$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Judgment reserved on: 23.04.2026*
Judgment pronounced on: 04.05.2026

\+ **BAIL APPLN. 4618/2024, CRL.M.A. 37776/2024, CRL.M.(BAIL) 2134/2024 & 2360/2025**

PRAVEZ KHAN .....Petitioner

Through: Mr. Madhav Khurana, Sr. Advocate Mr. Rohan Wadhwa, Mr. Arun Kanwa, Mr. Amit Badsera, Mr. Sagar Suri, Mr. Vittal B., Mr. Varun Rawat, Mr. Lakshay Sahrawat and Mr. Alok Kumar, Advocates.

versus

DIRECTORATE OF ENFORCEMENT .....Respondent

Through: Mr. Arkaj Kumar, Standing Counsel with Mr. Aakarsh Mishra, Mr. Karsh Sarosh Rebelo and Ms. Bhavna Gandhi, Advocates.
IO/Assistant Director Parveen Yadav in person.

\+ **BAIL APPLN. 4787/2024**

NEERAJ CHAUHAN .....Petitioner

Through: Mr. Ankit Verma, Mr. Arvind Mishra, Mr. Ved Prakash Verma, Mr. D. Kumar and Mr. Sachin Verma, Advocates.

versus

DIRECTORATE OF ENFORCEMENT .....Respondent

Through: Mr. Arkaj Kumar, Standing Counsel with Mr. Aakarsh Mishra, Mr. Karsh Sarosh Rebelo and Ms. Bhavna

Gandhi, Advocates.
IO/Assistant Director Parveen Yadav in person.

\+ **BAIL APPLN. 2928/2025 & CRL.M.A. 22736/2025**

RAJESH KUMAR .....Petitioner

Through: Mr. Sanjeevi Seshadri, Advocate.

versus

DIRECTORATE OF ENFORCEMENT .....Respondent

Through: Mr. Arkaj Kumar, Standing Counsel with Mr. Aakarsh Mishra, Mr. Karsh Sarosh Rebelo and Ms. Bhavna Gandhi, Advocates.
IO/Assistant Director Parveen Yadav in person.

\+ **BAIL APPLN. 3057/2025**

SURAJ SHAT .....Petitioner

Through: Mr. Nishant Tyagi, Advocate (*through video conferencing*)

versus

DIRECTORATE OF ENFORCEMENT .....Respondent

Through: Mr. Arkaj Kumar, Standing Counsel with Mr. Aakarsh Mishra, Mr. Kaksh Sarosh Rebelo and Ms. Bhavna Gandhi, Advocates.
IO/Assistant Director Parveen Yadav in person.

\+ **BAIL APPLN. 4935/2025, CRL.M.A. 38083/2025 & CRL.M.(BAIL) 672/2026**

LOVEE NARULA .....Petitioner

Through: Mr. Arup Sinha, Mr. Saquib Mukhtar, Ms. Arham Tanvir and Mr. Shivam Srivastva, Advocates.

versus

DIRECTORATE OF ENFORCEMENT .....Respondent

Through: Mr. Arkaj Kumar, Standing Counsel with Mr. Aakarsh Mishra, Mr. Karsh Sarosh Rebelo and Ms. Bhavna Gandhi, Advocates.
IO/Assistant Director Parveen Yadav in person.

CORAM:
HON'BLE MR. JUSTICE GIRISH KATHPALIA

C O M M O N J U D G M E N T

PRELUDE

A. This common judgment must commence taking it on record a deeply disturbing prelude. In the course of arguments on these bail applications, which continued marathon on day to day basis, a series of articles were published in the front page of Indian Express on four consecutive days. Those articles were not confined to reportage of the offences in connection whereof these bail applications were filed. Those articles, rather transgressed all permissible bounds by purporting to anticipate and answer queries which were raised by this court to the counsel for the Directorate of Enforcement (hereinafter referred to as "ED"). More egregiously, those articles laid bare the WhatsApp chats allegedly exchanged between the accused/applicants *inter se*, without the slightest attempt at redaction or anonymisation.

B. Keeping in mind the stage at which those articles were published, contents whereof, more or less answering the questions put by the court to

learned counsel for ED, coupled with the fact that the FIR of the alleged predicate offence was registered way back in the month of March 2024 and all accused/applicants have already been granted bail in the predicate offence, so there was no occasion for publication of those articles now in the second quarter of 2026, I am unable to convince myself that the same were innocent publication. However, at present juncture, owing to want of cogent material, this court would refrain from returning any definitive finding of culpability against the ED or the accused/applicants or the newspaper.

C. At the same time, the implications of such publications are profoundly alarming. If the said series of articles published for four consecutive days when day to day arguments were being heard, was engineered directly or indirectly at the instance of any arm of the State, with a view to influence, overawe or subtly condition the judicial mind, the same would strike at the very roots of the Rule of Law. Such conduct would be not just deplorable, but also amount to grave and impermissible assault on the independence of the judiciary and sanctity of the adjudicatory process. The spectre of proceedings being sought to be influenced through media use of such nature is not just unacceptable but deeply disquieting and must be unequivocally deprecated.

D. As is obvious, no court would get influenced with such write-ups while adjudicating. For, our minds across decades of work experience are attuned to be phlegm to such efforts. The purpose of above narration is to put across a word of caution so that such act is not repeated in future.

PREFACE

1. These five applications seeking regular bail in case ECIR/DLZO-II/03/2024 dated 16.03.2024 under Sections 3 and 4 of the Prevention of Money Laundering Act (hereinafter referred to as "PMLA") are taken up together for disposal.

1.1 These bail applications were listed before the predecessor benches for hearing for the first time in the months of December 2024 (*with respect to two accused/applicants*), August 2025 (*with respect to two accused/applicants*) and December 2025 (*with respect to one accused/applicant*). The applications remained pending before different benches and finally as a part of 179 such old pending bail applications, these bail applications also were transferred to this bench.

1.2 I heard learned senior counsel and learned counsel for all accused/applicants, as well as learned standing counsel for the Directorate of Enforcement (ED).

PROSECUTION CASE

2. Broadly speaking, prosecution case as set up in the prosecution complaint of ED is as follows.

2.1 On 09.03.2024, a secret information was received by the Crime Branch, Delhi Police about a syndicate of criminals involved in manufacture

and sale of spurious medicines, which are used in treatment of cancer. The secret informer intimated that the accused persons namely Viphil Jain and Suraj Shat were coming to Moti Nagar to supply the spurious medicines and injections; and that the co-accused persons namely Komal Tiwari, Tushar Chauhan, Pravez Khan and Neeraj Chauhan also could be nabbed from different places of Delhi and NCR region, if simultaneously raided.

2.2 On the basis of the said secret information, six teams of Delhi Police were constituted and were assigned specific locations to raid simultaneously. At about 11:00am, one of those police teams reached the Capital Greens, DLF Moti Nagar, Delhi, where after the necessary verification and identification of the place of manufacturing and the suspects, a team of the Drug Inspector was contacted. At about 02:30pm the joint team of Delhi Police and Drug Inspector raided a flat on 11th Floor of the Capital Greens, Moti Nagar. The accused persons Viphil Jain and Suraj Shat were found residing and present there. Those two accused persons were found filling and capping the empty vials labelled as Nibolumab (Opdyta) and Pembrolizumab injections (Keytruda). On being called upon, the said two accused persons failed to produce any drug license authorising them to manufacture for sale or for distribution of the said drugs for sale in respect to the raided flat. The said two accused persons also failed to produce purchase bills of various drugs and items found stocked in the said flat. The raiding team sealed the incriminating material and seized the same.

2.3 On the basis of the aforesaid, FIR No.59/2024 was registered by PS Crime Branch of the Delhi Police for offences under Sections

274/275/276/420/468/471/120B and 34 IPC on 12.03.2024 against the said two accused persons namely Viphil Jain and Suraj Shat, alleging that for manufacture of spurious medicines co-accused Viphil Jain used to procure empty vials from the present applicant Pravez Malik; and that the spurious medicines were sold to the cancer patients by the remaining accused persons.

2.4 After completion of investigation, the Crime Branch, Delhi Police filed chargesheet dated 08.05.2024 before the magisterial court, naming the applicant Pravez Khan @ Pravez Malik also as an accused.

2.5 The offences under Section 120B, 420 and 471 IPC being the Scheduled offences under the Prevention of Money Laundering Act (PMLA), the Directorate of Enforcement (ED) registered the Enforcement Case Information Report (ECIR) dated 16.03.2024 for offence under Section 3 PMLA, punishable under Section 4 PMLA.

2.6 During investigation under PMLA, multiple searches under Section 17 PMLA were carried out at different premises connected with the accused persons and that led to recovery and seizure of various incriminating documents as well as cash Indian currency to the total tune of Rs. 70,50,000/-. The scrutiny of bank accounts held by the accused persons and their family members, coupled with their statements under Section 50 PMLA revealed the offence committed by them.

2.7 Further investigation culminated into a supplementary prosecution

complaint under Section 44 PMLA, which was filed before the court of competent jurisdiction against 16 accused persons. The learned Special Court took cognizance on 21.09.2024.

ROLES ASCRIBED

2.8 The role ascribed to the applicant Pravez Khan is that being close associate of the co-accused Viphil Jain, he used to supply empty vials to co-accused Viphil Jain for being filled with spurious Keytruda to be used for cancer treatment; and those vials were used by Viphil Jain and the applicant Suraj Shat for refilling, relabeling and sale in the open market. The applicant Pravez Khan was earning Rs.500/- to Rs.700/- per empty vial of Keytruda injection. In this manner, the applicant Pravez Khan received Rs.2,50,000/- in his ICICI Bank account on 28.09.2023 from the bank account of one co-accused Aditya Krishna, which amount was explained by the applicant Pravez Khan as loan received by him from Aditya Krishna, arranged by Viphil Jain, and paid back according to the applicant Pravez Khan in cash, but without any debit entry in the bank account.

2.9 The role ascribed to the applicant Neeraj Chauhan is that he misused his professional experience in Oncology and Pharmacy, coupled with his involvement with two business entities engaged in the healthcare sector; and he facilitated procurement and distribution of the empty vials. During the year 2023 and till February 2024, the applicant Neeraj Chauhan collaborated with staff of two cancer hospitals and misappropriated vials of the empty cancer medicines and passed on those vials to buyers including Aditya Krishna in Muzafarpur, Bihar and others in Pune, Mumbai and other States.

The proceeds of crime so generated through sale of spurious medicines by the co-accused persons were transferred through Hawala transactions to the Axis Bank account of the applicant Neeraj Chauhan, the Bank of Baroda bank account of the co-accused Tushar Chauhan and the IDBI bank account of co-accused Deepali Jain. The applicant Neeraj Chauhan supplied the spurious medicines to the accused persons namely Aditya Krishna, Lovee Narula, Akshay Kumar and Rajesh Kumar.

2.10 The role ascribed to the applicant Suraj Shat is that during the raid, he along with the co-accused Viphil Jain, was found filling the empty vials of Opdyta and Keytruda with the liquid Fluconazole injection and Dextrose with needle and syringe, followed by sealing the vials with the sealing and capping machine, but neither of them could produce drug license authorising them to manufacture those drugs; and neither of them could produce any purchase records of various drugs and items stocked in the premises raided by the Crime Branch. A substantial part of the cash received by the applicant Suraj Shat was deposited by him in his bank account and then transferred to the bank accounts of the co-accused Viphil Jain and family members. According to the investigations, more than Rs.51,00,000/- in cash were transferred in the bank account of applicant Suraj Shat. In the course of the raid, cash amount of Rs.23,00,000/- was found concealed in a bin bag in the residence of the applicant Suraj Shat and the same was seized as proceeds of crime because he could not explain source of the same.

2.11 The role ascribed to the applicant Lovee Narula is that as a close associate of the co-accused Viphil Jain, he was actively involved through

medical business of his family since the year 2020 and his bank account statements reflected unexplained debits to the tune of Rs.30,00,000/- transferred to the co-accused Viphil Jain. The applicant Lovee Narula was instrumental in establishing the contact of the co-accused Viphil Jain with the customers and thereby actively generating the proceeds of crime. The applicant Lovee Narula was found actively involved in medical business established by his family through two business entities, out of whom one is a leading distributor and seller of anti cancer drugs in Delhi and other parts of the country. The applicant Lovee Narula had an enormous patient base, who needed anti cancer drugs and trusted his family companies. The applicant Lovee Narula also purchased Keytruda injections from the applicant Neeraj Chauhan without bills and made payments in the bank accounts of the applicant Neeraj Chauhan and co-accused Tushar Chauhan. In this process of obtaining spurious medicines worth Rs.85,99,000/- from the applicant Neeraj Chauhan and selling the same in open market, the applicant Lovee Narula generated for himself the proceeds of crime to the tune of Rs.7,45,000/-.

2.12 The role ascribed to the applicant Rajesh Kumar is that he obtained the spurious anti cancer medicines, especially Keytruda injections from the applicant Neeraj Chauhan without bills or any supporting documents against payments made in cash and through bank accounts held by the applicant Neeraj Chauhan and the co-accused Tushar Chauhan. The applicant Rajesh Kumar facilitated sale of the spurious anti cancer medicines in open market at inflated price, thereby generating proceeds of crime.

ARGUMENTS ADVANCED

3. Against the above backdrop, arguments on behalf of each of the accused/applicants were heard. Learned senior counsel on behalf of accused/applicants Lovee Narula and Pravez Khan, and learned counsel on behalf of the remaining accused persons addressed arguments at length, followed by arguments advanced by learned standing counsel for ED and ultimately the rebuttal arguments on behalf of all accused persons.

3.1 Learned senior counsel for applicant Lovee Narula argued as follows. The applicant Lovee Narula is not named in the FIR or even the prosecution complaint. Initially, the applicant Lovee Narula was called as a witness by the ED and even his statement was recorded on 05.04.2024, after which a raid was carried out at his residence, but nothing incriminating was recovered. The only reason advanced as per records by ED for arresting the applicant Lovee Narula was that he did not provide information regarding certain transactions. The only role ascribed to the applicant Lovee Narula is that he purchased the injections and sold the same in the market, which is not an offence. According to the applicant Lovee Narula, he had no knowledge that those injections contained spurious drug, so he administered the same even to his father.

3.2 On behalf of applicant Pravez Khan, the learned senior counsel argued as follows. Unlike the remaining accused persons, he did not file any regular bail application earlier and duly surrendered after availing the interim bail. The role ascribed to the applicant Pravez Khan is only that he supplied

empty vials and even the alleged proceeds of crime are only Rs.2,50,000/-; and even that amount was earned by him much prior to the alleged commission of the scheduled offence, therefore, the twin conditions contemplated under Section 45 PMLA shall not operate against him. The facts alleged against the applicant Pravez Khan at the most show it to be a case of preparation to commit offence, which in itself is not an offence. The other accused persons, to whom similar role has been ascribed, have not been arrested. Since the applicant Pravez Khan has spent more than one year in jail and trial is likely to take long time, the applicant deserves to be released on bail. Lastly, since grounds of arrest have not been supplied to the applicant Pravez Khan, he deserves to be granted bail. Taking me through records, learned senior counsel for the applicant Pravez Khan elaborated his argument that in order to label the earnings as proceeds of crime, the same should be subsequent to the alleged commission of the scheduled offence, and since in the present case, earnings of the applicant Pravez Khan referred to by the ED came prior to even procurement of capping machines, the same could not be labelled as proceeds of crime. According to the applicant Pravez Khan, he had supplied empty vials to the co-accused Viphil Jain under an impression conveyed to him that clients of Viphil Jain would be able to raise insurance claims on the basis of empty vials. It was also elaborated by learned senior counsel that since co-accused Komal Tiwari and Abhinay, who have been ascribed same role as of the applicant Pravez Khan have not been arrested, the applicant Pravez Khan deserves at least now to be released on bail. It was argued that Section 3 of PMLA stipulates requirement of knowledge with the accused but in the present case, there is nothing to show that the applicant Pravez Khan knew that the vials would be

used for making spurious drugs and not for insurance claims. Since by the time the empty vials were supplied by the applicant Pravez Khan, capping machine was yet to be received, the entire matter was at the stage of preparation only, which is no offence. Learned senior counsel for applicant Pravez Khan also contended that since the amount allegedly recovered from the applicant was less than Rs.1,00,00,000/-, proviso to Section 45 PMLA comes into play and the twin conditions are not applicable. Learned senior counsel also referred to the co-accused Sajid, Majid, Rohit, Abhinay, Jitender and Komal, pointing out that none of them were arrested though the roles ascribed to them are either graver than or at least similar to that of the applicant Pravez Khan. Lastly, it was submitted by learned senior counsel that since the applicant Pravez Khan is in jail for past 15 months, he deserves to be released on bail.

3.3 Regarding the applicant Neeraj Chauhan, learned counsel contended that all medicines sold by him were original and genuine. It was contended that no *panchnama* was prepared and the applicant denies recovery of any cash amount, be it in INR or USD, from him. Learned counsel also argued that none of the persons who bought medicines from the applicant Neeraj Chauhan lodged any complaint with any authority alleging the same to be spurious. It was argued that since seven accused persons already stand released on bail and six accused persons were not even arrested, the applicant Neeraj Chauhan deserves bail, especially because he is in jail for past two years.

3.4 Learned counsel for applicant Rajesh Kumar contended that the

applicant is at the bottom of the pyramid in the sense that he is just a partner of the retailer M/s Delhi Medicine Hub. It was also argued that the applicant Rajesh Kumar administered the same medicines to his father, which shows that he was never aware that the vials contained spurious drugs. It was argued that there is no evidence to show that the applicant Rajesh Kumar or the Delhi Medicine Hub sold any spurious drug to anyone. Learned counsel submitted that the applicant Rajesh Kumar was not even named in the predicate offence, so there is no reason to keep him in jail, especially because he has already suffered incarceration for more than 500 days.

3.5 Learned counsel for applicant Suraj Shat argued that the applicant is just 10th standard qualified with no medical background and was only an employee of co-accused Viphil Jain at a monthly salary of Rs.30,000/-. Learned counsel submitted that no proceeds of crime were received by the applicant Suraj Shat.

3.6 In response, learned standing counsel for ED argued that in view of seriousness of the charge, none of the accused/applicants deserves to be released on bail. It was contended on behalf of ED that the applicant Pravez Khan is a degree holder in pharmacology and was engaged in collecting empty vials through co-accused Komal and Abhinay from cancer hospitals. It was submitted that co-accused Komal and Abhinay were under mistaken belief that the empty vials were to be used for raising insurance claims. Learned counsel for ED took me through elaborate statements of each of the accused/applicants recorded under Section 50 PMLA, in which each of them admitted the roles played by them respectively. As regards the proviso to

Section 45 PMLA, learned counsel argued that it is not just the individual accused, but all the accused/applicants along with all co-accused persons, whose proceeds of crime have to be considered collectively in order to ascertain applicability of exception from the twin conditions of Section 45 PMLA; in the present case, the proceeds of crime generated by the accused persons collectively was more than Rs.3,00,00,000/-. It was argued that regarding origin of proceeds of crime, presumption under Section 23/24 PMLA would arise. Learned counsel for ED contended that since Section 3 PMLA contemplates not just acquisition of proceeds of crime, the argument of accused/applicants that the case was at only the preparatory stage would be irrelevant. Regarding the argument of selective arrests, learned counsel for ED contended that since some of the accused persons cooperated and disclosed the relevant information, it was prerogative of the IO not to arrest them under Section 19 of PMLA. Since all accused persons are pharmacists, according to learned counsel for ED, it cannot be said that they were unaware about spuriousness of the subject drugs, more so in view of cost disparity between the subject drugs and the genuine drugs available in market. Since all accused/applicants were aware that they were purchasing the drugs without invoices and against cash payments, it cannot be said that they were unaware about spuriousness of those drugs. It was also argued that the applicant Neeraj Chauhan received a sum of Rs.35,00,000/- from a doctor in Nepal through *hawala* transaction regarding which a parallel FIR has been registered in Nepal and Letter Rogatory has already been issued. Learned counsel for ED submitted that they need at least 06 months to complete the pending investigation because the cash/*hawala* trail has to be unearthed. Learned counsel for ED also contended that it is the

accused/applicants who are not interested in speedy trial because they took adjournment in order to file reply to the application of ED for day to day trial; and also because the accused/applicants have been challenging every order. It was argued with strong emphasis that since bail applications of the applicants Lovee Narula and Rajesh Kumar were dismissed by a coordinate bench of this court, which order was not unsettled by the Supreme Court in SLP, now this court cannot take a different view.

3.7 In rebuttal arguments, learned senior counsel for applicant Lovee Narula reiterated that the applicant was only a witness and was neither named as accused in the predicate offence nor any money or any other incriminating article was recovered from him, so he deserves bail. It was also argued that Gagan Khurana, against whom the allegations are similar to those against the applicant Lovee Narula and even a sum of Rs.5,00,000/- was recovered from Gagan Khurana, he has not even been named as accused. Similarly, Sheetal Pandey and Ayonij Jain, who also had role similar to the applicant Lovee Narula were not even named as accused. Learned senior counsel made clear that the drug sold at cheaper rates was Opdyta, which was found genuine in all vials after forensic analysis. Learned senior counsel for the applicant Lovee Narula argued that since the SLP against rejection of bail applications of the applicants Lovee Narula and Rajesh Kumar were dismissed *in limine*, this court can certainly take a contrary view.

3.8 In rebuttal arguments, learned senior counsel for the applicant Pravez Khan contended that the ED should have independently investigated if the

drugs in question were actually spurious or not, but that was not done. Learned senior counsel also submitted that despite having received the forensic report on 27.05.2024 regarding analysis of the allegedly recovered drugs, the ED has not placed the same on record and that report would show that the vials, except a few, contained genuine drugs.

3.9 In rebuttal arguments, learned counsel for accused/applicants Rajesh Kumar, Neeraj Chauhan and Suraj Shat reiterated their arguments recorded above and highlighted the long period of their incarceration as ground for being released on bail.

3.10 During arguments, both sides referred to a number of judicial precedents, which are discussed hereafter.

LEGAL POSITION *qua* TWIN CONDITIONS

4. On the issue of anticipatory bail sought in cases under PMLA, I had occasion to examine the legal position in the case of ***Bhaskar Yadav vs Directorate of*** Enforcement, 2026:DHC:813 decided on 02.02.2026. The judgment in the said case on being challenged by way of SLP No.2894/2026 was upheld by the Supreme Court. For convenience of reference, the legal position as discussed in ***Bhaskar Yadav*** (supra) is extracted below:

> *"4. In cases arising out of PMLA, grant or denial of bail and anticipatory bail is dealt with under Section 45 of the Act, which mandates the court dealing with the bail application to grant opportunity to the prosecutor to oppose the bail application; and the provision further lays down the twin test, on the anvil whereof, the case has to be tested before granting bail. The said twin test to*

allow bail to a person accused of an offence of money laundering is that there should be reasonable grounds to believe that the accused is not guilty of the offence of money laundering, and that the accused is not likely to commit any offence while on bail. The proviso to Section 45 of the Act confers discretion on the special court constituted under PMLA to admit on bail an accused, who is under the age of sixteen years or is a woman or sick or infirm or where the allegation is of money laundering of a sum less than one crore rupees. The provision under Section 45 of PMLA is couched in negative expression and begins with non-obstante clause that notwithstanding anything contained in the Code of Criminal Procedure, no person accused of an offence under the Act shall be released on bail or on his own bond. Such unusual negative expression, coupled with non-obstante qua Criminal Procedure Code while dealing with the issue of bail under PMLA clearly shows the legislative intent that in such cases, bail is not to be dealt with in routine manner solely on the basis of parameters applicable in conventional offences. The provision further stipulates: "unless" the Public Prosecutor has been given opportunity to oppose such release and where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that the person accused of an offence under the Act is not guilty of such offence and he is not likely to commit any offence while on bail. The blanket of those twin conditions is partially lifted by way of the proviso in order to deal with an accused, who is under 16 years of age or is a lady or sick or infirm or has been accused of money laundering for a sum less than one crore rupees. But that proviso is not relevant for present purposes.

4.1 The broad principles to be kept in mind while dealing with an application for grant of anticipatory bail in cases arising out of PMLA, as culled out of plethora of judicial pronouncements are as follows. While considering such applications, the court is not expected to delve deep into merits of the allegation by microscopic analysis of the material collected by the investigator; the court has to satisfy itself only as regards existence of prima facie case, based on broad probabilities discernible from the material collected by the investigator; and the question has to be as to whether on the basis of such material, there are reasonable grounds for believing that the accused is not guilty of the offence alleged. The court is also to satisfy itself as regards any likelihood of the accused committing any offence while on bail; and this assessment can be based on the antecedents and propensities of the accused, as well as nature and the manner in which he is alleged to have committed the offence under PMLA. To add a piece of caution, the court is not

required to return a positive finding that the accused did not commit the alleged offence. A delicate balance has to be maintained between the final judgment of acquittal or conviction and an order granting or denying bail. The twin conditions stipulated under Section 45 of the Act would apply to anticipatory bail application also, in addition to the regular parameters like nature of accusation, severity of punishment, nature of material collected by investigator, reasonable apprehension of tampering with the witnesses, reasonable possibility of securing presence of the accused at the time of trial, character of the accused and larger interest of public or State, etc.

xxx

4.4 I had an occasion to examine and deal with the provision under Section 45 PMLA in the case of ***Vedpal Singh Tanwar vs Directorate of Enforcement,*** *2025 SCC OnLine Del 4330 in which, I briefly traversed through the legal position as follows:*

> *"9.1 In the case of* ***Vijay Madanlal Chaudhary*** *[2022 SCC OnLine SC 929], the Supreme Court traversed through the laudable purpose behind enactment of the PML Act and observed thus:*
>
> > *"Considering the purposes and objects of the legislation in the form of 2002 Act and the background in which it had been enacted owing to the commitment made to the international bodies and on their recommendations, it is plainly clear that it is a special legislation to deal with the subject of money laundering activities having transnational impact on the financial systems including sovereignty and integrity of the countries. This is not an ordinary offence. To deal with such serious offence, stringent measures are provided in the 2002 Act for prevention of money laundering and combating menace of money-laundering, including for attachment and confiscation of proceeds of crime and to prosecute persons involved in the process or activity connected with the proceeds of crime. In view of the gravity of the fallout of money laundering activities having transnational impact, a special procedural law for prevention and regulation, including to prosecute the person involved, has been enacted, grouping the offenders involved in the process or activity connected with the*

proceeds of crime as a separate class from ordinary criminals. The offence of money-laundering has been regarded as an aggravated form of crime "world over". It is, therefore, a separate class of offence requiring effective and stringent measures to combat the menace of money laundering.

xxxxx

Thus, it is well settled by the various decisions of this Court and policy of the State as also the view of international community that the offence of money-laundering is committed by an individual with a deliberate design with the motive to enhance his gains, disregarding the interests of nation and society as a whole and which by no stretch of imagination can be termed as offence of trivial nature. Thus, it is in the interest of the State that law enforcement agencies should be provided with a proportionate effective mechanism so as to deal with these types of offences as the wealth of the nation is to be safeguarded from these dreaded criminals. As discussed above, the conspiracy of money-laundering, which is a three-staged process, is hatched in secrecy and executed in darkness, thus, it becomes imperative for the State to frame such a stringent law, which not only punishes the offender proportionately, but also helps in preventing the offence and creating a deterrent effect.

xxxxx

The Court while dealing with the application for grant of bail need not delve deep into the merits of the case and only a view of the Court based on available material on record is required. The Court will not weigh the evidence to find the guilt of the accused which is, of course, the work of Trial Court. The Court is only required to place its view based on probability on the basis of reasonable material collected during investigation and the said view will not be taken into consideration by the Trial Court in recording its finding of the guilt or acquittal during trial which is based on the evidence adduced during the trial….. the words used in Section 45 of the 2002 Act are "reasonable grounds for believing" which means the Court has to see only if there is a genuine case against the accused and the

prosecution is not required to prove the charge beyond reasonable doubt.*"*

(emphasis supplied)

9.2 There is plethora of judicial pronouncement, not being repeated herein for brevity that existence of the twin conditions stipulated under Section 45 of the PML Act is mandatory before the court exercises discretion to release on bail a person accused of the offence of money laundering; and that the belief qua the accused being guilty of money laundering has to be tested on "reasonable grounds", which means something more than "prima facie" grounds. Equally well settled is the scope of Section 24 of the PML Act that unless contrary is proved, the Court shall presume involvement of proceeds of crime in money laundering; and that burden to prove that the proceeds of crime are not involved is on the accused.

9.3 Further, it is trite that economic offences constitute an altogether distinct class of offences. That being so, in spite of the salutary doctrine of "bail is the rule and jail is an exception", matters of bail in cases involving socio-economic offences have to be visited with a different approach, as held in ***State of Bihar & Anr. vs Amit Kumar*** *(2017) 13 SCC 751.*

9.4 As held by the Supreme Court in the case of ***Y.S.Jagan Mohan Reddy vs CBI****, (2013) 7 SCC 439:*

"15) Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.

16) While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being

tampered with, the larger interests of the public/State and other similar considerations."

9.5 On the aspect of bail in cases involving socio-economic offences, differential treatment in consideration unlike conventional crimes has been the law of land, reiterated in a plethora of judicial pronouncement flowing from apex court. Reference, to cite a few may be drawn from ***Rohit Tandon vs Directorate of Enforcement****, (2018) 11 SCC 46;* ***Serious Fraud Investigation Office vs Nitin Johari****, (2019) 9 SCC 165; and* ***Nimmagadda Prasad vs CBI****, (2013) 7 SCC 466."*

4.5 The judgment in the case of ***Vedpal Singh Tanwar*** *(supra) on being challenged before the Supreme Court in SLP (Crl.) No.10839/2025 was not unsettled."*

ANALYSIS

5. One of the major arguments, advanced on behalf of ED was that since the coordinate bench of this court in Bail Application No.3808/2024 titled ***Lovee Narula vs Directorate of Enforcement***, 2025:DHC:467, and Bail Application No. 3776/2024 titled ***Rajesh Kumar vs Directorate of Enforcement***, decided on 28.01.2025, rejected the bail applications of the applicants Lovee Narula and Rajesh Kumar and that rejection was upheld by the Supreme Court in orders dated 07.02.2025 and 03.02.2025 passed in SLP (Criminal) 5434 of 2025 and SLP (Criminal) 1699 of 2025 respectively, this court cannot take a contrary view. On this aspect, learned senior counsel for the accused/applicants argued that since the Supreme Court had dismissed both the SLPs in *limine*, in case this court is able to come across some grounds which were not raised before the said coordinate bench of this court at the time of rejection of the bail applications of the applicants Lovee Narula and Rajesh Kumar, this court can certainly take a

contrary view. In this regard, learned senior counsel for accused/applicants placed reliance on the judgment of the Supreme Court in the case of ***Kusal Toppo & Anr. vs State of Jharkhand,*** (2019) 13 SCC 676.

5.1 Against the backdrop of above noted law, I have examined the detailed orders passed by the coordinate bench of this court while rejecting the bail applications of the applicants Lovee Narula and Rajesh Kumar. The learned coordinate bench based those decisions on the statements of the accused/applicants recorded under Section 50 PMLA and certain WhatsApp chats exchanged between the accused/applicants *inter se*. The learned coordinate bench was not invited in the said cases to examine the strength of the predicate offence, despite it having noticed the requirement to look for foundational facts. It is from that angle, I have examined the issue in detail afresh.

5.2 I am conscious that in the SLPs, the Supreme Court did not interfere with the rejection of bail applications of the applicants Lovee Narula and Rajesh Kumar. But since the decision of the Supreme Court was dismissal of SLP *in limine,* in my considered view, the said rejection of bail was neither affirmed, nor the principle of *res judicata* would come into play. The significant observations of the Supreme Court in the case of ***Kusal Toppo*** (supra) are extracted below:

> "*4. In the present case there were as many as five accused. A-5 was acquitted by the trial court itself. The other two accused A-2 and A-3 had filed Special Leave Petitions (Criminal) Nos. 2572-73 of 2009 against the judgment and order of the High Court, which were dismissed [Mahendra Prasad v. State of Jharkhand, 2009 SCC*

> *OnLine SC 13, wherein it was directed:"Heard the learned counsel for the petitioner. No merits. The special leave petition is dismissed."] by this Court at the time of admission itself.* ***In criminal cases, it is well settled that a dismissal of an SLP in limine, would neither mean that the lower court judgment stands affirmed nor the principle of res judicata would be applicable*** *(refer Kunhayammed v. State of Kerala [Kunhayammed v. State of Kerala, (2000) 6 SCC 359 : AIR 2000 SC 2587] ; State of Punjab v. Davinder Pal Singh Bhullar [State of Punjab v. Davinder Pal Singh Bhullar, (2011) 14 SCC 770 : (2012) 4 SCC (Civ) 1034 : (2012) 4 SCC (Cri) 496 : (2014) 1 SCC (L&S) 208 : AIR 2012 SC 364]). Therefore, the dismissal of the SLP of the co-accused will not have any effect accordingly.*"
>
> (*emphasis supplied*)

5.3 Similarly, in the case of ***Khoday Distilleries Ltd. & Ors. vs Sri Mahadeshwara Sahakara Sakkare Karkhane Ltd., Kollegal****,* (2019) 4 SCC 376, after traversing through various judicial precedents, the Supreme Court reiterated that while hearing a petition for Special Leave to Appeal, the Supreme Court is called upon to see whether the petitioner should be granted such leave or not, and in that exercise the Supreme Court is not exercising its appellate jurisdiction; it is merely exercising the discretionary jurisdiction to grant or not to grant leave to appeal. As expressed by the Supreme Court, the petitioner at such stage is still outside the gate of entry, though aspiring to enter the appellate arena of the Supreme Court; whether he enters or not would depend on the fate of his petition for special leave.

5.4 Further, in the case of ***Lt. Col. Prasad Shrikant Purohit vs State of Maharashtra****,* Criminal Appeal No. 144/2017, decided on 21.08.2017, the Supreme Court observed thus:

> "*22. Before concluding, we must note that though an accused has right to make successive application for grant of bail,* ***the court***

entertaining such subsequent 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."

(*emphasis supplied*)

5.5 I have also examined the judicial precedents relied upon by ED on this aspect, one of which judgments was authored by me. Those cases dealt with the issue of judicial propriety and in completely different context, as evident from paragraph 14 of ***Nikhil Jain vs State of NCT of Delhi,*** 2025:DHC:8537. All those cases, as relied upon by ED through their compilation reiterate the principle that successive applications for bail can be brought, but where the court comes to a decision different from the decision taken by the courts in the previous bail applications, the court concerned must deal with the view taken by the other courts in the previous bail applications.

5.6 The major plank for rejection of bail applications of the applicants Lovee Narula and Rajesh Kumar by the coordinate bench was the statements of the accused/applicants recorded under Section 50 PMLA, therefore, it would be apposite to examine the legal position as regards admissibility of such statements, in the guiding light of the successive decisions of the Supreme Court.

5.7 In the case of ***Vijay Madanlal Choudhary vs Union of India,*** 2022 SCC OnLine SC 929, the Supreme Court held that where statement of an accused is recorded after formal arrest by the ED officials, the consequences

contemplated under Article 20(3) of the Constitution of India and Section 25 of the Evidence Act may come into play to urge that the same being in the nature of confession, shall not be proved against the maker thereof. The Supreme Court observed that the authorities under PMLA are not police officers, but also expressed that there could be a situation where protection under Section 25 of the Evidence Act would have to be extended to the accused and such situations have to be ascertained on case to case basis.

5.8 In the case of ***Prem Prakash vs Union of India,*** 2024 INSC 637 after traversing through various judicial precedents including ***Vijay Madanlal Choudhary*** (supra), the Supreme Court held thus:

> *"27. In the facts of the present case, we hold that* ***the statement of the appellant if to be considered as incriminating against the maker, will be hit by Section 25 of the Evidence Act since he has given the statement whilst in judicial custody, pursuant to another proceeding instituted by the same Investigating Agency. Taken as he was from the judicial custody to record the statement, it will be a travesty of justice to render the statement admissible against the appellant****.*
> *28. The appellant accused cannot be told that after all while giving this statement:- "you were wearing a hat captioned 'ECIR 5/2023' and not the hat captioned 'ECIR 4/2022' ".*
> *29. A complete reading of Vijay Madanlal Chaudhary (supra), particularly, paragraphs 159, 165 and 172 mandate us to ask ourselves the query:* ***Is a reasonable inference legitimately possible that, due to the vulnerable position in which the appellant was placed and the dominating position in which the Investigating Agency was situated, in view of the arrest in the other proceeding that, there obtained a conducive atmosphere to obtain a confession? We certainly think so. The question is not whether it actually happened. The question is could it have been possible****.*
> *30. We are supported in this view by two old judgments of the Madras High Court. In Re Elukuri Seshapani Chetti (ILR 1937 Mad 358) Justice Mockett following the judgment of Justice Jackson In Kodangi V. Emperor, (AIR 1932 Mad 24.) held as under:-*
>
> ***"In my judgment this is clearly a confession, as I have already said, and, as has been pointed out by Jackson J. In***

Kodangi V. Emperor, (AIR 1932 Mad 24.) a confession made to the Police in the course of investigating crime A, although it relates to another crime B, is equally inadmissible. The whole spirit of section 25 of the Indian Evidence Act is to exclude confessions to the police and, the moment a statement is found to amount to a confession, I do not think it matters in the slightest of what crime it is said to be a confession."

(emphasis supplied)

31. We feel that the principle laid down there on is applicable. In fact, the three-Judge Bench in ***Vijay Madanlal Chaudhary (supra)****, in the para extracted hereinabove, expressly refers to Section 25 of the Evidence Act while dealing with statements recorded when the person is in custody.*

32. ***We have no hesitation in holding that when an accused is in custody under PMLA irrespective of the case for which he is under custody, any statement under Section 50 PMLA to the same Investigating Agency is inadmissible against the maker. The reason being that the person in custody pursuant to the proceeding investigated by the same Investigating Agency is not a person who can be considered as one operating with a free mind. It will be extremely unsafe to render such statements admissible against the maker, as such a course of action would be contrary to all canons of fair play and justice****."*

(*emphasis supplied*)

5.9 Thus, the legal position as regards statements of the accused persons recorded under Section 50 PMLA is that where such statements are recorded while the accused is in judicial custody even if in some other case but by the same investigating agency and those statements are self incriminating, the same would be hit by Section 25 of the Evidence Act for want of voluntariness of the self inculpatory statement. The question is not as to whether the ED officer while recording the statement under Section 50 PMLA actually provided a hostile atmosphere before recording the confessional statements. The question is as to whether it could have been possible. The Supreme Court in ***Prem Prakash*** (supra) took a clear and

elaborately reasoned view that when an accused is in custody under PMLA, irrespective of the case in which the accused is in custody, any statement under Section 50 PMLA recorded by the investigator shall be inadmissible against the accused because a person in custody is not a person who can be considered as operating with a free mind. The core is that such accused is in a vulnerable position, while investigator is in a dominating position.

5.10 Consequently what is to be seen in the present case is as to whether the accused/applicants were in custody of any investigating agency, be it the ED investigating the case under PMLA or the Delhi Police, investigating the predicate offence, when the self incriminating statements were made by the accused/applicants under Section 50 PMLA. If that be so, such statements to the extent of portions self implicating have to be discarded.

5.11 According to record, the statements under Section 50 PMLA of all accused persons were recorded when they were in custody of ED. The applicants Pravez Khan, Neeraj Chauhan and Suraj Shat were arrested by ED in the present case on 08.04.2024 and their multiple statements were recorded during the period from 08.04.2024 to 22.04.2024. The applicant Rajesh Kumar was arrested on 09.07.2024 and his three statements were recorded till 11.07.2024. The applicant Lovee Narula was arrested in the present case on 22.05.2024, after which his statements were recorded multiple times till 27.05.2024. It would be significant to note that applicants Rajesh Kumar and Lovee Narula are not even named as accused in the predicate offence or the prosecution complaint of ED.

5.12 I have examined all those statements of the accused/applicants. The statements are more or less copy paste of each other with slight tweaking related to their individual roles. Each statement flows as smoothly as a hot knife on butter. It is a bit unbelievable, to say the least that a person would voluntarily make such self incriminating statement to the investigating agency, unless coerced in custody. Such self incriminating statements when recorded under Section 50 PMLA while the maker of the statement is in custody of ED, cannot be considered voluntary statements and must be discarded.

5.13 Therefore, with utmost humility at my command, I am unable to agree with the decision of the learned coordinate bench, whereby placing reliance on statements under Section 50 PMLA, bail applications of the applicants Lovee Narula and Rajesh Kumar were rejected.

5.14 Another factor kept in consideration by the learned coordinate bench while rejecting the bail applications of the applicants Lovee Narula and Rajesh Kumar was reliance of ED on WhatsApp chats allegedly exchanged between some of the accused persons, which according to ED "*shows financial trail of the proceeds of crime*". I have examined those WhatsApp chats also. The same are *prima facie* a usual business chats between the persons trading in medicines. The accused/applicants, admittedly are dealing with the business of medicines in some or the other capacity. The same, in my considered view cannot be given so much of significance as to adversely impact liberty of the individuals.

5.15 It is for these reasons that I am unable to convince myself with the order of the learned coordinate bench, whereby bail applications of the applicants Lovee Narula and Rajesh Kumar were rejected. It is not any legal issue on which I am compelled to respectfully differ. It is a matter of application of law laid down by the Supreme Court in the manner I understand the same.

6. Coming to the argument of ED as regards the presumption under Section 23/24 PMLA, the Supreme Court in the case of ***Vijay Madanal Choudhary*** (supra), elaborated the legal position thus:

> *"237. Be that as it may, we may now proceed to decipher the purport of Section 24 of the 2002 Act. In the first place, it must be noticed that* ***the legal presumption in either case is about the involvement of proceeds of crime in money laundering. This fact becomes relevant, only if, the prosecution or the authorities have succeeded in establishing at least three basic or foundational facts. First, that the criminal activity relating to a scheduled offence has been committed. Second, that the property in question has been derived or obtained, directly or indirectly, by any person as a result of that criminal activity. Third, the person concerned is, directly or indirectly, involved in any process or activity connected with the said property being proceeds of crime. On establishing the fact that there existed proceeds of crime and the person concerned was involved in any process or activity connected therewith, itself, constitutes offence of money laundering****. The nature of process or activity has now been elaborated in the form of the Explanation inserted vide Finance (No. 2) Act, 2019. On establishing these foundational facts in terms of Section 24 of the 2002 Act, a legal presumption would arise that such proceeds of crime are involved in money laundering. The fact that the person concerned had no causal connection with such proceeds of crime and he is able to disprove the fact about his involvement in any process or activity connected therewith, by producing evidence in that regard, the legal presumption would stand rebutted.*
>
> *239. Be it noted that the legal presumption under Section 24(a) of the*

2002 Act, would apply when the person is charged with the offence of money laundering and his direct or indirect involvement in any process or activity connected with the proceeds of crime, is established. ***The existence of proceeds of crime is, therefore, a foundational fact, to be established by the prosecution, including the involvement of the person in any process or activity connected therewith. Once these foundational facts are established by the prosecution, the onus must then shift on the person facing charge of offence of money laundering — to rebut the legal presumption that the proceeds of crime are not involved in money laundering, by producing evidence which is within his personal knowledge****."*

(emphasis supplied)

6.1 The same was reiterated by the Supreme Court in the case of ***Prem Prakash*** (supra) thus:

"15. In view of the importance of the three basic foundational facts that the prosecution needs to establish, the counter/response to the bail application in the original Court is very significant in PMLA bail matters. ***In cases where the Public Prosecutor takes a considered decision to oppose the bail application, the counter affidavit of the Investigating Agency should make out a cogent case as to how the three foundational facts set out hereinabove are prima facie established in the given case to help the Court at the bail application stage to arrive at a conclusion within the framework laid down in Vijay Madanlal Choudhary (supra). It is only thereafter the presumption under Section 24 would arise and the burden would shift on the accused****. The counter to the bail application should specifically crystallize albeit briefly the material sought to be relied upon to establish prima facie the three foundational facts. It is after the foundational facts are set out that the accused will assume the burden to convince the court within the parameters of the enquiry at the Section 45 stage that for the reasons adduced by him there are reasonable grounds to believing that he is not guilty of such offence."*

(emphasis supplied)

6.2 In view of the judicial precedents quoted above, the scrutiny has to be to ascertain that the criminal activity relating to the Scheduled offence has been committed by direct or indirect involvement of the accused and that the

property in question has been derived or obtained directly or indirectly by any person as a result of that criminal activity. What is to be seen is as to whether the foundational facts, in accordance with the above quoted judicial precedents have been established by the ED in the present case. Merely because a person accused of an offence under PMLA is unable to establish source of his money, it cannot be presumed that the money is tainted, much less proceeds of crime connected with the predicate offence.

6.3 In the present cases, of course, the allegation that the accused/applicants were involved in preparation, storage and sale of spurious anti cancer drugs is indeed an extremely serious allegation. But one should be cautious not to get carried away with the seriousness of mere allegation; one should delve deeper as to whether there is any credible material to establish such allegation. For, it is not uncommon that the prosecuting agencies would paint a very large canvas of allegations, but when it comes to providing supportive evidence or material collected, there might be none. The gravity of the offence charged against the accused, which is a relevant factor while considering grant of bail, does not mean mere allegations *de hors* the supportive evidence/material collected by the investigator. With that principle in mind, I have scrutinized the record, also at the same time being careful not to minutely analyse the material keeping in mind the broad principles of consideration of bail.

6.4 In nutshell, the allegation against the accused/applicants is that they are part of a syndicate involved in preparation and sale of spurious anti cancer drugs, which led to generation and acquisition of tainted money,

labelled by ED as the proceeds of crime. It would also be relevant to keep in mind that the applicants namely Pravez Khan, Neeraj Chauhan and Suraj Shat have already been admitted to bail in the predicate offence of preparation and sale of the spurious drugs, while the remaining two applicants namely Rajesh Kumar and Lovee Narula were not even chargesheeted for the predicate offence.

6.5 The ED has ascribed specific role to each of the accused/applicants in the following manner. The applicants Pravez Khan and Neeraj Chauhan supplied empty vials of injections to co-accused Viphil Jain and the applicant Suraj Shat, both of whom prepared spurious anti cancer drugs by using those empty vials. The applicant Neeraj Chauhan received the empty vials from Sajid, Majid, Jitender and Rohit Singh Bisht, all of whom were employed in the hospitals dealing with cancer patients. The applicant Pravez Khan received the empty vials from co-accused Komal Tiwari and Abhinay, both of whom were working with one cancer hospital. The vials filled with spurious drugs were received by the applicants Neeraj Chauhan and Pravez Khan from the co-accused Viphil and the applicant Suraj Shat, and the same were sold in the open market through the remaining accused/applicants namely Lovee Narula and Rajesh Kumar. The accused/applicants namely Pravez Khan, Neeraj Chauhan and Suraj Shat are already on bail in the predicate offence while the accused/applicants namely Lovee Narula and Rajesh Kumar were not even chargesheeted in the predicate offence.

6.6 An important aspect to be kept in mind is that the ED did not conduct any investigation in order to unearth the doctors or the pharmacists who

allegedly supplied the empty vials to the co-accused Viphil Jain and the applicant Suraj Shat, or any negligence on the part of those doctors or pharmacists, which enabled the said accused persons to procure the same. It cannot be anybody's case that the doctors and/or pharmacists of the cancer hospitals were not aware of the statutory requirement to strictly maintain records of the number of vials used on the patients with batch numbers as well as disposal of the empty or half used vials through incineration. In other words, the genesis of the alleged offence has not seen light of the day till date.

6.7 On this aspect also, like many others, the omnibus argument advanced by learned standing counsel for ED was that being part of investigation of the predicate offence, it was for the law enforcement agency Delhi Police to investigate this issue. But for the predicate offence, the accused/applicants have already been granted bail. One wonders, if duty of the ED was simply to follow the money trail, that too majorly on the basis of statements under Section 50 PMLA, without caring to at least *prima facie* establish connection between the allegedly tainted money and the alleged predicate offence. And if that was so, keeping in mind the quantum of money allegedly earned by each of the accused/applicants, one also would wonder, whether they deserve to be left in jail to rot in perpetuity. What if ultimately, in the predicate offence the accused/applicants are acquitted.

6.8 The quantum of money involved in itself also presents an interesting picture. Admittedly, on individual level, none of the accused/applicants transacted to the extent of more than a few lakhs of rupees, but certainly

much lesser than one crore rupees. Even according to ED, the threshold of one crore rupees requisite to apply the twin conditions under Section 45 PMLA in the present case has to be the collective transactions of all the accused/applicants. Of course, it is not to say that for invoking twin conditions under Section 45 PMLA, each of the accused/applicants must be shown to have transacted to the tune of one crore rupees. What one observes in this case is only to the extent of role allegedly played by the individual accused/applicant. There are numerous offences registered, investigated and even chargesheeted, which involve crores of rupees, but despite their being the Scheduled offences, no proceedings under PMLA are initiated. Certainly it is the prerogative of ED and not a matter of parity that some of the cases would be picked for such harsh law enforcement. But certainly, it is a relevant consideration while dealing with liberty of an individual, especially where ED estimates another six months required to conclude further investigation and in contrast the accused/applicants are in custody for more than two years.

6.9 Then comes another aspect, which is at the other end of the alleged transactions. The ED opted not to investigate the end users of the allegedly spurious drugs. Not a single person was examined by ED to find out as to whether actually the allegedly spurious drugs were administered to her/his cancer ridden patients. In fact, as mentioned above, two of the accused/applicants claim that they administered same injections to their respective father suffering with cancer. Not just the end users, the ED did not even find out if any of the authorities received any complaint from anyone alleging any harm or even no use from the allegedly spurious drugs.

On this aspect also, stand of the ED is that it was for the law enforcement agency Delhi Police investigating the predicate offence to examine the end users. So, the terminal end of the alleged transactions also remains flying in the vacuum.

7. Coming to these headless-endless strip of transactions, it also would be significant to ascertain as to whether the vials allegedly transacted by the accused/applicants contained the material which can be termed spurious. In this regard also, the ED claims that it was for the law enforcement agencies investigating the predicate offence to get the contents of the said vials forensically examined. One wonders as to where duty of the ED begins to investigate the existence of foundational facts in order to connect the alleged proceeds of crime with the predicate offence alleged against the accused/applicants, including their involvement in the process/activity of transactions dealing with the anti cancer drugs, which are alleged to be spurious but except one or two vials, found to be genuine drugs by way of forensic analysis.

7.1 However, learned counsel for ED also submitted during arguments that some of the allegedly recovered vials were got forensically examined through FSL and some were got verified from the manufacturers. The learned counsel for ED also placed on record a chart dated 22.04.2026, tabulating the vials and the forensic results, which were obtained by the law enforcement agencies investigating the predicate offence. As regards the applicant Neeraj Chauhan, seven vials through processes of spot sampling and court sampling and analysed by the manufactures or the drug inspectors

were found to contain genuine drugs Keytruda, Opdyta, Perjeta and Darzalex; and only two vials through processes of spot sampling and court sampling were found to contain anti-fungal drugs. As regards applicant Pravez Khan, two vials of Keytruda and one vial of Opdivo through process of court sampling and analysed by the manufacturer were found spurious. The single vial of Opdyta recovered from co-accused Viphil Jain and applicant Suraj Shat and sampled through spot sampling was found to contain spurious drug according to the drug inspector. In view of clear stand of the accused/applicants that they were unaware that contents of those vials were spurious, ED should have conducted further investigation.

7.2 No investigation was conducted by ED to rule out the complicity of manufacturer or to rule out some manufacturing error in contents of those vials. Should the accused/applicants be denied liberty in this scenario only because they purchased the drugs at a price lesser than market price? The answer has to be resounding No.

8. Further comes the argument advanced on behalf of the accused/applicants that ED adopted pick and choose policy for arrest of the persons accused of offence under PMLA. The response of ED is that the remaining accused persons, who have not been arrested, shall certainly face trial and it is not that they have been acquitted. I find this argument of ED fallacious, because even the present accused/applicants would face trial. Of course, it is the prerogative of the IO to arrest or not to arrest an accused. But such selective treatment does vitiate fairness when it comes to curtailment of liberty of an individual.

8.1 As noted above, a number of persons allegedly involved in the offence have been ascribed role graver than or at least similar to the role ascribed the present accused/applicants, but many of those persons have not been arrested and rather some have not even been named as accused by ED.

8.2 This selective treatment becomes significant also in the light of the legal position that the offence under Section 3 PMLA is punishable with imprisonment only up to 07 years (*unless the alleged offence is specified under paragraph 2 of Part A of the Schedule*) under Section 4 PMLA. It certainly is discomforting to see that regarding an offence punishable with at the most 07 years incarceration, few of the accused are arrested and even after spending more than 02 years in jail have to suffer incarceration without trial till the maximum prescribed punishment, whereas others accused of similar or graver role in the same offence are not even arrested. That too, where as regards the predicate offence of dealing in spurious cancer drugs, three of the present accused/applicants have already been granted bail while the remaining two have not even been chargesheeted, but remain in jail.

8.3 In respect of the persons namely Deepali Jain, Sajid, Majid, Rohit Singh Bisht, Abhinay, Jitender, Komal Tiwari, Gagan Khurana, Ayonij Jain, Sneha and Sheetal Pandey, the role ascribed to whom is graver than or similar to that ascribed to the present accused/applicants, they have not been arrested by the ED.

8.4 The logic advanced on behalf of ED that since those persons provided the requisite information, they were not arrested is no logic at all. The

concept of protection from self incrimination would get completely demolished if the investigating officer is given option to arrest only those who do not succumb to pressures and self incriminate.

9. Lastly, I have also examined the issue of delay in trial, which is one of the important grounds raised by the accused/applicants seeking bail. It is trite that the fundamental right to life and liberty under Article 21 of the Constitution of India is a potent provision capable of making inroads into even the requirement of twin conditions under Section 45 PMLA for grant of bail. This aspect was examined by the Supreme Court in a number of judicial pronouncements, the latest one being in the case of ***Arvind Dham vs Directorate of Enforcement***, 2026 INSC 12, in which after detailed discussion, it was held thus:

> *"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 that is 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."

(emphasis supplied)

9.1 As mentioned above, even ED has clarified before this court that they need at least six months to conclude further investigation. The accused/applicants are in jail for more than two years. There is no likelihood of even commencement of trial, what to say of culmination thereof in the foreseeable future.

10. To conclude: three of the present accused/applicants have already been granted bail in the predicate offence of dealing in spurious cancer drugs and the remaining two have not even been chargesheeted, but remain in jail for more than two years; and the material collected by the ED to establish foundational facts in order to connect the monetary transactions between the

accused/applicants *inter se* with the predicate offence of dealing in spurious drugs alleged against them is completely hazy and consequently, for present purposes it is difficult to clearly identify any proceeds of crime.

10.1 That gives me satisfaction to record that there are reasonable grounds for believing that the accused/applicants are not guilty of the offence alleged against them. As regards the second limb of Section 45 PMLA *qua* no likelihood of their committing any offence on bail, such likelihood has to be inferred on the basis of some cogent material, which has to be in the form of antecedents and propensities of the accused/applicants, but in the present cases, no such antecedents or propensities have been alleged against them.

10.2 Therefore, all these bail applications are allowed and all the accused/applicants are directed to be released on bail subject to each of them furnishing a personal bond in the sum of Rs.1,00,000/- with one surety each in the like amount to the satisfaction of the trial court and also subject to the condition that the accused/applicants shall not leave India without obtaining permission from the trial court.

10.3 Pending applications also stand disposed of.

10.4 Of course, nothing observed in this order shall be read to the prejudice of either side at the stage of final arguments, and at that stage, the learned trial court shall take independent view on the basis of evidence adduced before it.

10.5 Copy of this order be immediately transmitted to the concerned Jail Superintendent for being conveyed to the accused/applicants.

GIRISH KATHPALIA

Digitally signed by GIRISH KATHPALIA
DN: c=IN, o=HIGH COURT OF DELHI, 2.5.4.20=8401dd889b27a77b265ffffe4afec45569af3962c6fb4835d435f97626cacca, ou=HIGH COURT OF DELHI,CID - 7047638, postalCode=110003, st=Delhi, serialNumber=d3e86796451ec45c07b5d15570996b40f80cbd2eee60402c487965ffb01e26fa, cn=GIRISH KATHPALIA
Date: 2026.05.04 17:15:16 -07'00'

GIRISH KATHPALIA
(JUDGE)

MAY 04, 2026*/ry*