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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 07.07.2026

\+ **BAIL APPLN. 1855/2024**

ARUN MUTHU .....Petitioner

versus

STATE OF NCT DELHI .....Respondent

Appearance:-

Mr. Naveen Malhotra, Mr. Ritvik Malhotra, Advocates for petitioner.

Mr. Sanjay Jain, Sr. Advocate with Mr. Akhand Pratap Singh, SPP, Mr. Nishank Tripathi, Ms. Harshita Sukhija, Ms. Rishika Agarwal, Mr. Shreyan Srivastav, Ms. Samridhi Dobhal, Ms. Krishna Mohan Chandel, Mr. Hritwik Maurya, Ms. Lisa Pagwal, Ms. Apoorv Paliya, Mr. Utkarsh Singh, Advocates for State with ACP Virender Kadyan, Insp. Pradeep Rai.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

J U D G M E N T

PRATEEK JALAN, J. (ORAL)

1. By way of the present application under Section 439 of the Code of Criminal Procedure, 1973 ["CrPC"] (corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ["BNSS"]), the petitioner seeks regular bail in connection with FIR No. 208/2021, dated 07.08.2021, registered at Police Station Special Cell, Delhi, under Sections 170/384/385/388/419/420/506/120B of the Indian Penal Code, 1860 ["IPC"], and Section 66D of the Information Technology Act, 2000 ["IT Act"]. At the time of filing of the chargesheet, Sections 3 and 4 of

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the Maharashtra Control of Organised Crime Act, 1999 ["MCOCA"], were also invoked.

2. This is the first bail application filed by the petitioner before this Court. He had earlier applied for bail before the Special Court, which was dismissed *vide* order dated 14.11.2022.

3. I have heard Mr. Naveen Malhotra, learned counsel for the petitioner, and Mr. Sanjay Jain, learned Senior Counsel for the State. The State has also filed a status report, which is on record.

4. At the outset, it may be mentioned that I have recently decided three bail applications arising out of the same proceedings, filed by co-accused Leena Paulose [hereinafter, "Leena"], Deepak Ramnani [hereinafter, "Deepak"], and Pradeep Ramdanee [hereinafter, "Pradeep"]. The application filed by Leena[1] was dismissed, whereas the applications filed by Deepak[2] and Pradeep[3] were allowed.

I. PROSECUTION CASE:

5. The prosecution case, as it appears from the material on record, is as follows:

a. FIR No. 208/2021, dated 07.08.2021, lodged at Police Station Special Cell, Delhi, under Sections 170/384/385/388/419/420/506/120B of the IPC and Section 66D of the IT Act, was registered at the instance of one Ms. Aditi Singh.

b. According to the complaint, on 15.06.2020, the complainant received a call on her mobile phone from a landline number. The

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[1] BAIL APPLN. 1802/2024, decided on 05.05.2026, [hereinafter, "*Leena Paulose*"]. An earlier application for bail filed by Leena in the State proceedings [BAIL APPLN. 3706/2022] was also rejected by judgment dated 11.07.2023.

[2] BAIL APPLN. 4286/2024, decided on 05.06.2026 [hereinafter, "*Deepak Ramnani*"].

caller introduced himself as a senior officer in the Ministry of Law and offered assistance in securing bail for her husband, who was in judicial custody in cases related to M/s Religare Enterprises Limited.

c. It is alleged that the caller demanded Rs. 50 crores in exchange for facilitating the bail and explained the method of delivering the money.

d. Subsequently, through his associates, the caller allegedly extorted money from the complainant on multiple occasions between June 2020 and August 2021, amounting to a total of Rs. 217 crores. There are further allegations with regard to impersonation of senior officials, including the Home Secretary, Government of India, and misrepresenting the involvement of other government functionaries, including the Home Minister.

e. Acting on the said information, on 07.08.2021, the police laid a trap and apprehended Pradeep, while he was receiving the extorted amount. He was arrested on the same day. During interrogation, he disclosed that he was acting on the instructions of his brother, Deepak, who was subsequently arrested on 08.08.2021.

f. Using technical surveillance of the mobile phone used for making the calls, and the statements of co-accused, the caller was identified as one Sukesh Chandra Shekhar @ Sukash Chandra Shekhar [hereinafter, “Sukesh”].

g. At this time, Sukesh was already lodged in Tihar Jail as an undertrial prisoner in a separate case, involving allegations of

[3] BAIL APPLN. 4441/2024, decided on 05.06.2026.

collecting money from a political leader on the pretext of helping him retain a particular election symbol. He was later shifted to Rohini Jail.

h. A raid was conducted on the intervening night of 07/08.08.2021 by the Special Cell, during which two mobile phones were recovered from Sukesh, while he was in custody, and he was formally arrested in connection with the present FIR. His interrogation led to the identification and arrest of other associates and co-conspirators. The petitioner was arrested on 05.09.2021.

i. During investigation, it was found that Sukesh was involved in multiple cases, including attempt to murder, criminal intimidation, cheating, and extortion, often by impersonating high-ranking officials.

j. Part of the extorted amount was allegedly transmitted by Sukesh, through *hawala* channels, to his wife, Leena, in Chennai.

k. As far as the present petitioner is concerned, his role in the aforesaid offences is summarised in the chargesheet as follows:

"*6. Accusded Arun Muthu:*

- *He and Dolby Samuel are the directors of M/s Stash wear Pvt. Ltd.*
- *He met Leena in Sept-2018 through its partner Dolby Samuel. From Sept-2018 to Aug 2021, he used to provide help to Leena and Sukash in buying properties and car. He helped Leena in financial transactions for procuring high end cars and failed to justify the source of payment.*
- *He helped Leena and Sukash by opening proprietorship firm namely LS film Corp in 2018.*
- *From July 2020-Aug 2021, he facilitated Leena by providing banks entries of approx. Rs three Crores from his associates i.e. Sarvana, Muthaiya Entertainment and Goodtime Retail & Marketing Pvt. Ltd.*

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- *Directed and produced web series namely "The Instagramam" along with Leena. The said series was allegedly sold to Neestream for total consideration of Rs. three Crores. Out of which Rs. 90 lakh was received from Nee Stream in bank account of LS Film Corp maintained by him. He had transferred Rs. 75 lakh in the account of Super car Artistry (owned by Leena Paul) and rest Rs. 15 Lakh were retained by him as commission. Bank account of Super car Artistry shows inward remittance of Rs. 22.83 Lakh on 18.05.2021. Rest details of bank are being verified.*
- *On 11.08.2021, he received WhatsApp call from Leena and he acted upon the same and helped Leena and parked her 7-8 Luxury cars at different locations and same were seized by ED.*
- *He obtained commission of 2.5% on entire transactions.*"

II. ***STATEMENTS UNDER SECTION 18 OF MCOCA:***

6. In support of the above allegations, the State relied upon confessional statements under Section 18 of MCOCA made by co-accused Sukesh, B. Mohanraj [hereinafter, "Mohanraj"] and Sudheer.

7. In the status report filed on behalf of the State, the statements of Sukesh and Mohanraj, insofar as they are relevant in respect of the present petitioner, have been summarised as follows:

> "***Confessional statements u/s 18 MCOC Act of accused Sukash:***
> *He told Leena to brief each of their aid. The said cash was received at Sow carpet, Chennai and collected by Sudheer and Joel. Cash was delivered to Mohan Raj and he further delivered to Kamlesh Kothari and Arun Muthu. Arun deals in providing bank entries and Kamlesh deals in purchasing high ends cars and house.*
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> ***Confessional Statement U/s 18 MCOC Act of accused B. Mohanraj:***
> *He was introduced to Arun Muthu, who is a friend of Sukash and Leena. He came to know that Arun Muthu was running a Garment business in the name of Stash Wear, in Chennai. In January, 2020, a case was registered against Sukash while he was in Tihar Jail, Delhi by the C.B.I, Hyderabad wherein he came to know that Sukash impersonated himself as a senior CBI officer and extorted money from the victim. CBI raided the house of Leena in Boat Club, Chennai which was taken on rent in the name of Arun Muthu for Leena. He has facilitated the rent deal in which Arun Muthu used to receive cash with huge commission.*"

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8. Additionally, Mr. Jain relied upon Sudheer's Section 18 statement, which is not referred to in the State's status report. Sudheer *inter alia* stated therein, that the petitioner used to visit Leena in Chennai, and was also called by Sukesh, whenever he was on parole. He further stated that the money derived by Leena and Sukesh from criminal activities was adjusted through "*Saloon Nail Artistry*" and "*Super Car company*" by Arun Muthu [the petitioner herein] and Mohanraj. Sudheer also stated that he or co-accused Joel Daniel [hereinafter, "Joel"] used to collect cash transmitted through *hawala* transactions, using token numbers provided by Leena and Sukesh, and would deliver the cash to the petitioner and Mohanraj. The amounts ranged from Rs. 50 lakhs to Rs. 5 crores, which they would count and hand over either to Leena or, on her directions, to the petitioner and Mohanraj. In August/September 2020, Leena had purchased a new house on ECR Road, Sneha Garden, Chennai. The petitioner, Mohanraj, and Kamlesh Kothari [hereinafter, "Kamlesh"] helped her in purchasing the house. At the time of the purchase, on Sukesh's instructions, Sudheer collected more than Rs. 7 cores in cash against a token, and delivered it to Kamlesh at his office in T-Nagar, Chennai, in the presence of Mohanraj. The petitioner, Mohanraj, and Kamlesh assisted Sukesh and Leena in purchasing the house and cars. Leena and Sukesh used to assign different tasks to different members of the group and pay them separately. Sukesh was released on parole often, during which the petitioner, Mohanraj, Kamlesh, and Joel met him, alongwith Leena, and discuss ways of adjusting the *hawala* money.

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III. *SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES:*

9. Mr. Malhotra's principal submission relates to the prolonged custody of the petitioner as an undertrial. The petitioner was arrested on 05.09.2021, and has thus remained in custody for a period of almost 4 years and 10 months. Charges have recently been framed, by an order of the Special Court dated 03.06.2026. However, the State has cited 403 witnesses, and the chargesheets collectively exceed 10,000 pages. Further, one of the co-accused, Navas KI, has been arrested recently, and it is likely that a supplementary chargesheet will have to be filed in relation to his case. Considering the aforesaid factors, Mr. Malhotra submitted that the petitioner's right to a speedy trial, guaranteed under Article 21 of the Constitution, has been defeated, and his continued custody pending trial is constitutionally unjustifiable.

10. With regard to the statutory restrictions on grant of bail, under Section 21(4) of MCOCA, Mr. Malhotra referred to several judgments and orders of Supreme Court[4] as well as this Court[5], in which bail has nonetheless been granted to MCOCA accused on ground of prolonged incarceration. Additionally, he referred to the judgment in *Ranjitsingh Brahmajeetsing Sharma v. State of Maharashtra and Anr.*[6], wherein the

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[4] *Rockysingh Jalindersingh Kalyani v. State of Maharashtra* [Criminal Appeal No. 176/2022, decided on 03.02.2022]; *Ranjana Tanaji Wanve v. State of Maharashtra* [SLP (Crl.) No. 12740/2024, decided on 22.10.2024]; *Siddhant v. State of Maharashtra* [2024 SCC OnLine SC 3798]; *Vinod v. State of Maharashtra* [SLP (Crl.) No. 14166/2024, decided on 08.01.2025]; *Vivek @ Vicky Janak Paneri v. State of Maharashtra* [SLP (Crl.) No. 2677-2678/2025, decided on 15.04.2025]; *Kailash Ramchandani v. State of Maharashtra & Anr.* [SLP (Crl.) No. 4276/2025, decided on 06.01.2026]; *Jagruti Dhanesh Thorat v. State of Maharashtra* [SLP (Crl.) No. 17295/2025, decided on 13.01.2026].

[5] *Arun v. State (Government of NCT of Delhi)*, BAIL APPLN. 3348/2023, decided on 07.04.2025; *Ashish @ Deva v. State (NCT of Delhi*), BAIL APPLN. 1618/2024, decided on 29.04.2025; *Rajesh Kumar v. State (Government of NCT of Delhi)*, BAIL APPLN. 2986/2023, decided on 08.05.2025; *Jitender Dixit @ Bantu v. The State (Government of NCT of Delhi)*, BAIL APPLN. 3831/2023, decided on 19.05.2025.

[6] (2005) 5 SCC 294, paragraph 38.

Supreme Court held that such statutory restrictions should not be "*pushed too far*". He also relied upon the judgment in *Suhail Ahmad Thokar v. National Investigation Agency*[7], which arose under the Unlawful Activities (Prevention) Act, 1967 ["UAPA"], to submit that, even recently, the Supreme Court has granted bail in a UAPA case, on the basis of period spent in custody, likelihood of prolonged trial, and parity with other co-accused, all of which are applicable to the present case also.

11. Mr. Malhotra further submitted that the legal position with regard to prolonged incarceration, *vis-à-vis* the restrictions on grant of bail under Section 21(4) of MCOCA, has been considered at length in the judgments in *Leena Paulose* and *Deepak Ramnani*. Applying the same yardstick to the present case, he submitted that the Court is required to examine the role attributed to the petitioner and the *prima facie* material supporting the allegations against him, to adjudicate whether his further custody is warranted. In this context, Mr. Malhotra argued that, even according to the prosecution, the petitioner's role was limited to financial planning and handling in respect of the allegedly extorted funds. He played no role in the planning or execution of the foundational offence of extortion, but only in management of the funds sent by Sukesh to Leena in Chennai. To this extent, he submitted that the petitioner's role is, at the highest, comparable to that of Deepak, who was granted bail by judgment of this Court dated 05.06.2026. According to Mr. Malhotra, the alleged money trail does not show that any part of the extorted funds were in the petitioner's hand at any time. With regard to the further allegations of frequently meeting Leena and Sukesh, Mr. Malhotra submitted that such

[7] SLP (CRL.) No. 83/2024, decided on 22.05.2026.

"*associative proximity*" was also considered in Deepak's case, and bail was nonetheless granted.

12. Mr. Malhotra also submitted, without prejudice to the aforesaid contentions, that the offences alleged against the petitioner are not made out at all, even on the prosecution's own showing, as the petitioner had no knowledge or reason to believe that any of the activities in which he participated were connected with a criminal offence. In the absence of such *mens rea*, learned counsel submitted that the offences of assistance and abetment in a MCOCA offence cannot be established. For this purpose, he relied upon the judgments of the Madras High Court in *Kumar Ganesaperumal v. Directorate of Enforcement*[8] and *VMT Spinning Mills India Pvt. Ltd. v. Directorate of Enforcement*[9]. Mr. Malhotra also submitted that the petitioner has no prior criminal involvements, including in any FIR involving Sukesh/Leena, and the allegation of "*continuing unlawful activity*" under Section 2(1)(d) of MCOCA cannot be made out against him.

13. Mr. Malhotra lastly submitted that the petitioner has also been named as an accused in ECIR/54/DLZO-II/2021, dated 08.08.2021, registered under Sections 3 and 4 of the Prevention of Money Laundering Act, 2002 ["PMLA"], arising out of the same factual allegations. However, he has been granted bail in the said case, by judgment of this Court dated 20.02.2025 in BAIL APPLN. 1821/2024. He submitted that on similar considerations, the petitioner is also entitled to bail in the present case.

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[8] 2021 SCC OnLine Mad 8689.
[9] 2022 SCC OnLine Mad 9267.

14. Mr. Jain, in contrast, submitted that the petitioner had a direct role in handling of the extorted funds in Chennai, alongwith other accused persons, with full knowledge of the illegal activities of the Organised Crime Syndicate [hereinafter, "OCS"]. He was thus not only involved in abetment of the activities of the OCS, but was also directly involved in the "*continuing unlawful activities*", within the meaning of Section 2(1)(d) of MCOCA, which reveals "*membership*" of the OCS under Section 3(4) of MCOCA. He submitted that the petitioner and Mohanraj, alongwith other Chennai based co-accused, participated in planning and execution of the activities related to handling of the extorted funds sent by Sukesh to Leena.

15. Mr. Jain urged the Court, at the stage of bail adjudication, to have due regard to Section 21(4) of MCOCA, which places restrictions on the grant of bail in such offences. According to him, grant of bail in such cases cannot be determined solely by the length of custody, for which purpose he reiterated the submissions recorded in *Leena Paulose*[10] and in *Deepak Ramnani*[11].

IV. ***ANALYSIS***

16. This case raises a question of the interplay between the constitutional rights of an undertrial, who remains in custody for a prolonged period, with the statutory restrictions on grant of bail, found in several special statutes such as the UAPA[12], the Narcotic Drugs and Psychotropic Substances Act, 1985[13], MCOCA[14], and PMLA[15]. I have

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[10] Paragraphs 15, 16, 24, and 25.
[11] Paragraphs 9(a)-(c), 25, and 26.
[12] Section 43-D (5).
[13] Section 37.

had the opportunity to consider the legal position governing this question, both in *Leena Paulose* and *Deepak Ramnani*.

17. In *Leena Paulose*, upon consideration of the interpretation of the three-Judge Bench decision of the Supreme Court in *Gulfisha Fatima v. State (Govt. of NCT of Delhi)*[16],which had interpreted an earlier three-judge bench judgment in *Union of India v. K.A. Najeeb*[17], I had proceeded on the following basis:

> "*29. The decision in Gulfisha Fatima, in my view, provides guidance on the approach to be adopted while adjudicating bail application under MCOCA also. Section 21(4) of MCOCA being on a "higher pedestal" than Section 43D(5) of UAPA, I agree with Mr. Jain that, at the very least, the same principles would govern the interplay between Section 21(4) of MCOCA and the Article 21 rights of an accused. The apparently distinct lines of authority cited above can, in my view, be reconciled, by applying the ratio of Gulfisha Fatima.*
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> *30. The position which emerges therefrom is that* ***statutory restrictions on grant of bail cannot preclude constitutionally protected claims, referrable to Article 21 of the Constitution.*** *The ground of prolonged pre-trial incarceration without likelihood of culmination of proceedings must therefore be considered, even in cases involving special statutes.* ***However, these are not stand-alone considerations, but require to be analysed alongwith the nature of the offence and the prima facie material on record.*** *Conversely, while adjudicating the satisfaction required in terms of the statutory conditions, the material must be assessed through the lens of the right under Article 21 of the Constitution.* ***In order to adjudicate such a question, the factors to be borne in mind include the length of custody already undergone, the possible sentence for the offence, the possibility of concluding the proceedings within a reasonable time, whether delay in proceedings is attributable to the prosecution or the defence, and the nature of the prima facie case made out against the accused.***
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> *31. Haris Nisar Langoo, in my view, does not depart from the above principles, but provides an example in which the Court was satisfied that the petitioner was entitled to bail, even after applying Section 43D(5) of UAPA. In fact, it may be noted that, even in Gulfisha Fatima, some of the*

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[14] Section 21(4).
[15] Section 45.
[16] 2026 SCC OnLine SC 10 [hereinafter, "*Gulfisha Fatima*"].
[17] (2021) 3 SCC 713 [hereinafter, "*K.A. Najeeb*"].

accused were granted bail, having regard to the specific facts of their cases."[18]

18. Soon after the judgment in *Leena Paulose* was delivered, the Supreme Court's decision in *Syed Iftikhar Andrabi v. National Investigation Agency*[19] expressed reservations, with regard to the correctness of *Gulfisha Fatima*. This has led to a reference to a larger bench of the Supreme Court in *Tasleem Ahmad v. State Govt. of NCT of Delhi*[20]. Pending resolution of the issue by the larger Bench, this Court, in *Deepak Ramnani*, considered it appropriate to adopt the following approach:

> "*22. The question that arises before this Court, in light of the aforesaid decisions, is to determine the approach which must be adopted in adjudication of the present applications. Needless to say, the differing approaches expounded by the Supreme Court in Gulfisha Fatima and Syed Iftikhar Andrabi, are both binding upon this Court. Although the question has been referred to a larger bench in Tasleem Ahmed 2, the factum of reference itself does not denude a Supreme Court decision of its binding authority*[21].
> *23. The possible course of awaiting an authoritative decision by the larger bench of the Supreme Court does not commend to me, in the context of these applications for bail, which by their very nature require expeditious resolution. Instead, having considered the judgments cited by both sides, which were rendered after Gulfisha Fatima, I am of the view that a practical approach must be adopted, at least until the reference is answered by a larger bench. In the present case, such an approach requires this Court first to adjudicate upon Mr. Malik's submission that, even in terms of the interpretation of K.A. Najeeb in Gulfisha Fatima, as understood by this Court in Leena Palouse-II, the petitioners are entitled to bail. If this contention is accepted, it is unnecessary to delve further into the exercise of reconciliation between the views expressed in Gulfisha*

[18] Emphasis supplied.
[19] 2026 SCC OnLine SC 881 [hereinafter, "*Andrabi*"].
[20] SLP (CRL.) No. 3867/2026, dated 22.05.2026.
[21] *Harbhajan Singh and Another v. State of Punjab*, (2009) 13 SCC 608, paragraph 15; *National Insurance Company Limited v. Pranay Sethi*, (2017) 16 SCC 680; *Union Territory of Ladakh and Ors. v. Jammu and Kashmir National Conference and Anr.*, (2024) 18 SCC 643, paragraph 35.

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Fatima and Syed Iftikhar Andrabi, with regard to the competing interpretation of K.A. Najeeb.
24. Before embarking upon this exercise, I may only add that this course is also not, in my view, inconsistent with the interpretation of K.A. Najeeb in Syed Iftikhar Andrabi. ***The position of law laid down in Gulfisha Fatima, as I have understood it in Leena Paulose-II, was that the ground of prolonged incarceration without likelihood of culmination of proceedings, must be considered even in cases involving statutory restrictions on grant of bail. However, these must be analysed, alongwith the nature of offence, and the prima-facie material available against the accused. The articulation in Syed Iftikhar Andrabi, is that the statutory limitation on the grant of bail cannot override rights under Article 21, but that "of course, in an appropriate case, bail can be denied having regard to the facts of that particular case"[22]. Syed Iftikhar Andrabi therefore also requires a factual examination, to determine whether a particular accused is to be granted bail, despite an argument based upon his/her Article 21 rights.*** *It may be noted that, both in Gulfisha Fatima and in Syed Iftikhar Andrabi, the Supreme Court examined the case of accused on merits, in the backdrop of period of incarceration and the likely length of trial. In Gulfisha Fatima, five of the seven accused were granted bail, as was the sole accused in Syed Iftikhar Andrabi."* [23]

19. I propose to adopt the same approach in the present case also. I may also note that, in *Khuram Parvez v. National Investigation Agency*[24], which was rendered after the aforesaid judgments of the Supreme Court, including the reference order in *Tasleem Ahmad*, a Division Bench of this Court has adopted a similar approach. The case concerned an application for bail in a UAPA offence. The Court's approach is indicated by the following observations:

"*61. Keeping in view the above, we have proceeded to consider the case of the appellant for releasing him on bail.*
62. For the same, we would note that the appellant was taken into custody in the present case on 22.11.2021, and has, therefore, undergone ***prolonged incarceration*** *of almost 4½ years. The* ***stage of the trial*** *is at the arguments for framing of charge. We are further informed that the*

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[22] *Andrabi*, paragraph 35.
[23] Emphasis supplied.
[24] CRL.A. 1234/2024, decided on 10.06.2026.

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> *__prosecution intends to examine 197 witnesses__ in case the charge is framed against the appellant.*
> *63. We shall also conduct a __surface evaluation of the case alleged by the prosecution against the appellant__.*
> *xxx xxx xxx*
> *71. We have taken note of the above __allegations and the defence of the appellant, only to highlight that they must be tested against the long period of incarceration of the appellant and the fact that there is no likelihood of the trial ending soon__ as also against the yardstick of bail being the rule, while denial thereof being an exception. __The appellant's rights under Article 21 of the Constitution of India need to be balanced and may even trump the restriction imposed under Section 43D(5) of the UAPA.__*
> *72. We are also mindful of the fact that one of the co-accused, namely, Zafar Abbas (A-4), has been denied bail by this Court and the said order has been upheld by the Supreme Court, however, we find that the __allegations against the said co-accused were very different from the one against the appellant herein__."*[25]

20. Applying the same benchmarks to the present case, it may be noted that the petitioner is not accused of participation in the alleged acts of extortion, against the complainant or any other person. His role, as per the prosecution, was in planning and management of the funds which were sent by Sukesh to Leena, including facilitating accounting entries, purchase of properties and luxury cars, arranging parking of the said cars, and production of a film. It is alleged that he was renumerated for these tasks by way of commission. It is in this context that he is accused of frequent meetings with Leena as also with Sukesh, when he was on parole. The statements of other co-accused, and of witnesses relied upon by the prosecution, do not *prima facie* accord any higher role to the petitioner than this.

21. As against this, the petitioner has already spent approximately 4 years and 10 months in custody as an undertrial. The offence under

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Section 3(4) of MCOCA carries a sentence which may extend to imprisonment of five years to life imprisonment. However, the factors indicated above, including the number of accused [24], number of witnesses [403], and the complexity of the case, make expeditious conclusion of the proceedings unlikely. Having regard to the role ascribed to the petitioner by the prosecution, I am of the view that his further incarceration as an undertrial, is inappropriate. Although I have held, in *Leena Paulose*[26], that the delay in the present case cannot be attributed to prosecutorial delays or court inaction alone, I am nonetheless of the view that the facts of each case have to be examined on their own merits, with due consideration of the specific roles ascribed to the individual in question.

22. As I have held that the petitioner is entitled to bail even if the prosecution case is taken at its highest, I do not consider it necessary to address the other contentions raised by Mr. Malhotra.

V. ***CONCLUSION***

23. For the aforesaid reasons, the application is allowed, and it is directed that the petitioner be released on bail in connection with FIR No. 208/2021, dated 07.08.2021, registered at Police Station Special Cell, Delhi, subject to furnishing a personal bond of Rs. 2,50,000/-, alongwith two sureties in the like amount, to the satisfaction of the concerned Special Court/Duty Magistrate, and subject to the following further conditions:

a. The petitioner shall appear before the Special Court on each and

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[25] Emphasis supplied.
[26] Paragraph 37.

every date of hearing;

b. The petitioner shall surrender his passport before the Special Court, and shall not leave the country without prior permission of the concerned Court;

c. The petitioner shall provide his permanent address to the concerned Court, as also the address where he is residing during the pendency of the case. The petitioner shall intimate the Investigating Officer ["IO"], and file an affidavit before the Special Court, regarding any change in residential address;

d. The petitioner shall provide his mobile number to the concerned IO/Station House Officer, which shall be kept in working condition at all times. The mobile number shall not be switched off or changed without prior intimation to the IO during the pendency of the trial;

e. The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;

f. The petitioner shall not commit any offence during the period of his release.

24. The bail application is disposed of in terms of the above.

25. It is clarified that any observations made in the present judgment are solely for the purpose of deciding the present bail application, and shall neither influence the trial proceedings, nor be construed as an expression of opinion on the merits of the case.

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26. Copy of the judgment be communicated to the concerned Jail Superintendent electronically for information and necessary compliance.

PRATEEK JALAN, J

JULY 7, 2026
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