IA No.1/26
CNR No. DLCT11-000331-2022
Complaint Case No.01/22
CIS No.21/2022
FIR No.ECIR/05/HIU/2017
ED Vs. Sukash Chandershekar @ Sukesh
PS Directorate of Enforcement
Under Section : 3 & 4 of PMLA

ORDER

1. Applicant Sukash Chandershekar @ Sukesh has moved the present application seeking regular bail under section 483 read with section 479 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS).

2. During the course of submissions, the arguments on behalf of the accused have been restricted to the plea for bail under section 479 (1) BNSS on the plea that the accused has now undergone detention for four years which is more than one half of the maximum period of detention specified for the offence under section 3, punishable under section 4 PMLA.

3. In view of the limited zone of consideration *inter alia* section 479 BNSS, the court would record at the outset that the out come of the plea is not contingent upon the merits of the allegations or the defence projected by the accused.

4. Yet, the allegations are noted, in brief, for context.

Allegations pertaining to the scheduled offence

5. The present ECIR No 05/HIU/2017 is predicated on the scheduled offence registered through FIR No.56/2017 PS Crime Branch, New Delhi under sections 170, 201, 419, 420, 468, 471, 474 & 120-B IPC and Section 8 of PC Act. The allegations from the said FIR are being noted below by the court.

6. After the demise of Ms. J. Jayalalithaa, the then Chief Minister of Tamil Nadu, the political party AIADMK came to be split into two factions viz V.K. Sasikala faction to which accused no.2 (A-2) T.T.V. Dhinakaran belonged and E. Madhusudhanan faction. These factions now vied for 'Two Leaves' election symbol of AIADMK.

7. The matter was before the Election Commission of India (ECI) when A-2 T.T.V. Dhinakaran allegedly entered into a criminal conspiracy with accused no.1 (A-1) Sukash @ Sukesh Chandershekar, accused no.3 (A-3) T.P. Mallikarjun and accused no.7 (A-7) B. Kumar to secure a favourable order from ECI, on payment of gratification of Rs. Fifty Crores to A-1 Sukash @ Sukesh Chandershekar.

8. A-2 T.T.V. Dhinakaran purportedly also wanted a favourable order from ECI for declaring Bye-Elections for the Dr. Radhakrishnan Nagar Assembly Constituency in Tamil Nadu at an early date and preferred the Bye-Elections to be held on 05.05.2017, as he intended to be a candidate and considered 05.05.2017 to be an auspicious day for him.

9. A-2 T.T.V. Dhinakaran, with the help of A-3 T.P. Mallikarjun and the other co-accused persons allegedly sent a sum of Rs. Two Crores to A-1 Sukash @ Sukesh Chandrashekar, using hawala channels, from Chennai to Delhi. Out of this sum of Rs. Two Crores, Rs. One Crore Thirty Lakhs were recovered from the room at hotel Hyatt, New Delhi occupied by A-1 Sukash @ Sukesh Chandershekar.

10. A-1 Sukash @ Sukesh Chandrashekar also allegedly personated to be a Member of Parliament, Rajya Sabha and had a false document viz the Identity Card of Rajya Sabha in his possession showing himself to be its member.

11. It is further alleged that A-1 Sukash @ Sukesh Chandershekar had got stickers of 'Member of Parliament' pasted on both the number plates i.e. front and rear of the car used by him by showing Sh. Narender s/o Sh. Panchu Ram the forged identity card of MP Rajya Sabha though he was not the Member of Rajya Sabha.

12. The other allegation against him is that he personated as Kamlesh before Shah Faizal at the time of receiving the gratification sent on behalf of A-2 T.T.V. Dhinakaran.

13. The FIR came to be registered after a chain of events which commenced when ACP Sanjay Sehrawat, Inter-State Cell (ISC), Crime, Chankayapuri, New Delhi received a reliable information on 15.04.2017 that one person Sukash @ Sukesh Chandershekar, a resident of Bengaluru, had checked-in at Hotel Hyatt Regency, New Delhi with one of his associates and was

staying in Room No.263. He was learnt to be in constant touch with T.T.V. Dhinakaran, AIADMK (Sasikala faction) Deputy General Secretary regarding a pending matter before the Election Commission of India pertaining to party symbol of AIADMK. This matter was likely to come for hearing before Election Commission of India on 17.04.2017 and Sukash @ Sukesh Chandershekar had promised to use his influence in ECI to get the matter resolved in favour of Sasikala faction. In lieu of this assistance, he was promised a sum of Rs. Fifty Crores. The information also was that Sukash @ Sukesh Chandershekar was a known cheat having several involvements in high profile cheating cases and was using expensive cars having print of Member of Parliament on both sides of the car.

14. The purported information further specified that in case a raid was conducted at Hotel Hyatt Regency, a large amount of cash could be recovered from the possession of Sukash @ Sukesh Chandershekar and that the said cash had been taken from Sasikala-Dhinakaran faction for exercising his influence at ECI in their favour.

15. ACP Sanjay Sehrawat telephonically shared this information with DCP, Crime who, after verifying the credentials of the information, directed him to take action in the matter. The ACP and his team of nine other officials of Delhi Police as well as the informer thereafter reached hotel Hyatt Regency, R. K. Puram around 1.30 AM and went to Room No.263 where the door was opened by a person who introduced himself as Sukash

@ Sukesh Chandershekar. The raiding party disclosed its identity and over powered him.

16. The room was searched and one bag containing a sum of Rs.1.30 Crore was found in that room. Income Tax Authorities were informed about the recovery of this amount and the team brought Sukash @ Sukesh Chandrashekar to their office at Inter-State Crime/Crime, Chanakayapuri, Delhi for further interrogation.

17. One Mercedes car bearing registration No. RZ 14LC 0300 was also taken into possession from the parking of the Hotel. Its front and rear number plates had stickers of 'Member of Parliament' pasted on them.

Allegations in the present prosecution case under the PMLA

18. The ED alleged that the accused had been found to be involved in money laundering within the meaning of section 3 PMLA as he had co-ordinated with T.T.V. Dhinakaran in the generation of proceeds of crime of Rs. 2 crores and getting it transferred from Chennai to Delhi. Subsequently on 15.04.2017, he is alleged to have acquired and possessed proceeds of crime to the extent of Rs. 2 crores in Delhi. He purportedly utilised and projected these proceeds of crime to the extent of Rs. 63.78 lakhs as untainted money by making payment of Rs. 50 lakhs to Pulkit Kundra, Rs. 12 lakhs to Maheen Pradhan and Rs. 1.78 lakhs to Hotel Hyatt Regency.

Submissions on behalf of accused

19. The ld counsel for accused prayed for his release under section 479 (1) BNSS on the submission that the decisions in *Vijay Madanlal Chaudhary & Ors. vs. Union of India and Others 2022 SCC OnLine SC 929* and *Ajay Ajit Peter Kerkar vs Directorate of Enforcement & Anr. Crl. Appeal Nos. 2601-2602 of 2024 dated 16th May, 2024* had found in favour of the applicability of section 436A to proceedings under the PMLA. Reliance was also placed on the decision in *Satender Kumar Antil vs. Central Bureau of Investigation &Anr. (SLP [Crl.] 5191 of 2021)* to argue in favour of the mandatory nature of section 436A Cr. CP (now section 479 BNSS).

20. It was contended that with the accused having suffered detention for substantially more than half the period of imprisonment specified under section 4 PMLA (7 years), he was entitled to release in protection of the right under Article 21 of the Constitution.

21. The Ld. Counsel highlighted that the trial proceedings in the predicate offence (State Vs. Sukash @ Sukesh Chandershekar & Ors.) had been stayed by the Hon'ble High Court of Delhi vide order dated 30.09.2019 at the stage of prosecution evidence while the present trial under section 3 read with section 4 PMLA had subsequently been stayed by the Hon'ble High Court vide order dated 06.02.2024 when the accused was to lead evidence in defence. It was submitted on behalf of the accused that with no early prospect of even resumption of trial, the accused would

possibly be at the peril of suffering much more prolonged detention without further trial.

22. The attention of the court was drawn to its own order dated 30.08.2024 wherein the accused had been admitted to bail under section 479 BNSS (in relation to the scheduled offences) on the ground that he had infact suffered detention for the entire maximum period of detention provided for the offences therein (7 years). The ld counsel sought the benefit of the reasoning in the order dated 30.08.2024 being extended to the present period of detention too.

Submissions on behalf of the ED

23. It is noticeable that rather vehement submissions were made on behalf of the ED in opposing the plea for bail on behalf of the applicant under section 479 BNSS.

24. The Ld. SPP for the ED agitated that while the plea under section 479 BNSS may indeed be maintainable even in prosecutions under the PMLA, there existed no particular indefeasible right in an accused to be released only because the period of detention had exceeded half of the maximum imprisonment provided under section 4 PMLA.

25. It was the assertion on behalf of the ED that the power under section 479 (1) was a matter of discretion of the special court and not mandatory in nature. The Ld. SPP relied upon the decision in *Vijay Madanlal (Supra)*, *Sunil Maan vs State Govt. of NCT of Delhi* Bail Application No.1795/2025 dated 17.09.2025

and ***Nitesh Raghunath Lahange vs State of Maharashtra and Another 2025 SCC OnLine Bom 601*** to canvas in favour of discretion being the parameter rather than the purported mandatory nature of the provision (as had been contended on behalf of the applicant).

26. The involvement of the present applicant in other cases, exceeding 30 in number, through out the country was also cited as being detrimental to the plea for bail. The Ld. SPP pointed to sub section 2 of section 479 to agitate that being named or investigated in other offences would trigger a disabling effect qua bail and that the said sub section was mandatory in nature.

27. Reference was made to the decision in ***Panna Lal Mahto vs. Union of India through Directorate of Enforcement 2024 SCC OnLine Jhar 4413*** to substantiate the above argument.

28. The decision in ***Aditya Krishna vs Directorate of Enforcement Bail Appln. 3464/2024 & Crl. M.A 34021/2024 & Crl. M.A 37399/2024 & Crl. M (Bail) 2021/2024 dated 28.01.2025*** was further cited on behalf of the ED to submit that bail in the predicate offence would not *per se* enable bail in the proceedings under section 4 PMLA against the same accused.

Discussion and Reasons

29. The provision critical to the present prayer is section 479 BNSS which is reproduced below:

> *479. (1) Where a person has, during the period of investigation, inquiry or trial under this Sanhita of an offence under any law (not being an offence for which the punishment of death or life imprisonment has been*

specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on bail:

Provided that where such person is a first-time offender (who has never been convicted of any offence in the past) he shall be released on bond by the Court, if he has undergone detention for the period extending up to one-third of the maximum period of imprisonment specified for such offence under that law:

Provided further that the Court may, after hearing the Public Prosecutor and for reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail bond instead of his bond:

Provided also that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.

Explanation.—In computing the period of detention under this section for granting bail, the period of detention passed due to delay in proceeding caused by the accused shall be excluded.

(2) Notwithstanding anything in sub-section (1), and subject to the third proviso thereof, where an investigation, inquiry or trial in more than one offence or in multiple cases are pending against a person, he shall not be released on bail by the Court.

(3) The Superintendent of jail, where the accused person is detained, on completion of one-half or one-third of the period mentioned in sub-section (1), as the case may be, shall forthwith make an application in writing to the Court to proceed under sub-section (1) for the release of such person on bail.

30. It is evident that sub section (1) is couched in mandatory terms so that detention equaling one half of the maximum period of imprisonment for a particular offence does entitle the accused to be released on bail. Undoubtedly, the usage of the term 'shall' casts this benevolent provision in a mandatory mould which is only tempered by the second proviso to section 479(1) and sub

section (2). Hence, the existence of adequate reasons for denying the relief under section 479(1) may occasion the dismissal of such an application. Equally, sub section 2 creates a rider against release of an accused on bail under sub section (1) when facing investigation, enquiry or trial in more than one offence or in multiple cases.

31. In the assessment of the court, the second proviso and sub section 2 act in similar vein *inter alia* creating a zone of discretion for the court to lower the threshold from 'shall' to a 'case to case' analysis of facts and circumstances. Infact, the 'case to case' approach has been sanctified by the decision in ***Vijay Madanlal (Supra)***.

32. The relevant excerpts from ***Vijay Madanlal (Supra)*** are reproduced below:

> *416. The Union of India also recognized the right to speedy trial and access to justice as fundamental right in their written submissions and, thus, submitted that in a limited situation right of bail can be granted in case of violation of Article 21 of the Constitution. Further, it is to be noted that the Section 436A of the 1973 Code was inserted after the enactment of the 2002 Act. Thus, it would not be appropriate to deny the relief of Section 436A of the 1973 Code which is a wholesome provision beneficial to a person accused under the 2002 Act. However, Section 436A of the 1973 Code, does not provide for an absolute right of bail as in the case of default bail under Section 167 of the 1973 Code. For, in the fact situation of a case, the Court may still deny the relief owing to ground, such as where the trial was delayed at the instance of accused himself.*
>
> *417. Be that as it may, in our opinion, this provision is comparable with the statutory bail provision or, so to say, the default bail, to be granted in terms of Section 167 of the*

1973 Code consequent to failure of the investigating agency to file the chargesheet within the statutory period and, in the context of the 2002 Act, complaint within the specified period after arrest of the person concerned. In the case of Section 167 of the 1973 Code, an indefeasible right is triggered in favour of the accused the moment the investigating agency commits default in filing the chargesheet/complaint within the statutory period. The provision in the form of Section 436A of the 1973 Code, as has now come into being is in recognition of the constitutional right of the accused regarding speedy trial under Article 21 of the Constitution. For, it is a sanguine hope of every accused, who is in custody in particular, that he/she should be tried expeditiously — so as to uphold the tenets of speedy justice. If the trial cannot proceed even after the accused has undergone one-half of the maximum period of imprisonment provided by law, there is no reason to deny him this lesser relief of considering his prayer for release on bail or bond, as the case may be, with appropriate conditions, including to secure his/her presence during the trial.

418. Learned Solicitor General was at pains to persuade us that this view would impact the objectives of the 2002 Act and is in the nature of super imposition of Section 436A of the 1973 Code over Section 45 of the 2002 Act. He has also expressed concern that the same logic may be invoked in respect of other serious offences, including terrorist offences which would be counterproductive. So be it. We are not impressed by this submission. For, it is the constitutional obligation of the State to ensure that trials are concluded expeditiously and at least within a reasonable time where strict bail provisions apply. If a person is detained for a period extending up to one-half of the maximum period of imprisonment specified by law and is still facing trial, it is nothing short of failure of the State in upholding the constitutional rights of the citizens, including person accused of an offence.

419. Section 436A of the 1973 Code, is a wholesome beneficial provision, which is for effectuating the right of speedy trial guaranteed by Article 21 of the Constitution and which merely specifies the outer limits within which the trial is expected to be concluded, failing which, the

accused ought not to be detained further. Indeed, Section 436A of the 1973 Code also contemplates that the relief under this provision cannot be granted mechanically. It is still within the discretion of the Court, unlike the default bail under Section 167 of the 1973 Code. Under Section 436A of the 1973 Code, however, the Court is required to consider the relief on case-to-case basis. As the proviso therein itself recognises that, in a given case, the detention can be continued by the Court even longer than one-half of the period, for which, reasons are to be recorded by it in writing and also by imposing such terms and conditions so as to ensure that after release, the accused makes himself/herself available for expeditious completion of the trial.

33. The guidance available from the decision in ***Vijay Madanlal (Supra)*** rules out a uniform approach to all pleas under section 436A Cr. PC (now section 479 BNSS). It is rather envisaged that the circumstances of detention of each accused are assessed on a 'case to case' basis. The court is thus in disagreement with the Ld. SPP for the ED in his assertion that the relief under section 479(1) BNSS is inevitability to be denied if an accused is involved in other investigations or trials of offences even if the threshold of half the term of maximum imprisonment has been reached by an accused in detention. The court is unable to concur with the interpretation of the interplay between sub section (1) and sub section (2) of section 479 canvassed by the ED. Sub Section 2 is in the nature of an exception to the benevolent intent of sub section 1. The exception cannot over ride the right. Reading a right in precedence over the exception is fundamental not only to a legal system founded on fundamental rights, liberty being most prime among these rights, but also the

prudent approach when interpreting a strict legislation like the PMLA.

34. Needing to expand only on the second norm highlighted above, the court would notice that the regime covering bail under the PMLA is overwhelmingly impacted by section 45. The twin conditions entailed therein are similar to twin conditions under other strict legislations like the NDPS and the MCOC Act. The plea of the ld. SPP for the ED to read even section 479 BNSS in a similarly exacting manner convolutes the very essence of section 479 BNSS (previously section 436A). When even the twin conditions have now been mitigated by a series of decisions[1,2,3,4,5] so as to make these conditions subject to constitutional/plenary twin conditions arising out of Article 21 *inter alia* prolonged incarceration and prospect of delayed trial, it would be to do indirectly what cannot be done directly for the court to defeat even the benevolent intent of section 479 BNSS by accepting the arguments on behalf of the ED with reference to sub section (2).

35. Moreover, the decision in ***Vijay Madanlal (Supra)*** has accepted parity though not the identical nature of section 436A and the provision of statutory bail under section 167 of the Cr.PC. These provisions recognise time based thresholds beyond which the right to liberty supersedes considerations of trial and

---

1 Manish Sisodia vs Directorate of Enforcement 2024 SCC Online SC 1920
2 Kalvakuntla Kavitha vs Directorate of Enforcement 2024 SCC Online SC 2269
3 Vijay Nair vs Directorate of Enforcement, SLP Crl. 12031 of 2024 (order dated 02.09.2024)
4 Prem Prakash vs Union of India thr. DOE 2024 SCC Online SC 2270
5 Ramkripal Meena vs. Directorate of Enforcement 2024 SCC Online 2276

even the gravity of the offence. The argument on behalf of the ED is fundamentally flawed in assuming that the effect of section 479 BNSS is equally, if not more stringent than section 45 PMLA itself.

36. Trite it is to reiterate that the merits of the allegations are in any event not in consideration as the prayer is centered upon section 479 BNSS and not section 45 PMLA.

37. In somewhat similar circumstances, prevalent when this court was considering the plea for bail of the same accused in the predicate offence, wherein the detention had exceeded even the maximum period of punishment provided for the offences, an identical plea of the prosecution therein (Crime Branch) was addressed and declined by this court through reasoning in order dated 30.08.2024 which is reproduced below:

> *29. The court may also observe that the BNSS, albeit substantially similar in content to the Cr.PC, is a new legislation. At the inceptional stages of a legislation, especially governing liberty, the prosecution and also the courts are well served by leaning in favour of the right to liberty rather than a strict or over zealous interpretation which defeats the purpose of amendment in the first phase. Infact, sub section (2) of section 479 BNSS is a novation over the erstwhile section 436A Cr.PC as no such sub section was crafted into section 436A Cr.PC. The Cr. PC, which came to be completely over hauled in 1973 had scrupulously avoided conflating the existence of multiple FIRs against a person with the question of liberty guaranteed by 436A if the requisite conditions (detention for upto one half or beyond the maximum period of imprisonment) were satisfied. In this perspective, 436A was a marquee contribution of the post colonial Cr.PC, 1973 to the cause of bail.*

30. Yet, the BNSS which has come about five decades later in 2023 and records among its stated objects and reasons that a "citizen centric criminal procedure is the need of the hour" and which calls for review of criminal laws in accordance with "contemporary needs and aspirations" has now added a provision inter alia sub section (2) section 479 which may defeat the intent of section 479 itself. The said provision does not appear to be either citizen centric or in accordance with contemporary needs and aspirations. Sub section (2) is rather repressive and reminiscent of colonial law making which aimed to keep persons behind bars and not beyond. The post independence jurisprudence on bail is, however, inextricably sourced from Article 21 of the Constitution. If an interpretation favouring sub section (2) of section 479 BNSS is readily accepted by the courts, the state would be at liberty to arbitrarily keep persons in custody for an indefinite period (notwithstanding detention for more than half the period of imprisonment prescribed for an offence) simply by registering or invoking other FIRs against the accused. Judicial interpretation must necessarily be a bulwark against a police state. The repeated reiteration of the principle of 'bail and not jail' in support of the value of liberty by the Hon'ble Apex Court, even in 'twin conditions' offences, ought to be honoured when reading the bail related provisions of the BNSS especially section 479 BNSS.

38. For reason not only of an order of a court being binding for itself as a matter of judicial discipline, but also for reason of the similarity of the arguments raised by the ED, it is reiterated in the context of section 479(2) BNSS that the court must lean more in favour of the right to liberty than a strict or over zealous interpretation of a new legislation which would defeat the purpose of the amended legislation itself. A blind adherence to section 479 (2), in destruction of the principal provision viz

section 479 (1) BNSS, would create a handle for the State to arbitrarily seek extension of custody of accused persons for indefinite periods simply by registering or invoking other FIRs even when the benefit of release upon remaining in detention for half the period of proposed imprisonment is available to an accused.

39. Liberty being the most sacrosanct norm in our constitution, the court cannot preach liberty from its decisions while playing footsie with the State upon the bogey of special legislation or economic offences.

40. While the offence of money laundering remains grave in nature, a special legislation like PMLA is not a grouse of the State to be exacted upon the liberty of an accused through the court. Thus, the existence even of 31 cases (including the present case) against the accused does not defeat his right to bail in this particular case when the period of detention has crossed the threshold of half of the period of proposed imprisonment under section 4 PMLA. Moreso, when he is already on bail in 26 out of the 31 cases.

41. With the proceedings effectively being under stay, both in the predicate offence and the present complaint under PMLA for the past several years, the accused has not only served excessive detention during trial but also stands to suffer further prolonged detention without trial.

42. The court may also express that the decision in ***Manish Sisodia Vs. Directorate of Enforcement 2024 SCC Online SC1920*** was explicit in recording that where there is no prospect of speedy trial, the pleas for bail should not be summarily opposed by investigating agency. The apex court observed as under:-

> Recently, this Court had an occasion to consider an application for bail in the case of ***Javed Gulam Nabi Shaikh v. State of Maharashtra and Another***[6] wherein the accused was prosecuted under the provisions of the Unlawful Activities (Prevention) Act, 1967. This Court surveyed the entire law right from the judgment of this Court in the cases of ***Gudikanti Narasimhulu and Others v. Public Prosecutor, High Court of Andhra Pradesh***[7], ***Shri Gurbaksh Singh Sibbia and Others v. State of Punjab***[8], ***Hussainara Khatoon and Others (I) v. Home Secretary, State of Bihar***[9], ***Union of India v. K.A. Najeeb***[10] and ***Satender Kumar Antil v. Central Bureau of Investigation and Another***[11]. The Court observed thus:
>
> 19. 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".

43. Speedy trial of the accused being presently improbable, the court is unimpressed with the strident opposition of the ED to the prayer for bail being granted. The court finds the circumstances of the accused to be ripe for extending to him the near mandatory benefit under section 479 (1) BNSS.

44. The court would record a plea of its judicial conscience to state that while liberty may, more often than not, lend itself to absolutism, arguments advocating wanton restraint upon liberty merit no such indulgence.

Order

45. The application is allowed.

46. Accused Sukash Chandershekar @ Sukesh is admitted to bail on furnishing PB & SB in sum of Rs. 5,00,000/- each.

47. The accused shall not contact, influence or coerce any person or witness connected with the present trial. The accused shall furnish his address and mobile phone number by way of a compliance report before the court upon release on bail. The same shall also be communicated to the investigating officer by the accused. The accused shall surrender his passport, if any, before the court and shall not travel outside India without permission from the court.

VISHAL GOGNE
Digitally signed by VISHAL GOGNE
Date: 2026.04.07 15:32:06 +0530

(Dr. Vishal Gogne)
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC),
New Delhi/07.04.2026