



2025:DHC:12026



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

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Judgment reserved on: 24.12.2025
Judgment pronounced on: 27.12.2025
Judgment uploaded on: 27.12.2025

+ **BAIL APPLN. 4331/2025**

SANDEEPA VIRK

....Petitioner

Through: Mr. Anurag Alhuwalia, Senior
Advocate with Mr. Ashish
Upadhyay, Advocate.

versus

DIRECTORATE OF ENFORCEMENT

.....Respondent

Through: Mr. Samrat Goswami, Panel
counsel for DoE with Mr.
Shrinivas Sinha and Mr.
Vivek, Advocates.

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. The applicant has approached this Court, seeking grant of regular bail in case arising out of ECIR No. ECIR/HIU-II/24/2025, recorded by the Directorate of Enforcement [hereafter '*DoE*'] for the commission of offence punishable under Sections 3/4 of the Prevention of Money Laundering Act, 2002 [hereafter '*PMLA*'].

Factual Background

2. Succinctly, it is the case of the DoE that one FIR No. 91/2016



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was registered on 16.11.2016 at Police Station Phase-8, SAS Nagar, Mohali, for commission of offence under Sections 406/420 of the Indian Penal Code, 1860 [hereafter 'IPC'] against accused Amit Gupta @ Nageshwar Gupta and other co-accused persons (including applicant herein). The allegations in the said FIR are that the accused persons had duped the complainant and her family members of an amount of approximately ₹6 crores on the pretext of offering the complainant the role of a lead actress in a film and inducing her to invest money in the production of the said film. It is further the case of prosecution that a charge-sheet has already been filed in the aforesaid FIR and that accused Amit Gupta @ Nageshwar Gupta was declared a proclaimed person *vide* order dated 21.10.2024 passed by the learned JMFC, SAS Nagar, Mohali. It is stated that the offence punishable under Section 420 of IPC is a scheduled offence under the PMLA, and on the said basis, the present ECIR being ECIR/HIU-II/24/2025 dated 11.08.2025 was recorded for the offence punishable under Sections 3 and 4 of the PMLA.

3. According to the DoE, the present applicant, Sandeepa Virk, was engaged in creating undue influence by misrepresenting herself and allegedly duping various persons by inducing them to part with money. It is alleged that the applicant used a fake e-commerce website for the purposes of money laundering and claimed herself to be the owner of the website *hyboocare.com*, which purportedly sold FDA-approved beauty products and reflected its registered address as WZ-44/1, Street No. 13, Krishna Puri, Krishna Park, Old Mahavir



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Nagar, Tilak Nagar, New Delhi. It is alleged that upon verification, the products listed on the said website were found to be fake. It is further alleged that accused Amit Gupta @ Nageshwar Gupta and the applicant herein utilized the proceeds of crime generated from the aforesaid scheduled offence to acquire immovable properties, including Flat No. 2103 situated in Mumbai, which was allegedly acquired jointly in the names of Amit Gupta @ Nageshwar Gupta, the applicant Sandeepa Virk, and one Kamla, and later transferred completely in the name of applicant. The DoE has further alleged that the applicant utilized part of the proceeds of crime, directly and indirectly, to finance her alleged luxurious lifestyle, travel expenses, and for the purchase of two additional immovable properties situated at Krishna Park, Tilak Nagar, New Delhi. It is also the case of the DoE that the applicant destroyed her mobile phone, which constituted material evidence in the present matter, and thereby committed an act amounting to destruction of evidence. On the aforesaid allegations, it is asserted that the applicant actively participated in the process and activities connected with the offence of money laundering and was knowingly involved in the acquisition, possession, and use of the proceeds of crime, as well as in projecting or claiming the same as untainted property, thereby committing the offence of money laundering as defined under Section 3 of the PMLA, punishable under Section 4 thereof.

4. The applicant came to be arrested, in relation to the present ECIR, on 12.08.2025. The prosecution complaint was filed by the



DoE on 10.10.2025. The first bail application of the applicant was dismissed by the learned Special Court *vide* impugned order dated 04.11.2025.

Submissions before the Court

5. The learned senior counsel appearing for the applicant argues that the allegations in the predicate offence pertain to transactions allegedly undertaken between 2008 and 2013, whereas the FIR No. 91/2016 was registered only on 16.11.2016 under Sections 406/420 of IPC against co-accused Amit Gupta @ Nageshwar Gupta, the co-accused persons including the applicant herein. However, after completion of investigation, a charge-sheet dated 18.03.2017 was filed only against Amit Gupta @ Nageshwar Gupta under Section 406 of IPC, and no role was attributed to the applicant or any other person. This clearly demonstrates that, even during the police investigation, no material was found against the applicant. It is submitted that the complainant thereafter had filed a private complaint under Section 200 of Cr.P.C. on 17.07.2017 against Amit Gupta and other persons including the applicant. However, *vide* order dated 15.02.2020, the learned JMFC, SAS Nagar, Mohali declined to take cognizance against any accused except Amit Gupta and also recorded that a substantial amount of ₹2,71,78,200/- had already been refunded to the complainant. Subsequently, charges were framed only against Amit Gupta on 14.12.2023, and he was declared a proclaimed offender on 21.10.2024. Thus, it is clear that the applicant had no role



in the commission of alleged offence. The learned senior counsel further submits that despite the FIR being of the year 2016 and the applicant not being charge-sheeted therein, the DoE recorded the present ECIR only on 11.08.2025, i.e. nine years later. The applicant was searched and arrested on 12.08.2025, i.e., within 24 hours of recording the ECIR, and was thereafter remanded to judicial custody on 18.08.2025. Such an arrest, in a case resting on old facts and without any emergent circumstances, is stated to be arbitrary and contrary to the mandate of Section 19 of the PMLA. It is further submitted that the prosecution complaint under the PMLA was filed on 10.10.2025 against Amit Gupta and the applicant; *but notably*, Amit Gupta, the alleged mastermind and proclaimed offender in the predicate offence, has not been arrested, though he is appearing through counsel pursuant to notice issued under Section 223 of BNSS on 13.10.2025. Therefore, it is contended that arresting the applicant, who has no role in the commission of offence, while the principal accused remains at large, is nothing but selective and arbitrary arrest. The learned senior counsel contends that the applicant is a woman and squarely falls within the first proviso to Section 45 of the PMLA. Consequently, the rigours of the twin conditions are not applicable to her, and her bail application is to be considered on settled principles governing grant of bail. It is argued that the trial in the predicate offence itself is stalled, as the sole accused therein has been declared a proclaimed offender. Since the PMLA proceedings are intrinsically linked to the outcome of the predicate offence, there is no possibility



of the trial concluding in the near future. Continued incarceration of the applicant in such circumstances would amount to punitive detention. It is stated that there is no material to suggest that the applicant has attempted to evade investigation, tamper with evidence, or influence witnesses. The allegation regarding destruction of a mobile phone is disputed and, in any event, unsupported by any material at this stage. It is urged that the applicant is a woman having roots in society, and is neither a flight risk nor likely to interfere with the course of justice. The prosecution complaint already stands filed, and custodial interrogation of the applicant is no longer required. It is submitted that the applicant has been in custody since 12.08.2025, and therefore, she be granted regular bail.

6. The learned counsel appearing for the DoE argues that the present bail application is a deliberate attempt by the applicant to re-characterise a serious and well-documented case of money laundering as an ordinary criminal prosecution governed by liberal bail principles, and such an approach runs contrary to the express legislative intent of the PMLA. It is submitted that the applicant proceeds on an erroneous premise that her non-arraignment or exoneration in the predicate case for offence under IPC absolves her of liability under the PMLA. It is stated that the offence of money laundering is a distinct, independent, and continuing offence. Even a person not directly involved in the commission of the scheduled offence may nonetheless be guilty of money laundering if such person knowingly assists in the concealment, possession, acquisition,



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use, or projection of proceeds of crime as untainted property. It is contended that the material on record demonstrates that approximately ₹6 crores were dishonestly obtained by co-accused Amit Gupta @ Nageshwar Gupta from the complainant and her family on the basis of false assurances. Out of these tainted funds, a sum of approximately ₹1,03,30,000/- was directly transferred into the bank accounts of the applicant. These transfers are neither denied nor satisfactorily explained. It is further submitted that the proceeds of crime were utilised to acquire a high-value immovable property, i.e. Flat No. 2103, Green Heights, Andheri (West), Mumbai, initially in joint ownership and later transferred exclusively in favour of the applicant by way of a registered Gift Deed dated 29.04.2021. As on date, the applicant is the sole and absolute owner of the said property, which represents proceeds of crime in tangible form. Further investigation has revealed that the applicant acquired two additional immovable properties in Tilak Nagar, New Delhi during the years 2023 and 2024 for an aggregate consideration of approximately ₹32 lakhs. It is also argued that the contention of the applicant that the twin conditions under Section 45 of the PMLA are inapplicable merely because she is a woman is misconceived. It is stated that the first proviso to Section 45 uses the expression “may be released on bail”, which confers discretion and does not create an automatic or mandatory entitlement to bail. The discretion must be exercised judiciously, keeping in view the gravity of the offence, the nature of evidence, and the extent of the applicant’s involvement. The learned



counsel for the DoE further submits that the applicant does not satisfy the traditional triple test governing grant of bail. The record shows that immediately prior to the search conducted under Section 17 of the PMLA, the applicant had deliberately caused the destruction or disappearance of her mobile phone, which was a crucial electronic device likely to contain material evidence. Moreover, the argument that bail should be granted merely because the principal accused Amit Gupta @ Nageshwar Gupta has not been arrested is misconceived; and far from being a mitigating factor, the conduct of the principal accused highlights the gravity of the offence and the existence of a larger conspiracy. It is submitted that in any event, the said accused has already appeared through counsel before the learned Special Court (PMLA) on 17.11.2025, and appropriate steps are being taken in accordance with law. It is further submitted that the prosecution complaint cites only 24 witnesses, and if the accused persons cooperate, the trial can be concluded expeditiously. The plea of indefinite delay is therefore unfounded. On these grounds, it is prayed that the present bail application deserves to be dismissed.

7. This Court has **heard** arguments addressed on behalf of the applicant, as well as the respondent-DoE, and has carefully perused the material placed on record.

Analysis & Findings

8. At the outset, the case of the prosecution, in a nutshell, is that the complainant and her family members were allegedly induced by



co-accused Amit Gupta @ Nageshwar Gupta, to part with a sum of about ₹6 crores, on the false assurance that the complainant would be cast as the lead actress in a film and that the said amount was required for investment in the production of the film. It is the case of the prosecution that the said amount, having been obtained by deception, constituted *proceeds of crime* arising out of the scheduled offence (for which FIR No. 91/2016 was registered at P.S. Phase-8, SAS Nagar, Mohali, Punjab) and was thereafter routed through bank accounts and utilised for the acquisition of immovable properties and other assets, with the object of projecting the same as untainted. *So far as the present applicant is concerned*, the allegation is that she knowingly received part of the proceeds of crime in her bank accounts, utilised such funds for acquisition of immovable properties, including Flat No. 2103 at Andheri (West), Mumbai, and other properties in Delhi, and thereby participated in the process of acquisition, possession, use and projection of proceeds of crime as untainted property, attracting the offence under Sections 3 and 4 of the PMLA.

9. The prosecution case further alleges that out of the total amount of approximately ₹6 crores, a sum of ₹5.43 crores was transferred by the complainant through banking channels, while the remaining amount was allegedly paid in cash. As per the prosecution complaint, the amount of ₹5.43 crores was credited into two ICICI Bank accounts of accused Amit Gupta @ Nageshwar Gupta, out of which a sum of ₹1,03,30,000/- was transferred to the bank account of



the present applicant. It is further alleged that an immovable property, namely Flat No. 2103, Andheri (West), Mumbai, was purchased for a consideration of ₹1.84 crores on 26.11.2013 in the joint names of Amit Gupta, Kamla and the present applicant, and that the said property was subsequently transferred exclusively in favour of the applicant by way of a registered Gift Deed dated 29.04.2021. However, at the same time, it is noticed that the prosecution complaint does not advert to the admitted position emerging from the complainant's own case, that accused Amit Gupta @ Nageshwar Gupta had returned a sum of about ₹2.7 crores to the complainant. Consequently, at this stage, the allegation cannot be understood as one of concealment or projection of the entire amount of ₹5.5–6 crores, but is confined, *prima facie*, to the balance amount of about ₹2.8 crores.

10. Before proceeding further, it is apposite to consider the rival contentions of the parties on the applicability of Section 45 of the PMLA. The applicant contends that being a woman, she squarely falls within the first proviso to Section 45(1) of the PMLA and, therefore, the rigours of the twin conditions contained in Section 45(1)(ii) are not attracted. On the other hand, the prosecution submits that the proviso does not create an automatic entitlement to bail and that the Court must still exercise its discretion having regard to the gravity of the offence, the nature of allegations, and the material on record.

11. In this regard, reference may be made to the decision of the



Hon'ble Supreme Court in *Shashi Bala @ Shashi Bala Singh v. Directorate of Enforcement: Criminal Appeal No. 212/2025*, wherein it was held as under:

“On its plain reading, the first proviso to sub- Section (1) of Section 45 operates as an exception to clause (ii) of sub-Section (1) of Section 45 of the PMLA. Therefore, when a woman applies for bail, the twin conditions in clause (ii) need not be satisfied. Though we have granted time to the learned Additional Solicitor General to make submissions in support of the submission that notwithstanding the proviso to sub-Section (1) of Section 45 of the PMLA, rigours of clause (ii) of sub-Section (1) of Section 45 of the PMLA will apply even to a woman, today the learned Solicitor General appears and states that rigours of clause (ii) of sub-Section (1) of Section 45 of the PMLA will not apply to a woman, in view of proviso to sub-Section (1) of Section 45 of the PMLA.”

12. Thus, it stands settled that in the case of a woman accused, the embargo of the twin conditions under Section 45(1)(ii) of the PMLA can be relaxed, and the application for bail can be considered on general principles governing grant of bail, *albeit* keeping in view the nature and gravity of the allegations.

13. Even if this Court were to accept the submission of the Directorate of Enforcement that the facts and circumstances of the case are nevertheless relevant to be considered even before exercising discretion under the proviso to Section 45 of the PMLA, this Court finds that, on a *prima facie* assessment, the applicant has been able to make out a case for grant of bail, which shall be examined hereinafter.

14. The learned senior counsel for the applicant, during the course



of arguments, has pointed out that the main accused in the present case, Amit Gupta @ Nageshwar Gupta, has not been arrested till date. It is not in dispute that the said accused was declared a proclaimed offender on 21.10.2024 in the predicate offence. However, despite the said declaration, and notwithstanding the fact that he is presently appearing through counsel before the learned Special Court in the PMLA proceedings, as is evident from the order-sheets placed on record, the DoE has, till date, not taken any effective steps to arrest him.

15. It has further been emphasised that the present applicant is a woman and, in any event, is not the main accused in the predicate offence. This aspect is borne out from the record itself. When FIR No. 91/2016 was registered in the year 2016 in respect of allegations pertaining to the period 2008 to 2013, the applicant was not charge-sheeted by the police. Even thereafter, when the complainant filed a private complaint under Section 200 of Cr.P.C., the learned Judicial Magistrate, SAS Nagar, Mohali, while declining to take cognizance against the applicant, specifically recorded that no offence was made out against her even for the purpose of summoning. Thus, the record reflects that the applicant was not found culpable at the stage of police investigation, nor was any *prima facie* case found against her by the learned Magistrate in the private complaint proceedings.

16. The present proceedings under the PMLA were initiated much later, with the ECIR being recorded only in the year 2025, almost a decade after the alleged transactions. It is also an admitted position



that a sum of approximately ₹2.7 crores has already been returned to the complainant out of the alleged amount of about ₹6 crores. Therefore, at this stage, the case cannot be treated as one involving concealment or projection of the entire alleged amount.

17. Considering the cumulative effect of these circumstances — that the applicant has been in judicial custody for more than four months, the allegations relate to transactions of the years 2008-2013, the FIR for scheduled offence was registered only in 2016, the ECIR was recorded only in the year 2025, the main accused has been declared a proclaimed offender and remains unarrested in the present case, the applicant was neither charge-sheeted for the predicate offence by the police nor summoned in the private complaint case, a substantial part of the alleged amount had already been returned to the complainant by the main accused, the investigation *qua* applicant has been completed by the DoE and the prosecution complaint has already been filed, and the fact that the trial will take time to conclude as 24 witnesses have been cited by the prosecution and the fact that trial in the predicate offence is not proceeding since the only accused, i.e. Amit Gupta is absconding — this Court finds no ground to further keep the applicant in judicial custody.

18. In view of the foregoing discussion, this Court is inclined to grant regular bail to the applicant on her furnishing a personal bond in the sum of ₹2,00,000/- with two sureties of the like amount, at least one of whom will be a family member, subject to satisfaction of the learned Special Court/Successor Court/Link Court, on the



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following terms and conditions:

- (i) The applicant shall furnish her mobile number to the I.O. concerned on which she may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;
 - (ii) The applicant shall surrender her passport to the Trial/Special Court before Bail Bonds are accepted, and shall not leave the country without prior permission of the concerned Court;
 - (iii) The petitioner shall furnish the complete address, where she shall ordinarily reside, to the I.O. as well as the concerned Court, and in case of change of same, she shall intimate the same to the I.O. and the Court immediately;
 - (iv) The applicant shall cooperate in any further investigation or proceedings by the I.O., as and when required;
 - (v) The applicant shall not make any attempt to tamper with the evidence or influence the prosecution witnesses;
 - (vi) The applicant shall regularly attend the Trial Court proceedings.
19. The bail application is accordingly disposed of.
20. It is however clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.
21. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J
DECEMBER 27, 2025/zp