IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE AJAY KUMAR NIRANKARI

ON THE 31st OF JULY, 2026

MISC. CRIMINAL CASE No. 30250 of 2026

SOURABH SHARMA

Versus

DIRECTORATE OF ENFORCEMENT

Appearance:

Shri Surendra Singh Senior Advocate with Shri Aman Dawara learned counsel for the applicant

Shri S.K.Jain - ASG with Shri S M Guru DSG & Shri Dev Sharma - counsel for the respondent

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ORDER

This is **third** application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 by applicant for grant of regular bail relating to Crime No.ECIR/BHZO/19/2024 registered at Police Station Directorate of Enforcement, Bhopal Zone, Bhopal for the offence punishable under Section 3 & 4 pf Prevention of Money Laundering Act, 2002. The applicant is in custody since 10/02/2025. Earlier bail applications of the applicant was dismissed on merit.

2. As per prosecution case, the Applicant had served in the Transport Department of the State of Madhya Pradesh and thereafter voluntarily retired from service. The present proceedings emanate from the aforesaid Lokayukt FIR alleging acquisition of assets disproportionate to the Applicant's known

sources of income during his tenure in public service. It has been alleged that certain movable and immovable properties, investments and financial transactions were undertaken in the names of the Applicant's family members, associates and other connected entities. The said FIR constitutes the scheduled offence on the basis of which the Directorate of Enforcement initiated proceedings under the provisions of the PMLA. According to the prosecution, the Applicant, by abusing his official position, allegedly generated proceeds of crime and invested the same in various assets, business ventures and companies, including M/s Aviral Building Construction Pvt. Ltd., incorporated in the year 2021. The prosecution further alleges that several immovable properties, commercial ventures and other investments standing in the names of the Applicant's family members and associates represent proceeds of crime generated by the Applicant. It is alleged that during the searches conducted on 19.12.2024, cash, gold jewellery and other valuables were recovered from various premises allegedly connected with the Applicant. It is further alleged that on the same date, the Income Tax Department recovered cash and gold bullion from a vehicle registered in the name of co-accused Chetan Singh Gaur, which, according to the prosecution, was being used by the present Applicant. On the strength of the aforesaid scheduled offence, the Directorate of Enforcement registered ECIR No. ECIR/BHZO/19/2024 dated 21.12.2024 for offences punishable under Sections 3 and 4 of the PMLA and commenced investigation against the Applicant and other accused persons. During the course of investigation, summons were issued under

Section 50 of the PMLA to the Applicant and other persons, whose statements were recorded. Based upon such statements and the material collected during investigation, the Directorate of Enforcement alleged that the Applicant had projected and concealed the proceeds of crime through various family members, associates, companies and other entities. While the Applicant was already in judicial custody in connection with the predicate offence, he was formally arrested by the Directorate of Enforcement on 10.02.2025 in the present ECIR and has remained in judicial custody ever since. Since the prosecution in the predicate offence failed to file the charge-sheet within the statutory period, the Applicant was granted default bail by the learned Special Judge (Prevention of Corruption Act), Bhopal vide order dated 01.04.2025. Thereafter, the Directorate of Enforcement filed its Prosecution Complaint before the learned Special Court (PMLA), Bhopal on 08.04.2025. The Applicant's first application for regular bail was rejected by the learned Special Court on 24.04.2025. Thereafter, M.Cr.C. No. 19270/2025 preferred before this Hon'ble Court also came to be dismissed vide order dated 27.09.2025. The Applicant thereafter approached the Hon'ble Supreme Court by filing Special Leave Petition (Criminal) No. 17044/2025, which was permitted to be withdrawn on 20.11.2025 with liberty to avail appropriate remedies in accordance with law in the event of subsequent developments. The said order did not adjudicate the Applicant's entitlement to bail on merits. Subsequently, the Applicant sought temporary bail before this Hon'ble Court on account of the serious medical condition of his wife. The said application was confined solely to humanitarian considerations and was rejected vide order dated 10.06.2026 without any adjudication on the merits of the prosecution case or the Applicant's entitlement to regular bail.

3. Counsel for the applicant submits that after rejection of the earlier regular bail application, significant subsequent developments have taken place. Investigation has concluded; the Prosecution Complaint has been filed; charges have been framed on 10.04.2026 in Special Case No. 83/2025; and the matter has now entered the stage of trial. These developments constitute material changes in circumstances warranting fresh consideration of the Applicant's prayer for bail. The prosecution case is founded almost entirely upon documentary evidence comprising nearly 3,000 pages. Considering the volume of documents, multiplicity of transactions and the number of witnesses and accused persons, the trial is inherently expected to consume considerable time before reaching its conclusion. Despite the Applicant remaining in custody since 10.02.2025, the trial has not progressed to any substantial extent and there is no reasonable likelihood of its early conclusion. Continued incarceration of the Applicant would therefore amount to pre-trial punishment. The Applicant has undergone incarceration for more than sixteen months. Investigation stands concluded, the Prosecution Complaint has been filed, charges have already been framed and no further custodial interrogation of the Applicant is either necessary or contemplated. The entire documentary evidence relied upon by the Directorate of Enforcement has already been seized, collected from official sources or forms part of the judicial record. Consequently, there is no

possibility of the Applicant tampering with documentary evidence or prejudicing the investigation. The Applicant undertakes to abide by every condition that may be imposed by this Hon'ble Court and shall remain available on each and every date of hearing. The present application is founded upon substantial subsequent developments which have occurred after rejection of the earlier bail application, namely completion of investigation, filing of the Prosecution Complaint, framing of charges, prolonged incarceration and the absence of any realistic possibility of early conclusion of trial. The present application is, therefore, based upon materially changed circumstances and not upon a mere reiteration of grounds previously considered. In view of the aforesaid facts and circumstances, particularly the prolonged period of incarceration already undergone by the Applicant, completion of investigation, filing of the Prosecution Complaint, the predominantly documentary nature of the prosecution case, the voluminous record involved, the commencement of trial and the absence of any likelihood of its early conclusion, the Applicant is entitled to be enlarged on regular bail.

4. Counsel for the applicant submits that the present application is neither an attempt to seek review or reconsideration of the order dated 27.09.2025 passed by this Hon'ble Court rejecting the Applicant's earlier prayer for regular bail, nor does it seek a re-appreciation of the merits of the prosecution case. The findings recorded in the earlier order are not sought to be reopened. The present application is founded exclusively upon subsequent events and material changes in circumstances which have arisen after the

earlier rejection and which materially alter the factual and legal matrix governing the Applicant's continued incarceration. When the earlier bail application came to be decided on 27.09.2025, this Hon'ble Court was considering the matter at a stage materially different from the present. At that stage, the Applicant had not undergone the prolonged incarceration which he has now suffered; the progress of trial could not then be assessed; and the Court could not have anticipated that despite the passage of considerable time, the trial would remain at a nascent stage with no realistic possibility of early conclusion. The Applicant has now remained in continuous judicial custody since 10.02.2025 and has undergone more than sixteen months of incarceration as an undertrial prisoner. Equally significant is the fact that the proceedings have now advanced far beyond the stage prevailing when the earlier application was rejected. Investigation stands concluded; the Prosecution Complaint has been filed; all material relied upon by the Directorate of Enforcement has crystallised; and charges have already been framed by the learned Special Court. Consequently, every investigative purpose sought to be achieved by the prosecution has already been fulfilled. The considerations which ordinarily justify continued detention during investigation, therefore, no longer survive. Despite the completion of investigation and commencement of trial, there has been no meaningful progress in the proceedings. The prosecution itself relies upon voluminous documentary evidence comprising more than 3,000 pages, involving numerous financial transactions, properties and witnesses. The nature and volume of the evidence itself indicate that the trial is likely to consume considerable judicial time and there is no reasonable likelihood of its conclusion in the foreseeable future. Therefore, the present application does not invite this Hon'ble Court to sit in appeal over its earlier order. The Applicant is not seeking reconsideration of the prima facie observations recorded therein, nor a fresh evaluation of the allegations, recoveries, statements or material collected during investigation. The present application is founded solely upon subsequent developments, namely, prolonged incarceration exceeding sixteen months, completion of investigation, filing of the Prosecution Complaint, framing of charges, lack of meaningful progress in trial and the improbability of its early conclusion. These subsequent developments constitute independent and substantial changes in circumstances warranting fresh consideration of the Applicant's prayer for bail. It is further pertinent to submit that, subsequent to the earlier rejection order, another significant development has occurred in relation to the very same ECIR and Prosecution Complaint. Co-accused Shri Sharad Jaiswal approached the Hon'ble Supreme Court challenging rejection of his bail application, whereupon the Hon'ble Supreme Court was pleased to issue notice vide order dated 29.05.2026 in SLP (Crl.) No. 10074/2026. Though no parity is claimed solely on that basis, the subsequent judicial development is nevertheless relevant while considering the maintainability and merits of the present successive bail application. The Applicant was arrested by the Directorate of Enforcement on 10.02.2025 and has remained continuously in judicial custody ever since. He continues to be an undertrial prisoner against whom no finding of guilt has been recorded. Nevertheless, he has already undergone incarceration for more than sixteen months solely on account of the pendency of the trial. Such prolonged deprivation of liberty, in the facts of the present case, has ceased to be regulatory in nature and has assumed a punitive character, particularly when the maximum punishment prescribed for the alleged offence is seven years. It is respectfully submitted that pre-trial detention is constitutionally permissible only so long as it bears a reasonable nexus with legitimate objectives of criminal justice, namely, effective investigation, preservation of evidence, prevention of interference with witnesses and securing the presence of the accused during trial. Once investigation stands concluded and the evidence has been collected, continued incarceration must withstand scrutiny under Article 21 of the Constitution. Liberty cannot be curtailed merely because prosecution remains pending. The prosecution may seek to justify continued detention on the ground of the seriousness of the allegations and the magnitude of the alleged proceeds of crime. However, it is well settled that gravity of accusation, howsoever serious, cannot by itself justify prolonged or indefinite pre-trial incarceration. To hold otherwise would substantially dilute the constitutional presumption of innocence and the fundamental right to a speedy trial guaranteed under Article 21 of the Constitution. Although the Prevention of Money Laundering Act contains stringent conditions governing the grant of bail, such statutory restrictions cannot be construed in a manner that authorises indefinite deprivation of personal liberty where investigation has concluded and the delay in trial is not attributable to the accused. The statutory rigours under Section 45 of the PMLA must necessarily be harmonised with the constitutional guarantee under Article 21. In the present case, even after filing of the Prosecution Complaint, cognizance of the matter was delayed on account of the Directorate of Enforcement not placing all requisite documents before the learned Special Court. Consequently, the Applicant continued to remain incarcerated due to circumstances entirely beyond his control and not on account of any conduct attributable to him. The delay occasioned by the prosecuting agency cannot furnish a valid justification for continued deprivation of the Applicant's liberty. The Hon'ble Supreme Court has consistently held that prolonged incarceration coupled with delay in conclusion of trial constitutes an independent and weighty ground for grant of bail, even in prosecutions under special statutes imposing stringent conditions for release. The constitutional mandate of a fair and speedy trial cannot be defeated by subjecting an undertrial to prolonged imprisonment without any certainty regarding the conclusion of trial. The Applicant respectfully places reliance upon the principles laid down by the Hon'ble Supreme Court, including in ***Arvind Dham v. Directorate of Enforcement*** (SLP (Crl.) No. 15478/2025), wherein the Hon'ble Court reiterated that prolonged incarceration and delay in trial are relevant constitutional considerations while adjudicating applications for bail under the Prevention of Money Laundering Act. The Hon'ble Supreme Court in ***Manish Sisodia v. Directorate of Enforcement***, (2024) 12 SCC 660, has reiterated that prolonged incarceration of an undertrial and the absence of any likelihood of early conclusion of trial constitute significant constitutional considerations while adjudicating applications for bail under the Prevention of Money Laundering Act. In ***Prem Prakash v. Union of India***, 2024 SCC OnLine SC 2270, the Hon'ble Supreme Court has held that the principle that *"bail is the rule and jail is the exception"* is nothing but a manifestation of Article 21 of the Constitution. The rigours of Section 45 of the PMLA cannot be interpreted so as to invert this constitutional guarantee or authorise indefinite deprivation of personal liberty. Even in cases involving serious economic offences, the Hon'ble Supreme Court in ***Sanjay Chandra v. CBI***, (2012) 1 SCC 40, has held that gravity of allegations alone cannot justify denial of bail and that the primary object of detention is merely to secure the presence of the accused during trial. The Applicant has remained continuously incarcerated since 10.02.2025 and has undergone more than sixteen months of custody as an undertrial. Investigation has concluded and no finding of guilt has been recorded against him. In these circumstances, continued incarceration has ceased to serve any regulatory or investigative purpose and has assumed a punitive character inconsistent with Article 21 of the Constitution. The prosecution case is founded upon an extraordinarily voluminous body of documentary evidence comprising more than 3,000 pages, including banking records, income-tax documents, property records, company documents, valuation reports, attachment proceedings, search and seizure records and statements recorded during investigation. Despite framing of charges, not even a single prosecution witness has been examined. The prosecution seeks to establish an alleged money trail involving multiple entities, transactions and properties. Having regard to the nature and complexity of the evidence, the trial is unlikely to conclude within the foreseeable future. The delay is not attributable to the Applicant. He has remained in continuous judicial custody and has cooperated throughout the proceedings. The likely prolongation of the trial is solely a consequence of the voluminous nature of the prosecution case. An undertrial cannot be compelled to undergo prolonged incarceration merely because the prosecution proposes to rely upon extensive documentary evidence. The Directorate of Enforcement has completed investigation, filed the Prosecution Complaint and secured framing of charges. The Applicant has already undergone custodial interrogation. Every investigative measure contemplated under the PMLA has been exhausted. The prosecution has not identified any further investigative purpose requiring continued detention of the Applicant. The rationale ordinarily justifying custody during investigation no longer survives. Continued incarceration, therefore, serves no legitimate purpose and amounts to punishment before conviction. The prosecution case rests almost entirely upon documentary material already collected, seized and incorporated into the judicial record. The documents relied upon consist of official records, banking documents, financial statements, property records, corporate records and material obtained from statutory authorities. In ***Manish Sisodia*** (supra), the Hon'ble Supreme Court observed that where documentary evidence already stands seized, the apprehension of tampering substantially loses its force and any residual concern regarding witnesses can adequately be addressed by imposing appropriate conditions. A three-Judge Bench of the Hon'ble Supreme Court in ***Padam Chand Jain v. Enforcement Directorate***, 2025 SCC OnLine SC

1291, reiterated that prolonged incarceration cannot be permitted to convert pre-trial detention into punishment and where the documentary evidence already stands secured by the investigating agency, the possibility of tampering is substantially eliminated. In the present case, all documents forming the foundation of the prosecution have already been secured by the Directorate of Enforcement and form part of the record before the learned Special Court. Consequently, there exists no realistic possibility of tampering with documentary evidence or prejudicing the prosecution. Each of the aforesaid circumstances independently supports the Applicant's prayer for bail. However, when viewed cumulatively—namely, prolonged incarceration of more than sixteen months, completion of investigation, filing of the Prosecution Complaint, framing of charges, the overwhelmingly documentary nature of the evidence, absence of any surviving investigative requirement and the remote possibility of early conclusion of trial—they constitute exceptional circumstances warranting exercise of jurisdiction by this Hon'ble Court. He submits that continued detention in the aforesaid circumstances would be manifestly disproportionate, amount to punishment before conviction and result in an unwarranted infringement of the Applicant's fundamental right to personal liberty and speedy trial guaranteed under Article 21 of the Constitution of India. The Applicant, therefore, deserves to be enlarged on regular bail on such terms and conditions as this Hon'ble Court may deem fit and proper.

5. Per contra, counsel for respondent is respectfully submitted that, on the basis of the material collected during the course of investigation,

including documentary evidence and the statements recorded under Sections 50(2) and 50(3) of the *Prevention of Money Laundering Act, 2002*, the Directorate of Enforcement has alleged that the Applicant knowingly participated in various processes and activities connected with the alleged proceeds of crime relatable to the scheduled offence, including their generation, possession, acquisition, use and projection as untainted property. On the basis of the aforesaid material, the prosecution has alleged commission of the offence of money laundering as defined under Section 3 of the *Prevention of Money Laundering Act, 2002*, punishable under Section 4 thereof. It is further submitted that the Applicant, namely Shri Saurabh Sharma, along with co-accused Shri Sharad Jaiswal and Shri Chetan Singh Gaur, was arrested by the Directorate of Enforcement on 10.02.2025 in exercise of powers under Section 19(1) of the *Prevention of Money Laundering Act, 2002*. The grounds of arrest and the "Reasons to Believe" recorded under Section 19(1) of the Act were duly furnished to the accused persons at the time of arrest. Upon their production before the competent Court, they were remanded to judicial custody and have remained in custody since then. It is further submitted that the offences under the *Prevention of Money Laundering Act, 2002* are governed by the special provisions contained in Section 45 of the Act. It is well settled that while considering an application for bail in respect of offences punishable under the PMLA, the Court is required to apply the statutory restrictions embodied in Section 45, in addition to the general principles governing the grant of bail. The applicability and constitutional validity of the twin conditions prescribed under Section 45 of the PMLA have been authoritatively upheld by the Hon'ble Supreme Court in ***Vijay Madanlal Choudhary & Ors. v. Union of India***, 2022 SCC OnLine SC 929. It is respectfully submitted that Hon'ble the Supreme Court, in ***Y.S. Jagan Mohan Reddy v. Central Bureau of Investigation***, (2013) 7 SCC 439, has observed that economic offences constitute a distinct class of offences and are required to be viewed seriously, particularly where they involve deep-rooted conspiracies, large-scale misappropriation of public funds or have far-reaching implications on the economy of the country. The Hon'ble Court held that such offences, owing to their serious impact on the financial health of the nation and public interest, deserve a different approach while considering the question of grant of bail. It is respectfully submitted that, in cases involving offences of corruption, the criminal activity and the generation of proceeds of crime are intrinsically connected and operate as inseparable components. The Hon'ble Supreme Court, in ***Balaji v. Karthik Desari & Anr.***, while examining the interplay between corruption and money laundering, observed that the criminal activity and the generation of proceeds of crime in cases of corruption are akin to "Siamese twins". The Hon'ble Court clarified that, in such cases, acquisition of the proceeds of crime itself may constitute an act connected with the process or activity of money laundering, as contemplated under Section 3 of the *Prevention of Money Laundering Act, 2002*. The said principles were explained by the Hon'ble Court in paragraphs 102 to 104 of the judgment. Thus, in view of the aforesaid submissions and considering the nature and gravity of the allegations, it is respectfully submitted that, in the event of the accused being enlarged on bail, there exists a reasonable apprehension that he may attempt to influence witnesses, tamper with evidence, or otherwise obstruct the course of proceedings. It is further submitted that the accused may attempt to conceal, transfer, alienate or dispose of properties allegedly derived from or acquired through proceeds of crime, thereby prejudicing the interest of justice. In support of his submission he has placed reliance upon the judgment passed by the Supreme Court in **Directorate of Enforcement Vs. Aditya Tripathi, reported in (2024) 20 SCC 545,** The continued detention of the accused is, therefore, necessary to safeguard the integrity of the proceedings and to ensure a fair and effective trial.

6. I have heard the submissions made by counsel for the parties and perused the case diary.

7. Considering the facts and circumstances of the case, particularly the fact that the investigation has already been completed, the prosecution complaint has been filed, charges have been framed, and the applicant has remained in custody since 10.02.2025. This Court also takes note of the fact that the maximum punishment prescribed for the alleged offence is seven years and the trial is not likely to conclude in the near future. In such circumstances, this Court is of the considered view that further incarceration of the applicant would not serve any useful purpose.The prolonged incarceration of an undertrial accused, coupled with the likelihood of delay in conclusion of trial, is a relevant consideration while deciding the prayer for bail.

8. Accordingly, without expressing any opinion on the merits of the case, this application is **allowed**.

9. It is directed that the applicant herein shall be enlarged on bail upon his furnishing a personal bond in the sum of **Rs.10,00,000/- (Rupees Ten Lakh only)** with one solvent local surety in the like amount to the satisfaction of the trial court concerned for his appearance before the said Court on all such dates as may be fixed in this regard during pendency of the trial subject to the following conditions:

(i) The applicant shall not directly or indirectly influence any prosecution witness or tamper with the evidence.

(ii) The applicant shall not leave India without prior permission of this Court.

(iii) The applicant shall not commit any offence in future.

(iv) The applicant shall regularly mark his presence before the concerned trial court and shall not seek any unnecessary adjournment except the reasons beyond the human control.

It is further directed that the applicant shall comply with the provisions of Section 480 (3) of B.N.S.S.

(AJAY KUMAR NIRANKARI)
JUDGE

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