONAL SAFEGUARDS PREVAIL WHEN DELAY UNDERMINES LIBERTY RIGHTS

In *V. Senthil Balaji vs The Deputy Director*, the Supreme Court of India dealt with an appeal against the Madras High Court's refusal to grant bail to V. Senthil Balaji, a former Tamil Nadu Transport Minister arrested by the Enforcement Directorate (ED) on money‑laundering charges under Sections 3 and 4 of the Prevention of Money Laundering Act (PMLA). The ED's case stemmed from three predicate FIRs alleging that during 2011–2016, Balaji, with associates, collected large sums by promising government jobs, leading to ECIR No. MDSZO/21/2021 and his arrest in June 2023. The appellant had been in custody for over 15 months, and trials in the scheduled offences—with thousands of accused and hundreds of witnesses—had not even commenced, making completion within a reasonable time unlikely. The Supreme Court acknowledged substantial prima facie material against him but held that prolonged pre‑trial incarceration, when trials are not likely to conclude soon, can violate the fundamental right to liberty and speedy trial under Article 21 of the Constitution. The Court allowed the appeal and granted bail, imposing conditions including stringent restrictions on contacting prosecution witnesses. The judgment underscored that even under stringent bail provisions like Section 45 of the PMLA, constitutional safeguards prevail when delay undermines liberty rights.

C. THE COURT ALLOWED THE APPEALS, QUASHED THE HIGH COURT'S ORDER, AND GRANTED BAIL SUBJECT TO CONDITIONS INCLUDING BAIL BONDS

In this appeal, *Manish Sisodia*, former Deputy Chief Minister of Delhi, challenged the Delhi High Court's 21 May 2024 order rejecting his bail applications in two connected cases — a CBI FIR (RC0032022A0053/2022) and an ED money‑laundering complaint (HIU‑II/14/2022) arising from alleged irregularities in the Delhi Excise Policy, 2021‑22. Sisodia was arrested by the CBI on 26 February 2023 and later by the ED on 9 March 2023. Both courts below had denied bail, finding no change in circumstances and expressing concerns about merits and possible interference with evidence. The trial had not commenced even after prolonged detention of the appellant with voluminous evidence and nearly 500 witnesses. The Supreme Court observed that prolonged pre‑trial incarceration without trial can infringe the fundamental right to a speedy trial under Article 21 of the Constitution and emphasized that bail is rule and jail is exception. Noting that the trial was unlikely to be completed in the near future, the Court allowed the appeals, quashed the High Court's order, and granted bail subject to conditions including bail bonds, surrender of passport, and periodic reporting to the ED.

D. THE COURT SET ASIDE THE HIGH COURT ORDER AND DIRECTED HIS RELEASE ON BAIL

In *Prem Prakash v. Union of India Through the Directorate*, through the Directorate of Enforcement, the Supreme Court allowed the appeal challenging the Jharkhand High Court's March 2024 order refusing bail to the appellant in ECIR No. 5 of 2023 registered under Sections 3 and 4 of the Prevention of Money Laundering Act (PMLA). The case arose out of a predicate FIR alleging fraudulent acquisition and transfer of land in Ranchi through forged documents. The Enforcement Directorate claimed that proceeds from the sale were routed to a firm beneficially owned by Prem Prakash, implicating him in money‑laundering. Prem Prakash was arrested and his bail was denied at both the trial and High Court levels. The Supreme Court examined the allegations and material relied on by the prosecution, including statements and financial transactions. It observed that prima facie there was insufficient evidence to implicate the appellant in the PMLA offence and noted broader principles concerning bail under Section 45 of PMLA, emphasising that bail is the rule and jail the exception. The Court set aside the High Court order and directed his release on bail, subject to conditions including sureties, surrender of passport and regular reporting, while ensuring no tampering with evidence or witnesses.

V. PRIMA FACIE MATERIAL LINKING KUMAR TO MONEY‑LAUNDERING ACTIVITIES, CONCLUDING THAT HE FAILED TO SHOW HE WAS NOT LIKELY TO REOFFEND OR PRIMA FACIE NOT GUILTY

In *Tarun Kumar v. Assistant Director, Directorate of Enforcement*, the Supreme Court considered an appeal against the Delhi High Court's refusal to grant bail to the appellant, Tarun Kumar, in a money‑laundering case registered under the Prevention of Money Laundering Act (PMLA), 2002. The appellant, formerly Vice‑President (Purchases) of Shakti Bhog Foods Ltd., was implicated in extensive financial irregularities linked to diversion of funds, fake invoices from shell companies and siphoning of crime proceeds, as revealed by forensic audits and supplementary complaints filed by investigating authorities. Although Kumar was not initially named in the FIR or early complaints, he was later arraigned in the fourth supplementary complaint and arrested. He unsuccessfully sought bail both before the Special Judge and the High Court. On appeal, his counsel argued denial of parity with co‑accused granted bail, completion of investigation, and undue incarceration; ED defended on seriousness of allegations and ongoing investigation. The Supreme Court upheld the High Court's decision, emphasizing stringent bail conditions under Section 45 of PMLA and sufficient prima facie material linking Kumar to money‑laundering activities, concluding that he failed to show he was not likely to reoffend or prima facie not guilty.

A. THE COURT QUASHED THE ARREST AND REMAND ORDERS, ALLOWED THE APPEAL AND DIRECTED THAT PURKAYASTHA BE RELEASED ON BAIL SUBJECT TO TRIAL COURT TERMS

In Prabir Purkayastha vs State (NCT of Delhi), the Supreme Court of India examined the legality of the arrest and police custody remand of the appellant, Prabir Purkayastha, founder‑director of M/s. PPK Newsclick Studio Pvt. Ltd., in connection with FIR No. 224/2023 registered under UAPA and IPC provisions. Purkayastha challenged his arrest on 3 October 2023 and subsequent seven‑day police custody remand granted on 4 October 2023, arguing that he was neither provided the grounds of arrest in writing nor allowed proper consultation with counsel before remand, thereby violating his constitutional rights under Articles 21 and 22 of the Constitution. The High Court of Delhi had dismissed his challenge. The Supreme Court, applying the principle from Pankaj Bansal v. Union of India that grounds of arrest must be communicated meaningfully and in writing, held that the remand order and arrest process were illegal because the written grounds were not furnished before remand, vitiating his custody. It rejected the State's contentions that constitutional mandates were complied with or that subsequent procedural steps cured any irregularity. The Court quashed the arrest and remand orders, allowed the appeal and directed that Purkayastha be released on bail subject to trial court terms, without expressing any opinion on the merits of the charges.

B. THE COURT FOUND THAT THE HIGH COURT'S STAY ORDER WAS MECHANICALLY GRANTED WITHOUT APPLICATION OF MIND, VIOLATED THE APPELLANT'S LIBERTY

In Parvinder Singh Khurana v. Directorate of Enforcement, the Supreme Court addressed whether a High Court or Sessions Court can grant an interim stay on an order granting bail pending an application for cancellation of bail under Section 439(2) of the CrPC. The appellant was arrested in January 2023 in a PMLA case, initially not named in the ECIR or first complaint; he was later included in a supplementary complaint. After his regular bail was granted by the Special Court on 17 June 2023, the Enforcement Directorate sought cancellation before the Delhi High Court, which on 23 June 2023 stayed the bail order without recording reasons or meaningful hearing. The stay was repeatedly extended over nearly a year despite multiple adjournments and judicial recusals. The Supreme Court held that an ex-parte interim stay of a bail order should be granted only in very rare and exceptional cases, with brief reasons recorded and immediate hearing afforded to protect the fundamental right to liberty under Article 21. The Court found that the High Court's stay order was mechanically granted without application of mind, violated the appellant's liberty, and therefore set it aside, restoring the previously granted bail while leaving merits of cancellation open for consideration.

C. THE COURT DIRECTED THAT YADAV BE ENLARGED ON BAIL SUBJECT TO APPROPRIATE CONDITIONS AND DILIGENT PARTICIPATION IN THE TRIAL.

In *Bachhu Yadav vs Directorate of Enforcement*, the Supreme Court considered a Special Leave Petition challenging the Jharkhand High Court's refusal to grant bail to Bachhu Yadav in a case registered under the Prevention of Money Laundering Act (PMLA), 2002. The Enforcement Directorate had filed an ECIR (No. 04/2022) alleging that the petitioner was involved in transporting 1,844 trucks carrying stone chips during June 2022 and that a bank deposit of □30 lakh in January 2022 constituted proceeds of crime, justifying his inclusion as an accused. The petitioner contended that the □30 lakh deposit pre-dated the alleged illegal activity period and, therefore, could not be treated as tainted; he asserted his entitlement to bail. The ED opposed bail, describing him as a key aide of the main accused engaged in large-scale illegal mining and money laundering. The Supreme Court noted that the trial had commenced, with charges framed and several witnesses examined, and that Yadav had been in custody for over a year. While leaving substantive issues for trial, the Court observed that the timing of the deposit and the petitioner's explanations warranted bail. Consequently, the Court directed that Yadav be enlarged on bail subject to appropriate conditions and diligent participation in the trial.

D. COPY OF THE WRITTEN GROUNDS OF ARREST MUST BE FURNISHED TO THE ARRESTED PERSON AS A MATTER OF COURSE TO COMPLY WITH ARTICLE 22(1) AND SECTION 19, AND OBSERVED THAT FAILURE TO DO SO COULD INVALIDATE THE ARREST.

In *Pankaj Bansal v. Union of India*, the Supreme Court examined appeals against the Punjab & Haryana High Court's dismissal of writ petitions by Pankaj Bansal and his father, Basant Bansal, challenging their arrests by the Enforcement Directorate (ED) under Section 19 of the Prevention of Money Laundering Act, 2002 (PMLA). The case arose from FIR No. 0006/2023 registered by the Anti-Corruption Bureau, Panchkula, relating to corruption and conspiracy; although Pankaj's name did not appear in the FIR, both he and his father were summoned and later arrested in connection with a second ECIR recorded by the ED. They contended before the High Court that their arrests were arbitrary, violative of constitutional rights and statutory safeguards in Section 19 of the PMLA. The High Court rejected their petitions, relying on existing Supreme Court rulings upholding the constitutional validity of Section 19. The Supreme Court, after considering statutory safeguards and prior case law, held that a copy of the written grounds of arrest must be furnished to the arrested person as a matter of course to comply with Article 22(1) and Section 19, and observed that failure to do so could invalidate the arrest.

E. THE SUPREME COURT ALLOWED THE APPEAL, GRANTING BAIL TO AGARWAL SUBJECT TO CONDITIONS, INCLUDING SURRENDERING HIS PASSPORT AND REGULAR COURT APPEARANCES

In *Sanjay Raghunath Agarwal v. The Directorate of Enforcement*, the Supreme Court considered an appeal by Sanjay Raghunath Agarwal, a Chartered Accountant, challenging his continued custody by the Enforcement Directorate (ED) in a money-laundering case arising from a much older FIR registered in 2013. The FIR was filed against six persons, including the appellant, for alleged offences under various sections of the Indian Penal Code relating to cheating, criminal breach of trust and conspiracy, stemming from the raising of Global Depository Receipts (GDRs) worth USD 71.09 million (approx □318 crore) by Farmax India Ltd., but only USD 0.4 million was credited to the company's account.

The ED subsequently registered an ECIR in 2022 and arrested Agarwal, later filing a prosecution complaint under Sections 44 & 45 of the Prevention of Money-Laundering Act (PMLA). The Court noted that no final report had been filed in the predicate FIR for more than nine years, and although the prosecution argued that Agarwal was centrally involved in coordinating the GDR issue, the prolonged incarceration without trial was not justified.

Accordingly, the Supreme Court allowed the appeal, granting bail to Agarwal subject to conditions, including surrendering his passport and regular court appearances.

VI. THE SUPREME COURT UPHELD THE VALIDITY OF THE ARREST, HOLDING THAT ED DID INFORM THE APPELLANT OF THE GROUNDS AND OBTAINED HIS SIGNATURE ENDORSING THAT HE HAD READ THEM

In *Ram Kishor Arora v. Directorate of Enforcement*, the appellant, founder of Supertech Ltd., challenged his arrest by the Enforcement Directorate (ED) on 27 June 2023 during a money‑laundering investigation under the Prevention of Money Laundering Act, 2002 (PMLA). The appellant argued that his arrest was illegal and violated his fundamental rights under Articles 14, 20 and 21 of the Constitution because he was not furnished a copy of the grounds of arrest at the time of arrest, although he was handed the document to read and sign and then it was taken back. The Delhi High Court had dismissed his writ petition, and he appealed to the Supreme Court.

A central legal question was whether informing the arrestee of the grounds of arrest without giving him a written copy rendered the arrest invalid under Section 19 of the PMLA. The Supreme Court upheld the validity of the arrest, holding that ED did inform the appellant of the grounds and obtained his signature endorsing that he had read them. The Court interpreted Section 19 as satisfied by contemporaneously informing the person of the grounds and rejected that failure to provide a written copy at the time of arrest alone made the arrest illegal. It affirmed that this complied with Section 19 of PMLA and Article 22(1) of the Constitution.

A. CHATTERJEE WAS TO BE RELEASED BY 1 FEBRUARY 2025, SUBJECT TO CONDITIONS INCLUDING NO WITNESS TAMPERING AND REGULAR COURT APPEARANCES

In *Partha Chatterjee v. Directorate of Enforcement*, the Supreme Court considered a Special Leave Petition against a Calcutta High Court order refusing bail to former West Bengal Education Minister Partha Chatterjee in a money‑laundering case arising from the alleged cash‑for‑jobs/teacher recruitment scam. During his tenure as Education Minister (2016–2022), recruitments for primary teachers and other posts were challenged for corrupt practices, leading the Calcutta High Court to direct the CBI investigation and the Enforcement Directorate (ED) to register cases under the Prevention of Corruption Act and the Prevention of Money Laundering Act (PMLA). The ED's probe involved raids, seizure of cash and gold, and registration of a money‑laundering case. Chatterjee was arrested in July 2022 and remained in judicial custody after bail applications were rejected by lower courts.

The Supreme Court upheld the principle that prolonged pre‑trial detention cannot amount to punitive incarceration and, balancing competing factors, granted conditional future bail, directing the trial court to frame charges and examine key witnesses by set deadlines. Chatterjee was to be released by 1 February 2025, subject to conditions including no witness tampering and regular court appearances; however, he was barred from holding public office during the trial (though he may remain an MLA). The Court emphasised that official status does not warrant special bail consideration and did not express views on merits of other cases against him.

B. SUPREME COURT QUASHED THE HIGH COURT ORDER, ALLOWED THE APPEALS, AND DIRECTED THAT KAVITHA BE RELEASED ON BAIL ON FURNISHING BONDS, WITH CONDITIONS TO NOT TAMPER WITH EVIDENCE AND TO COOPERATE WITH TRIAL

In *Kalvakuntla Kavitha vs Directorate Of Enforcement*, the Supreme Court of India dealt with appeals against a Delhi High Court order refusing bail to the appellant, Kalvakuntla Kavitha, in cases filed by the Enforcement Directorate (ED) and CBI in connection with the Delhi excise policy/liquor scam investigations. The appellant had been in custody for about five months. The High Court refused bail and declined to grant relief under the proviso to Section 45(1) of the Prevention of Money‑Laundering Act (PMLA), reasoning that she was a highly educated and accomplished woman and not a *vulnerable woman* intended to be protected under the statute. The Supreme Court, however, held that the High Court misapplied the law and misinterpreted the scope of the proviso, which allows certain categories of persons, including women, to be considered for bail without satisfying the stringent twin conditions of Section 45 of PMLA. The Supreme Court reiterated that bail is the rule and jail is the exception and that prolonged pre‑trial incarceration should not become punishment before conviction. It quashed the High Court order, allowed the appeals, and directed that Kavitha be released on bail on furnishing bonds, with conditions to not tamper with evidence and to cooperate with trial.

C. THE SUPREME COURT ALLOWED THE APPEAL AND DIRECTED THE SPECIAL COURT TO ENLARGE THE APPELLANT ON BAIL ON APPROPRIATE TERMS, INCLUDING SURRENDERING HIS PASSPORT AND COOPERATING FOR EARLY DISPOSAL OF THE CASE

In *Udhaw Singh vs Enforcement Directorate*, the Supreme Court considered an appeal by Udhaw Singh, who was arrested under Section 3 of the Prevention of Money Laundering Act, 2002 (PMLA) and had been in custody for over one year and two months during an ongoing trial. The Enforcement Directorate had listed 225 witnesses, but only one had been examined, indicating that the trial was unlikely to conclude within a reasonable period. The appellant therefore sought bail.

A Bench of Justices Abhay S. Oka and Ujjal Bhuyan observed that prolonged pre‑trial detention under stringent legislations like the PMLA, particularly where the trial is not likely to finish for years, can infringe on the accused's fundamental right to a speedy trial under Article 21 of the Constitution. The Court applied the principles laid down in *V. Senthil Balaji* v. *Deputy Director, Directorate of Enforcement*, which permit bail in such circumstances despite the stringent bail regime under Section 45 of the PMLA. It distinguished a recent coordinate-bench decision where such delay was not shown. The Supreme Court allowed the appeal and directed the Special Court to enlarge the appellant on bail on appropriate terms, including surrendering his passport and cooperating for early disposal of the case.

D. THE COURT SET ASIDE THE HIGH COURT'S BAIL ORDER AND ALLOWED THE APPEAL PARTLY, DIRECTING SONKAR TO SURRENDER WITHIN TWO WEEKS AND FILE A FRESH BAIL APPLICATION BEFORE THE APPROPRIATE ROSTER BENCH

In *Directorate of Enforcement vs. Bablu Sonkar*, the Supreme Court dealt with a procedural challenge to a Bombay High Court order in a Prevention of Money Laundering Act, 2002 (PMLA) case. The Enforcement Directorate (ED) filed a Special Leave Petition against the High Court's order of 26 June 2023, which had granted interim bail to Bablu Sonkar, the respondent, who had earlier sought to quash a PMLA complaint filed against him. The ED contended that the bail order was procedurally irregular because (i) no bail application was moved that day, (ii) the ED was not heard, and (iii) the bench that passed the order was not properly assigned the case roster, having lost jurisdiction after a roster change.

The Supreme Court emphasized the importance of judicial discipline and roster compliance, holding that a bench which had ceased to have jurisdiction could not deliver a reserved judgment or grant bail. The Court set aside the High Court's bail order and allowed the appeal partly, directing Sonkar to surrender within two weeks and file a fresh bail application before the appropriate roster bench. The judgment did not decide the merits of the underlying PMLA complaint or bail entitlement but focused on procedural propriety.

VII. CONCLUSION

The judicial perspective on the right to bail in money laundering cases in India reveals a complex and evolving balance between individual liberty and the compelling state interest in combating economic offences. The Prevention of Money Laundering Act, 2002 (PMLA) was enacted with the objective of addressing the serious threat posed by laundering of proceeds of crime, which undermines the financial system and national economy. However, the stringent bail provisions under Section 45 of the PMLA have consistently raised constitutional concerns, particularly in relation to Articles 14 and 21 of the Constitution of India.

Judicial scrutiny has played a pivotal role in shaping the contours of the right to bail in money laundering cases. The Supreme Court's intervention in *Nikesh Tarachand Shah* v. *Union of India*, marked a significant moment by striking down the twin conditions for bail as unconstitutional, emphasizing that personal liberty cannot be curtailed through arbitrary and discriminatory classifications. This judgment reaffirmed the principle that bail is the rule and jail is the exception, even in cases involving economic offences. However, the subsequent legislative amendments and the Supreme Court's later decision in *Vijay Madanlal Choudhary* v. *Union of India*, reinstated the twin conditions, reflecting judicial deference to legislative intent and the perceived gravity of money laundering offences.

The current judicial approach demonstrates a cautious and restrictive stance towards granting bail under the PMLA. Courts have increasingly recognized money laundering as a distinct and serious offence with transnational implications, justifying stricter bail standards. At the same time, constitutional courts have attempted to preserve safeguards against misuse of power by emphasizing procedural fairness, adherence to due process, and the requirement of judicial satisfaction based on material evidence. Factors such as prolonged incarceration, delay in trial, age, health, and the absence of flight risk have occasionally been considered to soften the rigour of Section 45, indicating that judicial discretion has not been entirely eclipsed.

Nevertheless, concerns remain regarding the disproportionate impact of stringent bail provisions on the accused, especially in light of low conviction rates and prolonged trials under the PMLA. The reversal of the presumption of innocence at the bail stage and the onerous burden placed on the accused raise questions about compatibility with fundamental rights. Judicial interpretation, while mindful of the objectives of the PMLA, must continue to ensure that the fight against economic crime does not erode the core values of criminal jurisprudence.

In conclusion, the judicial perspective on the right to bail in money laundering cases in India reflects an ongoing tension between liberty and security. While courts acknowledge the seriousness of money laundering, they also bear the constitutional responsibility of safeguarding individual freedoms. A more balanced approach—one that harmonizes the objectives of the PMLA with the principles of fairness, proportionality, and presumption of innocence—remains essential to uphold the rule of law in a constitutional democracy.

REFERENCES

[1] AIR 2017 SUPREME COURT 5500

[2] AIR 2017 SUPREME COURT 5309, 2018 (11) SCC 46, AIR 2018 SC (CRIMINAL) 1, 2017 CRILR(SC MAH GUJ) 1183, (2017) 13 SCALE 385, 2017 CRILR(SC&MP) 1183, (2017) 4 CRIMES 220, (2018) 1 ALD(CRL) 685, (2017) 4 DLT(CRL) 860, (2018) 1 MADLW(CRI) 413, (2018) 69 OCR 194, (2018) 1 BOMCR(CRI) 487, (2018) 181 ALLINDCAS 141 (SC), (2017) 4 CRILR(RAJ) 1183, (2017) 4 CURCRIR 271, 2018 (2) SCC (CRI) 339, 2018 (1) KLT SN 4 (SC)

[3] P. Chidambaram vs Directorate Of Enforcement, AIR 2019 SUPREME COURT 4198, 2019 (9) SCC 24, AIRONLINE 2019 SC 1001, 2019 CRI LJ 4754, 2019 (6) ADR 401, (2019) 12 SCALE 94, (2019) 3 CRIMES 410, 2019 (3) SCC (CRI) 509, (2019) 4 BOMCR(CRI) 809, (2019) 4 MAD LJ(CRI) 188, (2019) 4 PAT LJR 19, (2019) 4 RECCRIR 875, (2019) 76 OCR 498, AIR 2019 SC(CRI) 1539

[4] 2024 INSC 512, CRIMINAL APPEAL NO. 2493 OF 2024 (decided on 12.07.2024 by Supreme Court of India)

[5] 2024 INSC 217, CRIMINAL APPEAL NO. 1638 OF 2024 (@ SPECIAL LEAVE PETITION (Crl.) No.6561 OF 2023) (decided on 18.03.2024 by Supreme Court of India)
[6] SPECIAL LEAVE PETITION (CRIMINAL) NO. 4634 OF 2014 (decided on 27.07.2022 by Supreme Court of India)
[7] 2023 INSC 1073, CRIMINAL APPEAL NO.3840 OF 2023 @SPECIAL LEAVE PETITION (Crl.) No. 8847/2023 (decided on 14.12.2023 by Supreme Court of India)
[8] CRIMINAL APPEAL NO. 1401 OF 2023 (decided on 12.05.2023 by Supreme Court of India)
[9] 2025 INSC 141, [@ SPECIAL LEAVE PETITION (CRIMINAL) NO.1136/2023] (decided on 21.01.2025 by Supreme Court of India)
[10] Gautam Kundu vs Manoj Kumar Assistant Director, AIR 2016 SUPREME COURT 106, (2016) 1 JLJR 291 (2016) 158 ALLINDCAS 43 (SC), (2016) 158 ALLINDCAS 43 (SC)
[11] Directorate Of Enforcement vs M. Gopal Reddy, CRIMINAL APPEAL NO. 534 OF 2023 (@SLP (Crl) No. 8260/2021) (decided on 24.02.2023 by Supreme Court of India)
[12] CRIMINAL APPEAL NO.4011 OF 2024 (Arising out of Special Leave Petition (Crl.) No. 3986 of 2024) (Decided on 26.09.2024 by Supreme Court of India)
[13] Manish Sisodia vs Directorate Of Enforcement, 2024 INSC 595, [Arising out of SLP(Criminal) No. 8781 of 2024] (decided on 09.08.2024 by Supreme Court of India)
[14] 2024 INSC 637, (@ SLP (Crl.) No. 5416/2024) (decided on 28.08.2024 by Supreme Court of India)
[15] 2023 INSC 1006, (@ SLP (Crl.) No. 9431 of 2023) (decided on 20.11.2023 by Supreme Court of India)
[16] 2024 INSC 414 (decided on 15.05.2024 by Supreme Court of India)
[17] 2024 INSC 546, CRIMINAL APPEAL NOS. 3059-3062 of 2024 (@ Special Leave Petition (Crl.) Nos. 8007-8010 of 2024) (decided on 23.07.2024 by Supreme Court of India)
[18] Bachhu Yadav vs Directorate Of Enforcement Government, NON-REPORTABLE2023INSC808, SPECIAL LEAVE PETITION (Crl.) No.7561 of 2023 (decided on 06.09.2023 by Supreme Court of India)
[19] 2023INSC866, Criminal Appeal Nos 3051-3052 of 2023 {@ Special Leave Petition (Crl.) Nos. 9220-21 of 2023} (decided on 03.10.2023 by Supreme Court of India)
[20] CRIMINAL APPEAL NO. 1198 OF 2023 (Arising out of SLP (Crl.) No.1655 of 2023) (Decided on 20.04.2023 by Supreme Court of India)
[21] 2023 INSC 1082, CRIMINAL APPEAL NO. 3865 OF 2023 (@ SLP (Crl.) No. 12863 of 2023) (decided on 15.12.2023 by Supreme Court of India)
[22] 2024 INSC 975, CRIMINAL APPEAL No. 5266 OF 2024 (Arising out of SLP (CRL.) No. 13870 OF 2024) (decided on 13.12.2024 by Supreme Court of India)
[23] 2024 INSC 632, [Arising out of SLP(Criminal) No. 10778 of 2024] (Decided on 27.08.2024 by Supreme Court of India)
[24] 2025 INSC 247, CRIMINAL APPEAL NO.799 OF 2025 (Arising out of S.L.P.(Criminal) No.18369 of 2024) (Decided on 17.02.2025 by Supreme Court of India)
[25] 2024 INSC 107, (@ SPECIAL LEAVE PETITION(CRL.) NO(S). 16226 OF 2023) (Decided on 09.02.2024 by Supreme Court of India)