



2026 INSC 12

REPORTABLE**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION****Criminal Appeal No. _____ of 2026
(@ S.L.P. (Crl.) No. 15478 of 2025)****Arvind Dham****... Appellant****Versus****Directorate of Enforcement****... Respondent****JUDGMENT****ALOK ARADHE, J.**

1. Leave granted
2. This appeal is directed against the judgment and order dated 19.08.2025, passed by learned Single Judge of the High Court of Delhi, by which the application preferred by the appellant under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') read with Section 45 of the Prevention of Money Laundering Act, 2002 ('PMLA') seeking grant of regular bail, came to be rejected.
3. The appellant is a former promoter and non-executive Chairman of Amtek Auto Ltd. (AAL), and is also non-executive Director of M/s. ACIL Ltd., a company registered

under the Companies Act. The group of companies including subsidiaries and associate concerns is collectively referred to as the “Amtek Group”. During the period 2017-2018, Corporate Insolvency Resolution Process (CIRP) was initiated against entities belonging to Amtek Group.

4. FIRs were registered on 21.12.2022 at the instance of IDBI Bank and Bank of Maharashtra alleging commission of offences under Sections 120B, 420, 406, 468 of the Indian Penal Code and Section 13(2) and 13(1)(d) of the Prevention of Corruption Act, 1988, wherein the appellant was arrayed as an accused along with twenty seven other individuals. In the aforementioned FIRs there is an allegation of fraud to the extent of INR 385.35 crores and INR 289 crores respectively. On the basis of the said FIRs on 21.03.2023, the Directorate of Enforcement registered two ECIRs alleging laundering of proceeds of crime.
5. A Writ Petition under Article 32 of the Constitution of India, being W.P. Criminal No(s). 246 of 2022 (**Jaskaran Singh Chawla vs. Union of India and Ors.**) was filed before this Court alleging failure of CBI and the Serious Fraud Investigation Office (SFIO) to investigate frauds allegedly

committed by Amtek Group involving diversion and siphoning of bank loans amounting to Rs.33,400 crores. A two-Judge Bench of this Court, by an interim order dated 27.02.2024, directed the CBI and SFIO to conduct an exhaustive investigation and to cooperate with and complement the Enforcement Directorate in the collection of evidence.

6. The gravamen of the allegation against the appellant is that he is the ultimate beneficiary of the fraud which was a well-orchestrated scheme, executed at his behest, involving diversion and siphoning of public funds through layered entities, resulting in substantial wrongful loss to Public Sector Banks.
7. The appellant, in response to the summons issued to him under Section 50 of the PMLA, appeared on 19.06.2024 and his statement was recorded. The respondent carried out search and seizure operations on 20.06.2024, at the residence of the appellant and his statement was again recorded. The appellant was arrested on 09.07.2024. A prosecution complaint dated 06.09.2024 was filed against 16 accused persons i.e., six individuals and ten companies,

wherein, appellant was arrayed as an accused. Thereafter a supplementary prosecution complaint was filed on 02.08.2025 against 40 accused persons i.e., 22 individuals and 18 companies. Out of 28 individuals, only the appellant has been arrested and is in custody. A total number of 208 prosecution witnesses have been cited. The cognizance of prosecution complaint is yet to be taken.

- 8.** On 16.12.2024, the appellant moved an application under Section 45 of the PMLA for seeking bail before the Special Judge. The Special Judge by an order dated 21.01.2025 dismissed the application on the ground that the appellant is not covered by proviso to Section 45 of the PMLA. Thereafter, on 04.02.2025, the appellant approached the High Court by filing an application under Section 483 of the BNNS and Section 45 of PMLA, along with an application for interim bail. The appellant was granted interim bail on medical grounds on 11.03.2025 till 01.04.2025. By the impugned order dated 19.08.2025, the High Court rejected application for regular bail.
- 9.** Learned senior counsel for the appellant submitted that appellant is aged about 64 years and suffers from multiple

ailments. It is further submitted that appellant is in custody for past about 16 months and 20 days and his long incarceration, is violative of the Right to Liberty and speedy trial under Article 21 of the Constitution. In support of the aforesaid submission, reliance is placed on decisions of this Court¹. It is pointed out that out of 28 individuals only the appellant has been arrested and investigation *qua* the appellant stands concluded. In this connection, reference has been made to order dated 20.08.2025 passed by the Special Court which records the submission of the ED. It is, therefore, contended that the custody of the appellant is no longer required. It is urged that no cognizance of the prosecution complaint has been taken and the matter is at the stage of scrutiny of documents.

- 10.** It is submitted that there is no likelihood of trial commencing in foreseeable future. It is pointed out that delay in trial of approximately eight months is attributable to the respondent, as it had filed CrI. MC No.7860 of 2024

¹ **Manish Sisodia v. Enforcement Directorate, (2024) 12 SCC 660, Padam Chand Jain v. Enforcement Directorate, (2025) SCC OnLine SC 1291, Udhaw Singh v. Directorate Enforcement, 2025 SCC OnLine SC 357, Prem Prakash v. Union of India, SLP (CrI.) No.691 of 2023 – Order dated 04.10.2024, Dineshchand Surana v. Asst. Director, ED, SLP (CrI.) No.15274 of 2024 – Order dated 06.08.2025, Union of India v. K.A. Najeeb, (2021) 3 SCC 713, Kapil Wadhawan v. CBI, SLP (CrI.) No.16953 of 2025 – Judgment/Order dated 11.12.2025.**

before the High Court challenging the order dated 07.09.2024 issuing notice to the proposed accused person. It is pointed out that in the said proceeding, the High Court had granted an interim order of deferment of proceeding before the Special Judge and after eight months, respondent, on 23.05.2025, withdrew the said proceeding.

- 11.** It is urged that the appellant has cooperated with the investigation and the allegation with regard to influencing the witness, Ms. Anuradha Kapur, is incredulous as the appellant has been in custody since 09.07.2024 and aforesaid Ms. Anuradha Kapur has been arrayed as a witness in supplementary prosecution complaint dated 02.08.2025. Therefore, the question of instructing the said witness not to join the investigation prior to issue of summons to her does not arise. It is pointed out that all close family members of the appellant have fully participated in the investigation. It is contended that the appellant is in custody since 09.07.2024 and has no knowledge of dissipation of properties at Panipat and Alwar. It is submitted that the appellant is not the Director of M/s. Marichika Properties and, therefore, has no knowledge

about dissipation of properties mentioned in the chart at page 125 of the counter affidavit.

- 12.** It is submitted that the allegations in the predicate offence allege a total bank fraud to the tune of INR 673.35 crores, therefore, the figure of INR 38,000 crores is deliberately exaggerated to project the instant case as India's largest bank fraud to justify the prolonged custody of the appellant. It is urged that it is settled law that economic offences cannot be classified as separate class on its own for determination of grant of bail². It is also stated that the appellant is neither a flight risk nor can he tamper with the evidence. Therefore, the appellant is entitled to be enlarged on bail.
- 13.** On the other hand, learned Additional Solicitor General submitted that the gravity of the offence disentitles the appellant from seeking any exemption from the mandatory twin conditions of bail under Section 45 of the PMLA. It is further submitted that the appellant is an influential person and had instructed his cousin, Ms. Anuradha Kapur, who is a dummy director in his group of companies, not to join the

² P. Chidambaram v. Directorate of Enforcement, (2020) 13 SCC 791.

investigation. It is also submitted that the appellant has dissipated the proceeds of crime i.e., immovable properties at Alwar and Panipat after attachment. It is contended that mere incarceration for a long period cannot be a sole ground for bail, ignoring the gravity of an offence especially when there are allegations of tampering with evidence and influencing witnesses³. It is contended that delay in trial, if any, is attributable to the appellant, which is evident from the order sheet of the Trial Court. It is further contended that the proviso to Section 45(1) of the PMLA has no application to the facts of the case.

- 14.** It is submitted that out of 210 witnesses to be examined during the trial, 25 witnesses are common in both the prosecution complaints. It is pointed out that out of 63,691 pages of relied upon documents, only few pages are relevant to prove the loss. It is further pointed out that ED has filed an application on 27.09.2025 for day-to-day hearing. It is submitted that the appeal is liable to be dismissed. Alternatively, it is also pointed out that in many serious cases, this Court has directed the parties to re-apply for bail

³ Kalyan Chandra Sarkar v. Rajesh Ranjan, (2004) 7 SCC 528 and B. Rajesh Ranjan Yadav v. CBI, (2007) 1 SCC 70.

after sometime⁴ and the appellant, depending upon the progress of the trial, be directed to renew the prayer for bail after six months.

- 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 i.e., prescribed for the offence, the accused is alleged to have committed⁵. 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 basis⁶. It is well settled that if the State or any prosecuting agency including, the court,

⁴ Bimal Kumar Jain v. Directorate of Enforcement, SLP (Crl.) No. 7942/2021.

⁵ P. Chidambaram (supra)

⁶ Satender Kumar Antil v. CBI (2022) 10 SCC 51

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 crime⁷. 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 trial⁸.

- 16.** A two-Judge Bench of this Court in **V. Senthil Balaji's** case⁹ 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.

⁷ Javed Gulam Nabi Shaikh v. State of Maharashtra & Anr. (2024) 9 SCC 813.

⁸ Manish Sisodia (supra)

⁹ V. Senthil Balaji v. Deputy Director, Enforcement Directorate, 2024 SCC OnLine SC2626

- 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.
- 19.** In the backdrop of aforesaid well settled parameters with regard to exercise of jurisdiction for grant of bail in economic offences, we now advert to the facts of the case in hand. The appellant has joined the investigation even prior to his arrest i.e., 19.06.2024 and 02.07.2024 as well as on 09.07.2024. Thus, he has cooperated with the investigation.

Out of 28 individuals, only the appellant has been arrested. The order dated 20.08.2025 of the Special Court records the submission of ED that investigation *qua* the appellant has concluded. The maximum sentence which can be imposed on the appellant is seven years. The appellant is in custody for past around 16 months and 20 days. It is pertinent to note that various Benches of this Court, while taking into account the period of incarceration which ranges from 3 months to 17 months in several cases have granted bail to the appellants therein¹⁰. In the instant case, no cognizance has been taken on the prosecution complaint and the proceeding is at the stage of scrutiny of documents. No material has been placed on record to show the fate of the application filed by the ED on 27.09.2025 seeking day-to-day hearing even after period of approximately three months has expired. There are 210 witnesses to be examined in the proceeding. There is no likelihood of trial commencing in the near future. The continued incarceration in such

¹⁰ P. Chidambaram (*supra*) (three months), Kalvakuntla Kavitha v. Directorate of Enforcement, 2024 SCC OnLine SC 2269 (five months), Sanjay Agarwal v. Directorate of Enforcement, 2022 SCC OnLine SC 1748 (ten months), Sanjay Agarwal v. Directorate of Enforcement, 2022 SCC OnLine SC 1748 (eleven months), Ramkripal Meena v. Directorate of Enforcement, 2024 SCC OnLine SC 2276 (thirteen months), Anil Tuteja v. Directorate of Enforcement, SLP (Crl) No.3148 of 2025 (Order dated 15.04.2025), V. Senthil Balaji (*supra*) (fifteen months), Neeraj Singal v. Directorate of Enforcement, 2024 SCC OnLine SC 3598 (sixteen months), Abdul Razak Peediyakkal v. UOI, 2023 SCC OnLine SC 2326 (seventeen months) and Manish Sisodia (*supra*) (seventeen months)

circumstances, particularly where the evidence which is primarily documentary in nature, is already in custody of the prosecution, violates the right of the appellant to speedy trial under Article 21 of the Constitution of India.

20. As regards the allegation that the appellant instructed Ms. Anuradha Kapur not to join the investigation, the same does not inspire confidence, particularly, in view of the fact that appellant has been in custody prior to concerned witness being formally arrayed as a witness. It is noteworthy that the appellant is in custody since 09.07.2024 and Ms. Kapur was arrayed as a witness only on 02.08.2025. The allegation, therefore, is wholly incredulous.

21. The record reveals that the prosecution complaint was filed on 06.09.2024. The Special Judge issued notice on 07.09.2024 to all proposed accused persons under the proviso to Section 223 of BNSS. The respondent challenged the said order before the High Court, resulting in eight months stay of proceedings, before the Special Judge, which was lifted on 23.05.2025 only upon withdrawal of the petition. The delay in the trial is thus attributable only to the respondent, not the appellant.

- 22.** The appellant has been in custody since 09.07.2024. The disposal of immovable properties occurred on 24.12.2024 and 17.02.2025 and pertains to M/s Marichika Properties, with which no material link to the appellant has been established. There is no evidence that the appellant was signatory to any sale document. The allegation of dissipation of proceeds of crime by him is, therefore, untenable at this stage.
- 23.** For the foregoing reasons, the impugned judgment and order dated 19.08.2025 is quashed and set aside. The appellant-Arvind Dham shall be released on bail during the pendency of the trial arising out of prosecution complaint-ECIR Case Nos. ECIR/GNZO/13/2024 and ECIR/GNZO/14/2024, pending before the Special Judge (PC Act) (CBI)-02(Duty Judge), Rouse Avenue District Court, under provisions of the PMLA. The terms and conditions for grant of bail shall be fixed by the Trial Court.
- 24.** In addition, the appellant will provide one telephone/mobile No. on which he can be contacted by the Officers of Directorate of Enforcement to ascertain his whereabouts while he is on bail. The appellant shall surrender his

passport to the Trial Court and will not leave India without permission of the Trial Court.

25. In the result, the appeal is allowed.

.....J.
[SANJAY KUMAR]

.....J.
[ALOK ARADHE]

**NEW DELHI;
JANUARY 6, 2026.**