



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

%

*Reserved on: 30th January, 2026
Pronounced on: 16th February, 2026*

+

BAIL APPLN. 3620/2025

MOIDEEN KUTTY K @ M. K. FAIZY
AGED ABOUT 54 YEARS
S/O SAIDALI KALACHAN
R/O KALACHAN HOUSE, VILAYUR POST,
KOORACHIPADI, PALAKKAD DIST.
KERALA-679309
THROUGH PAIROKAR MOHAMMED REAZ

.....Petitioner

Through: Mr. Siddharth Agarwal, Senior Advocate, Mr. Raj at Bhardwaj, Ms. Ankita M Bhardwaj, Mr. Dushyant Chaudhary, Mohd. Fiyaz, Mr. Vishwajeet Singh and Mr. Siddharth Singh, Advocates.

versus

DIRECTORATE OF ENFORCEMENT
B- BLOCK, PRAVARTAN BHAWAN,
DR. APJ ABDUL KALAM ROAD
NEW DELHI – 110011

.....Respondent

Through: Mr. Zoheb Hossain, Special Counsel with Mr. Vivek Gurnani, Panel Counsel, Mr. Pranjal Tripathi, Mr. Kartik Sabharwal and Mr. Kanishk Maurya, Advocates

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T



NEENA BANSAL KRISHNA, J.

1. Bail Application under Section 439 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "CrPC"*) read with Section 45 and 65 of Prevention of Money Laundering Act, 2002 (*hereinafter referred to as "PMLA"*) has been filed on behalf of the **Applicant/Moideen Kutty K @ M.K. Faizy** seeking **Regular Bail** in **ECIR No. ECIR/STF/17/2022 dated 21.09.2022** for commission of the Scheduled Offence under Section 120B of the Indian Penal Code, 1860 (*hereinafter referred to as "IPC"*) and Section 17, 18, 18B, 20, 38, 39 of the Unlawful Activities (Prevention) Act, 1967 (*hereinafter referred to as "UAPA"*).
2. It is submitted that the second Bail Application of the Applicant was dismissed by the Ld. Special Court on 28.08.2025.
3. The **brief facts** are that the Respondent/ED registered the **ECIR No. ECIR/02/HIU/2018 dated 02.05.2018** on the basis of basis of National Investigation Agency (*hereinafter referred to as "NIA"*) and other law enforcement Agencies invoking Scheduled offences under Sections 120-B, 121, 121A of IPC, Sections 3, 4 and 5 of the Explosive Substance Act, Sections 25 and 27 of the Arms Act and Sections 13, 16, 17, 18 and 18(A) of the UAPA.
4. The Respondent/ED filed a **Main Prosecution Complaint dated 19.11.2022** before the Ld. *Special Court, PMLA, Lucknow, U.P.* against 5 Accused persons, in **ECIR No. ECIR/02/HIU/2018** arraigning 17 witnesses and relying upon 60 documents, running into approximately 2000 pages.
5. Subsequently, the Respondent/ED filed the **1st Supplementary Prosecution Complaint dated 06.05.2022** against 4 Accused persons in



ECIR/02/HIU/2018 dated 02.05.2018. The 2nd Supplementary Prosecution Complaint dated 18.11.2022 against 10 Accused persons in said **ECIR**, arraigning 9 witnesses and relying upon 31 documents running into approximately 1300 pages.

6. The NIA registered **FIR bearing RC No. RC-14/2022/NIA/DLI dated 13.04.2022** under Sections 120B IPC and Sections 17/18/18B/20/38/39 UAPA.

7. Provisional Attachment Orders (“*POA*”) bearing No. 14/2022 and PAO No. 15/2022 dated 01.06.2022 were passed, attaching a total of 30 bank accounts totalling to Rs.72,07,782/-.

8. The NIA filed a **Chargesheet dated 18.03.2023 before the Ld. Special Court, NIA Cases, New Delhi in RC No. RC-14/2022/NIA/DLI dated 13.04.2022** against 24 Accused persons, arraigning 243 witnesses and relying upon 184 documents running into approximately 6000 pages.

9. **Respondent/ED registered the present ECIR bearing ECIR No. ECIR/STF/17/2022 dated 21.09.2022** based on NIA RC dated 13.04.2022. It is submitted that neither the name of the Applicant was there in the FIR RC nor any allegations were levelled against the Applicant.

10. It is submitted that the Ministry of Home Affairs, Government of India through *The Gazette of India: Extraordinary bearing Regd. No. D.L.-33004/99 and Notification No. S.O. 4559 (E) dated 27.09.2022* declared the ***Popular Front of India (“PFI”) and its associates or affiliates or fronts, namely Rehab India Foundation (RIF), Campus Front of India (CFI), All India Imams Council (AIIC), National Confederation of Human Rights Organization (NCHRO), National Women’s Front, Junior Front, Empower***



India Foundation and Rehab Foundation, Kerala as “**unlawful association**” on the ground that they have been involved in violent terrorist activities with an intent to create a reign of terror in the country, endangering security and public order of the State, anti-national activities and disrespect and disregard for the constitutional Authority and sovereignty of the State.

11. PAO No. 27/2022 dated 10.10.2022, was passed attaching 1 bank account totalling **Rs.22,57,856/-**.

12. The Respondent/ED filed a **Main Prosecution Complaint dated 19.11.2022 in ECIR No. ECIR/STF/17/2022** before the Ld. Special Court, New Delhi against *4 accused persons, arraigning 39 witnesses* and relying upon 69 documents running into approximately 4000 pages.

13. PAO No. 1/2023 dated 07.01.2023, was passed attaching 16 immovable properties totalling **Rs.2,53,22,402/-**. It is asserted that neither were any allegations of any manner whatsoever alleged against the Applicant herein, nor were any movable/immovable properties of the Applicant or Social Democratic Party of India (“*SDPI*”) attached by the Respondent/ED.

14. The Respondent/ED filed an amended **Main Prosecution Complaint dated 19.11.2022 in ECIR No. ECIR/STF/17/2022** against 4 accused persons arraigning 39 witnesses and relying upon 69 documents running into approximately 4000 pages.

15. The Respondent/ED filed the **1st Supplementary Prosecution Complaint dated 05.08.2023** in ECIR dated 21.09.2022 before the Ld. Special Court, Patiala House District Court, New Delhi against 1 Accused



person, arraigning 12 witnesses and relying upon 50 documents and digital evidence running into approximately 8000 pages.

16. The 2nd Supplementary Prosecution Complaint dated 20.10.2023 was filed against 3 Accused persons, arraigning 15 witnesses and relying upon 42 documents and digital evidence running into approximately 10000 pages.

17. Provisional Attachment Order bearing PAO No. 25/2023 dated 02.11.2023, attaching 15 bank accounts totalling **Rs.1,19,81,250/-**. The Respondent/ED passed **Provisional Attachment Order bearing PAO No. 26/2022 dated 16.11.2023**, attaching 3 bank accounts and 2 immovable properties totalling **Rs. 48,03,126/-**.

18. The Respondent/ED filed 3rd Supplementary Prosecution Complaint dated 22.11.2023 against 2 Accused persons, arraigning 40 witnesses and relying upon 75 documents running into approximately 13000 pages.

19. The Respondent/ED filed 4th Supplementary Prosecution Complaint dated 03.02.2024 against 12 Accused persons, arraigning 40 witnesses and relying upon 144 documents and digital device running into approximately 50000 pages.

20. The Respondent/ED passed Provisional Attachment Order bearing PAO No. 04/2024 dated 16.04.2024, attaching 16 immovable properties totalling Rs. 21,13,06,000/-.

21. The Respondent/ED filed 5th Supplementary Prosecution Complaint dated 24.05.2024 against 4 Accused persons, arraigning 39



witnesses and relying upon 76 documents running into approximately 4000 pages.

22. The Respondent/ED filed 6th Supplementary Prosecution Complaint dated 07.04.2025.

23. The Respondent/ED filed the 7th Supplementary Prosecution Complaint dated 15.06.2025 against the Applicant, arraigning 57 witnesses and relying upon 104 documents running into approximately 6000 pages. **It was in this Chargesheet that the Applicant was named for the first time.**

24. It is submitted that *SDPI was neither declared unlawful nor were any allegations of violent terrorist activities.* The allegations levelled by the Respondent/ED are that SDPI and the Applicant herein, are the front of PFI and were involved in the commission of the offence under Section 3 of PMLA, which is completely baseless and without any merit whatsoever. The allegations have been baselessly levelled by the Respondent/ED in 2025, nearly 3 years after the declaration of ban on PFI and its associates or affiliates or fronts by the Government of India, with the sole objective of harassing the Applicant herein by levelling baseless allegations and illegally arresting the Applicant, thereby curtailing his Fundamental Rights as guaranteed by the Constitution of India.

25. This Court granted Bail to the *Co-Accused persons namely Parvez Ahmed, Abdul Muqet and Mohd. Ilyas in Bail Application Nos. 1859/2024, 2001/2024 and 2012/2024,* after considering the totality of facts and submissions on the grounds of period of incarceration, the stage of the Complaint case before the Ld. Special Court, and by observing that to



invoke the provisions of Section 3 of PMLA, there must be *proceeds of crime* and these proceeds must result from a criminal activity. Furthermore, the case set up by the Respondent/ED that the funds which the Petitioners were generating, were used for committing a scheduled offence and hence were proceeds of crime, is not the scheme of PMLA. Furthermore, the offence committed by the collection of funds, may be an offence under any law including a scheduled offence, but cannot be termed as proceeds of crime to invoke Section 3 of PMLA.

26. The Ld. Special Court granted regular Bail to the ***Co-Accused namely B Sahul Hameed*** on grounds of parity, period of incarceration and considering that this Court has held that collection of funds in an illegal way to commit a scheduled offence in future, is not an offence under money laundering and that the conditions under Section 45 of PMLA have been met in the case of the co-Accused persons.

27. The Ld. Special Court granted regular Bail to the ***Co-Accused namely Firoz K*** on grounds of parity and the period of incarceration on 01.03.2025.

28. Thus, it is submitted that throughout all the aforesaid proceedings, spanning from 2018 to May 2024, including *multiple Prosecution Complaints, Supplementary Complaints, NIA chargesheet, and provisional attachment orders* - neither was the Applicant's name mentioned nor were any allegations levelled against the Applicant. Furthermore, none of the Applicant's or SDPI's movable/immovable properties, were attached in any of the aforementioned Provisional Attachment Orders.

29. The Investigating Officer illegally arrested the Applicant from *Terminal-3 of the Indira Gandhi International Airport, New Delhi* and the



Applicant was shown to have been arrested at 9:30 PM in purported exercise of powers under Section 19(1) of PMLA, without there being anything incriminating material found against the Applicant.

30. It is submitted that the Ld. Sessions Court dismissed the 1st Regular Bail Application of the Applicant. *The Special Court took cognizance of the 7th Supplementary Prosecution Complaint and accordingly, the Applicant herein was summoned to face Trial.*

31. The Sessions Court dismissed the 2nd Regular Bail Application of the Applicant on 28.08.2025, without considering the submissions in their entirety, as there is no evidence to demonstrate or establish a *prima facie* case against the Applicant.

32. The grounds taken by the Applicant for seeking Regular Bail is that he has been falsely implicated as there is no “*material in possession*”, and this expression must be confined to legally admissible evidence of sterling quality and unimpeachable character based on which “*reasons to believe*” could be recorded in writing that the arrestee is “*guilty*” of the offence under PMLA. The word “*guilt*” occurring therein qualifies a higher yardstick than mere suspicion.

33. It is submitted that there is no evidence or incriminating information to determine the Applicant’s involvement *in any activity of placement, layering and/or integration of any proceeds of crime*. There is no question of any violation of the provisions of PMLA or that alleged proceeds of crime came into possession of the Applicant or the Applicant had any control over the same.



34. It is submitted that the present ECIR dated 21.09.2022 was registered by the Respondent/ED based on FIR No. RC-14/2022/NIA/DLI dated 13.04.2022 registered by NIA. *The Applicant was neither named in the FIR dated 13.04.2022 or the ECIR dated 21.09.2022 nor have there been any prima facie allegations against the Applicant.*

35. It is submitted that the Applicant *is a respected public figure, Islamic scholar, political observer and social worker, having deep roots in society and no criminal antecedents.* The Applicant was illegally arrested by the Respondent/ED on 03.03.2025 at IGI Airport, New Delhi, based on purported and uncorroborated statements, without any material linking him with the alleged offence.

36. It is further submitted that the Applicant's name surfaced for the first time only in the *7th Supplementary Prosecution Complaint dated 15.06.2025*, despite several earlier Prosecution Complaints and Supplementary Complaints filed since 2018, wherein no allegations were made against him. The Applicant has been falsely implicated on the allegation that SDPI is a political front of the banned Popular Front of India (PFI). *However, SDPI has never been declared as an unlawful association under UAPA.*

37. It is submitted that the *Government of India through The Gazette of India: Extraordinary bearing Notification No. S.O. 4559 (E) dated 27.09.2022*, after thorough investigation, banned PFI and all its associates/affiliates, but SDPI was neither declared unlawful nor were any allegations levelled against SDPI or its leaders.



38. It is submitted that the Ld. Special Court, while dismissing the Second Regular Bail Application *vide* order dated 28.08.2025, primarily relied upon the Applicant's past association with PFI, which was duly investigated by the Government of India prior to 2022, when PFI was banned. The Special Court failed to consider that the Applicant is being prosecuted based on his present role as National President of SDPI. The findings are based on conjectures and presumptions rather than cogent evidence, overlooking the constitutional mandate that personal liberty cannot be curtailed on assumptions.

39. It is submitted that as per the Respondent/ED's case, the gravamen of allegations is *that donations and funds collected by SDPI constitute "proceeds of crime"*. However, no money trail, no quantification of alleged proceeds of crime, and no specific transaction linking the Applicant to any scheduled offence has been established. No bank transactions or cash recoveries substantiate such claims. Reliance upon vague diaries, stray references, and untested statements recorded under Section 50 of PMLA, cannot satisfy the jurisdictional threshold of "*reason to believe,*" as mandated under Section 19(1) of PMLA.

40. It is submitted that the Applicant is neither an accused nor a suspect in the scheduled/predicate NIA offence, wherein investigation is continuing since 13.04.2022 and nothing has surfaced against the Applicant. Despite multiple Prosecution Complaints and POA, the Applicant's name did not surface, until the illegal arrest on 03.03.2025.

41. The allegations have been baselessly levelled by the Respondent/ED in 2025, after nearly 3 years of declaration of ban on PFI and its associates



or affiliates or fronts by the Government of India, with the sole objective of harassing the Applicant.

42. “*Proceeds of Crime*” is *sine qua non* for commission of offence of money laundering. The Respondent has failed to produce any evidence to determine the Applicant's involvement in any activity of placement, layering and/or integration of any proceeds of crime. *Therefore, it would be unjust if the Applicant is denied his constitutional right to liberty.*

43. Further, reliance is placed on the Delhi High Court’s Order dated 04.12.2024, granting Bail to co-accused, which held that mere act of raising or collecting funds, even if it constitutes an offence under another law, it does not *ipso facto* amount to generation of proceeds of crime under Section 3 of PMLA, unless the funds are shown to have arisen from a scheduled offence.

44. It is also contended that *Bail is the rule and Jail the exception*, and arrest under Section 19(1) of PMLA must be founded on cogent, admissible evidence of guilt rather than suspicion. Reliance is also placed on *K. Kavitha vs. Directorate of Enforcement*, 2024 INSC 632, *Arvind Kejriwal vs. Directorate of Enforcement*, 2024 INSC 512, and *Manish Sisodia vs. Directorate of Enforcement*, 2024 SCC OnLine SC 1920 which reaffirmed that prolonged incarceration amounts to pre-trial punishment.

45. It is submitted that *the Applicant has been in custody since 03.03.2025*. The Prosecution has filed voluminous Complaints running into approximately 90,000 pages, arraigning over 240 witnesses and the case is still at the compliance stage under Section 207 CrPC. Early conclusion of trial is non-existent and continued detention amounts to denial of



fundamental right to liberty under Article 21 of the Constitution. All documentary evidence has been seized, custodial interrogation is over and there exists no possibility of tampering with evidence or influencing witnesses.

46. It is submitted that the allegations in the 7th Supplementary Prosecution Complaint, do not form part of the investigation or Chargesheet in the predicate offence and have been introduced for the first time without any basis in the primary investigation. The Applicant is being subjected to unwarranted prosecution in disregard of established facts and settled legal position.

47. Furthermore, the co-accused persons namely **Parvez Ahmed, Abdul Muqet, Mohd. Ilyas, B Sahul Hameed, and Firoz K** have been granted Bail on grounds of parity and period of incarceration. The Applicant is similarly entitled to Bail, *on parity*.

48. It is submitted that the exact quantum of alleged proceeds of crime, was neither identified nor available and remains speculative. There is no *money trail identified* against the Applicant and no *prima facie* evidence that the Applicant was facilitating generation of funds allegedly used for committing a scheduled offence.

49. The Prosecution has failed to cross the threshold of establishing foundational facts, to satisfy reasonable *Grounds for Arrest*. The twin conditions under Section 45 of PMLA must be read reasonably and not literally. No evidence or documentary information has been recovered incriminating the Applicant, and there is no basis to *prima facie* determine that the Applicant is guilty of the said offences.



50. It is submitted that the Applicant is neither inclined to flee from justice nor in a position to influence the course of investigation, as allegedly incriminating material has already been seized and the Respondent/ED is no longer seeking custody remand.

51. *Hence, a prayer is made for grant of Bail to the Applicant.*

52. *A Counter-Affidavit has been filed on behalf of the Respondent/Directorate of Enforcement (“ED”) wherein the contentions of the Applicant have been vehemently opposed.*

53. The ED states that it initiated investigations against the office bearers, members and caterers of Popular Front of India, PFI and its related entities/organisations under PMLA *vide* ECIR/02/HIU/2018 dated 02.05.2018 and ECIR/STF/17/2022 dated 21.09.2022 on the basis of multiple FIRs registered by NIA and State Police.

a. **FIR No. RC-05/2013/NIA/KOC (07.08.2013) and Chargesheet No. 1 (19.10.2013)** were filed by the NIA, Kochi, alleging that certain PFI/SDPI activists conspired to train cadres in the use of explosives and arms and organised a camp at *Narath, Kannur District*, with the alleged objective of promoting religious enmity and preparing individuals for terrorist activities. The case was registered under Section 120B IPC, Sections 4 & 5 of the Explosive Substances Act, Sections 25 & 27 of the Arms Act, and Sections 18 & 18A of the UAPA, 1967, which were treated as scheduled offences under the PMLA.



- b. FIR No. 0199/2020 (07.10.2020)** was registered by the U.P. Police under Sections 153A, 295A and 124A IPC; Sections 14 and 17 of the UAPA; and Sections 65, 72 and 76 of the Information Technology Act against four members of PFI/CFI. It was alleged that they were travelling to *Hathras* to disturb communal harmony and incite violence. The PMLA investigation alleged that *K.A. Rauf Sherif*, a PFI member and National General Secretary of CFI, fraudulently transferred approximately Rs. 1.36 crore through bogus international trade transactions to fund unlawful activities, including anti-CAA protests and other alleged terrorist activities.
- c. FIR No. 04/2021 (16.02.2021)** was registered by the U.P. Police ATS under Sections 120B and 121A IPC; Sections 13, 16, 18 and 20 of the UAPA; Sections 3, 4 and 5 of the Explosives Act; and Sections 3 and 25 of the Arms Act against two PFI members. It was alleged that they were part of a conspiracy to form a terrorist gang, stockpile arms and explosives, and carry out attacks at multiple locations in U.P. to undermine national security and communal harmony.
- d. FIR No. RC-14/2022/NIA/DLI (13.04.2022)** was registered by the NIA, Delhi, under Section 120B IPC and Sections 17, 18, 18B, 20, 22B, 38 and 39 of the UAPA. The FIR alleged that office bearers and members of PFI conspired to raise funds through domestic and foreign sources, including *hawala* and donations, to finance terrorist activities, promote communal



disharmony, radicalise and recruit youth, and support banned organisations such as Students Islamic Movement of India (SIMI) and ISIS.

54. The Respondent/ED has elaborated upon the *modus operandi* of PFI and SDPI, which is stated as follows:

- a. The PMLA investigation alleges that more than Rs. 62 crores were deposited into 29 bank accounts of PFI between May 2009 and May 2022, of which over Rs. 32.07 crores were cash deposits. PFI raised funds from unidentified and suspicious domestic and foreign sources as part of a criminal conspiracy. Searches conducted at PFI offices and residences of its office bearers resulted in the seizure of documents and digital devices, showing that PFI had a structured presence in Gulf countries and systematically collected funds from abroad, which were layered and integrated into the financial system and used for unlawful activities.
- b. Furthermore, the scrutiny of cash donations furnished by PFI for the year 2018-19 allegedly revealed that several purported donors were fictitious.
- c. Analysis of various PFI bank accounts showed that funds were routed through accounts of individuals into which identical amounts of cash were first deposited, indicating the use of such accounts as conduits to channel funds received through clandestine or *hawala* channels and project them as legitimate donations.



- d. Although PFI claimed not to accept foreign funds, documents seized during operations at the offices of PFI and residences of office bearers on 03.12.2020 revealed that PFI and its frontal organisations had an organised presence in Gulf countries and raised funds abroad, which were transferred to India through circuitous banking routes and illegal *hawala* channels, without statutory compliance.
- e. PFI did not deposit its entire fund collections into bank accounts and retained substantial amounts in cash, which were spent without reflection in bank statements, thereby leaving no identifiable money trail.
- f. In his statement dated 05.02.2020, *Jaseer K.P.*, an accountant of PFI, allegedly stated that a significant portion of cash collected by PFI was retained at its offices and not deposited in bank accounts, resulting in misrepresentation before government authorities.
- g. Hence, the overlapping membership of cadres of PFI-SDPI, involvement of PFI office bearers in the founding of SDPI, utilization of each other's assets and their statements under Section 50 of PMLA evidences the deep rooted nexus between these two organizations and that SDPI is a front organization of PFI through which PFI has been carrying out its political activities even while overtly taking a stand that PFI is a non-political organization.



55. It is further submitted that documents and digital evidence seized during search operations conducted on 03.12.2020, reflects that PFI exercised control over, funded, and supervised the activities of SDPI. *It is claimed that SDPI was substantially dependent on PFI for its day-to-day functioning, policy decisions, selection of election candidates, campaign planning, public programs, and cadre mobilization.* SDPI also used booklets for bogus cash donations that deliberately omitted donor addresses and phone numbers, with amounts kept below Rs. 2,000 to avoid scrutiny. PFI used SDPI as a conduit to launder illicit funds by depositing cash into sympathizers' or unrelated individuals' bank accounts, which were then transferred to SDPI's accounts to project them as legitimate donations and cadre fees.

56. Furthermore, a document titled "*Conceptual Clarity about Organization and Party*" was recovered from a *pen drive* seized at Unity House, Kozhikode (PFI's Kerala State Headquarters), which allegedly indicates an inter-relationship between PFI and SDPI. The document purportedly outlines PFI's objectives as advancing an Islamic movement in India while presenting itself externally as a social movement. It further suggests that SDPI and other organizations, were created as fronts to achieve these objectives.

57. It is submitted that SDPI's founding leaders demonstrate an organisational and ideological overlap between PFI and SDPA. Every SDP National President has also been a National Executive Council ("NEC") member of PFI, confirming that *SDPI was never an independent organisation; rather, just a political front.*



58. The Applicant is shown to be a member of SDPI, since its formation in 2009. He has held various important posts including National General Secretary and General Secretary, till he was appointed as National President in the year 2018. The Applicant was one of the founding members of PFI and served as part of its National Executive Council. *He was a member of both the National Working Committee (“NWC”) of SDPI and the NEC of PFI.*

59. The Applicant was summoned approximately 12 times but he did not join the investigation. Further, investigations have revealed that between October, 2010 and March 2025, SDPI’s bank accounts across 07 states and UTs received Rs.32,94,43,117/-, with 68% of the amount deposited in cash. *Therefore, the PFI-SDPI nexus is firmly established and forms the foundation for the charges of money laundering against the Applicant under Section 3 of PMLA.*

60. During his statement under Section 50 of PMLA dated 05.01.2024, *M.K. Faizy* is stated to have identified the “organization” mentioned in the document as PFI and the “party” as SDPI.

61. A Letter addressed to *“Faizy Sahab,”* recovered from an external hard drive, pertains to organizational matters including the selection of candidates for state elections. This Letter outlines a detailed and structured framework for candidate selection, involving multiple levels of the organization. Notably, the name *“Jinnasahab”* mentioned in the document refers to *M. Mohd. Ali Jinnah*, who served as PFI’s National General Secretary from 2018 to 2020 and was a member of PFI’s National Executive Council at the time when PFI was declared an unlawful association by the



Government of India, through a Notification dated 27.09.2022, effective for five years from its publication in the Official Gazette on 28.09.2022.

62. Investigation revealed that PFI and SDPI also maintained similar party- organization relationship in Gulf Countries by the name of 'IFF – ISF'. 'IFF' stands for 'Indian Fraternity Forum' and 'ISF' stands for 'Indian Social Forum'. IFF works under PFI and ISF works under SDPI.

63. The specific role of the Applicant, is explained as under:

- a. It is submitted by the ED that M.K. Faizy was a founding member of PFI and held senior positions in the organization at the national level. At the time PFI was declared unlawful by the Government of India on 28.09.2022, he remained an active member. PFI exercised control over and provided funding to SDPI, with the Applicant serving as a crucial connection point in his dual role as SDPI National President while being a PFI member. Evidence seized during raids, including correspondence and meeting records, allegedly demonstrates that PFI allocated Rs 3.75 crore to SDPI for electoral purposes in 2019.
- b. Documents recovered from PFI's Kerala headquarters reportedly outlined the organization's aim of promoting an "Islamic movement" through "*all principles of jihad*", identifying SDPI as one of its affiliated organizations under the Applicant's leadership.
- c. During his tenure as a PFI NEC member (2015-16 to 2018) and as SDPI National President, M.K. Faizy allegedly participated



in obtaining, hiding, and presenting proceeds of crime as legitimate funds.

- d. Through his positions in PFI, he held decision-making authority over the organization's operations and financial matters, including fundraising as part of a broader conspiracy and the deployment of funds for various illegal and terrorist activities, welfare programs serving as cover, and integration into bank accounts or acquisition of assets. The Applicant played a significant role in overseeing PFI activities and managing financial resources.
- e. M.K. Faizy was engaged in “cross-border fundraising” for both organizations. His travel to the UAE (10.02.2016-29.02.2016) for fundraising purposes, supported by PFI documents and his statement dated 05.01.2024, highlights SDPI’s involvement in PFI’s international funding operations.
- f. As SDPI National President and authorized signatory for SDPI’s Canara Bank account, the Applicant supervised activities including fraudulent cash donations, routing funds through intermediary accounts, collection through extortion, financing unlawful activities, and controlling SDPI's financial resources. He also received Rs.15,40,000/- from SDPI into his personal bank account.
- g. *His failure to comply with 12 ED summons* and the subsequent issuance of warrants (17.12.2024, 17.01.2025) suggests intentional interference with the investigation.



- h.** *M.K. Faizy* knowingly enabled the acquisition, possession, and portrayal of proceeds of crime as legitimate funds, supporting PFI's plan to finance riots, terrorist training, and anti-national demonstrations. He actively participated in processes involving proceeds of crime totalling Rs.32,94,43,117/-, including concealment, possession, acquisition, use, and subsequent projection as legitimate funds. Therefore, the Applicant knowingly committed the offence of money laundering under Section 3 of PMLA and is liable for punishment under Section 4 of PMLA. As a PFI National Executive Council member and SDPI National President, the Applicant bears vicarious liability for the activities of both organizations under Section 70 of PMLA.
- i.** Further, investigations have revealed that between October, 2010 and March 2025, SDPI's bank accounts across 07 states and UTs received Rs.32,94,43,117/-, with 68% of the amount deposited in cash, indicating a deliberate strategy to obscure source of funds.

64. It is submitted that the Applicant has been arrested in accordance with the powers vested under Section 19 of PMLA. The acts of the Applicant squarely fall within the definition and ambit of the offence of money-laundering, as contemplated under Section 3 of said Act.



65. It is submitted that in terms of the mandatory twin conditions under Section 45 of PMLA, an accused may be released on bail only if he fulfils the following mandatory twin condition:

- a. There are reasonable grounds for believing that he is not guilty of the offence of money laundering; and*
- b. That he is not likely to commit any offence while on bail.*

66. It is submitted that while considering the present Bail application on the anvil of Section 45 of PMLA, the Court is not required to render a finding of guilt at this stage, nor is it required to conduct a mini trial or meticulously examine the evidence, rather examine whether the petitioner has made out reasonable grounds for believing that he's not guilty.

67. Reliance is placed on Vijay Madanlal Choudhary & Ors. vs. Union of India, (2022) SCC OnLine SC 929, wherein it has upheld the constitutional validity of these conditions. In Tarun Kumar vs. Enforcement Directorate, 2023 SCC OnLine SC 1486, this Court has emphasized on compliance of conditions enumerated in Section 45 of PMLA, even in respect of an Application for bail made under Section 439 CrPC.

68. It is further submitted that it is well settled that investigation into the offence of money laundering, is independent of the investigation conducted by the predicate Agency and it is also very well settled that a person accused of the offence of money laundering, need not necessarily be accused of a scheduled offence. In Vijay Madanlal, (supra) this Court has also held at *Para 269* that offence of money laundering is an independent offence and in



Para 295 it was held that a person even if not an accused in the scheduled offence, he can be guilty of the offence of money laundering.

69. The nature of the offences and the trite law mandates the fulfilment of *triple test as well*, for securing Bail. As there is strong likelihood that if the Accused if released, he may dispose of their properties/assets involved in the commission of the offence of money laundering or tamper with evidences or influence the witness in order to destroy the money trail, thereby leading to frustration of proceedings under PMLA.

70. Furthermore, the filing of the 7th Supplementary Prosecution Complaint dated 01.05.2025 and the issuance of process against the Applicant/Accused by the Special Court on 20.05.2025, establishes that a *prima facie case* exists against the Applicant, indicating guilt for the offence of money laundering under the PMLA.

71. In support of this contention, reference is made to the Supreme Court's decision in *Manharibhai Muljibhai Kakadia & Anr vs. Shaileshbhai Mohanbhai Patel & Ors*, (2012) 10 SCC 517, which held that cognizance involves the application of judicial mind to determine whether an offence has been committed, based on a Complaint, First Information Report, or other information.

72. It is submitted that the Applicant's *reliance on delay of trial is misplaced*, given that the complexity of the offence, involving multiple institutions, extensive records, and ongoing investigation, inherently requires substantial time. The Applicant cannot benefit from their own actions or seek comparison with cases having different factual circumstances.



73. Furthermore, the Applicant's claim of suffering over one year of incarceration, is without merit. This Court has neither established any fixed rule mandating Bail after a year in custody nor do the mandatory twin conditions under Section 45 of PMLA, cease to apply after such period.

74. To support this argument, the Applicant had cited Manish Sisodia vs. CBI, 2023 SCC OnLine SC 1393 (Manish Sisodia I) and V. Senthil Balaji, (supra). It is contended that in these decisions, the Court has not established any universal mathematical formula for granting Bail. In fact, the ratio of the above-mentioned decision can be summarized to say that a Court may grant Bail, *de hors* the satisfaction of Section 45 of PMLA if:

- a. *Trial is delayed and protracted for reasons not attributable to the accused; and*
- b. *Long period of incarceration undergone by the accused and the Court comes to a conclusion that the trial will not be concluded within a reasonable time and is likely to take years; and*
- c. *The above may be done 'depending on the nature of allegations'.*

75. Further, this Court while interpreting similar rigors of Bail under Section 437 read with Section 439 CrPC, held that mere incarceration for a long period, cannot be the sole ground for bail ignoring the gravity of the offence.

76. Reliance in this regard is placed upon A. Kalyan Chandra Sarkar vs. Rajesh Ranjan, (2004) 7 SCC 528; Rajesh Ranjan Yadav vs. CBI, (2007) 1 SCC 70. Further, the Apex Court, in State of Bihar & Anr. vs. Amit Kumar,



(2017) 13 SCC 751 has also held with respect to economic offences that when the seriousness of the offence is such the mere fact that he was in jail for howsoever long time, should not be the concern of the Courts. The reasoning in these decisions, has also been endorsed by the Supreme Court in Vijay Madanlal (supra).

77. Furthermore, before and after the recent rulings in Manish Sisodia vs. Directorate of Enforcement, 2024 SCC OnLine SC 1920 (Manish Sisodia II), and V. Senthil Balaji, (supra), the Supreme Court has rejected Bail Applications of accused persons, despite their having spent over a year in custody, considering various factors in each case. *Such instances are listed below:*

- a. Order dated 10.01.2025 in Shahnawaz Ahmed Jeelani vs. Enforcement Directorate, SLP (Crl.) No. 14173/2024, the Supreme Court denied bail after 1 year 6 months and 14 days.
- b. Order dated 21.10.2024 in Vipin Kumar Sharma vs. Directorate of Enforcement, SLP (Crl.) No. 9540/2024, the Supreme Court denied bail after 1 year 3 months and 22 days.
- c. Order dated 27.02.2023 in Bimal Kumar Jain vs. Directorate of Enforcement, SLP (Crl.) No. 9656/2022, the Supreme Court denied bail after 2 years 5 months and 26 days.
- d. Order dated 03.02.2025 in Banmeet Singh vs. Directorate of Enforcement, SLP (Crl.) No. 1685/2025, the Supreme Court denied bail after 8 months and 5 days.



- e. Order dated 25.03.2025 in Hitesh Gandhi vs. Enforcement Directorate, SLP (Crl.) No. 16555/2024, the Supreme Court denied bail after 1 year 6 months and 26 days.
- f. Order dated 25.03.2025 in Arvind Rajta vs. Enforcement Directorate, SLP (Crl.) No. 16263/2024 (co-accused in the present ECIR), the Supreme Court denied bail after 1 year 6 months and 26 days.
- g. Order dated 25.03.2025 in Krishan Kumar vs. Enforcement Directorate, SLP (Crl.) No. 17355/2024 (co-accused in the present ECIR), the Supreme Court denied bail after 1 year 6 months and 26 days.
- h. Order dated 25.03.2025 in Rajdeep Singh vs. Enforcement Directorate, SLP (Crl.) No. 16807/2024 (co-accused in the present ECIR), the Supreme Court denied bail after 1 year 6 months and 26 days.

78. Additionally, this Court and the Supreme Court, have consistently held that in cases involving serious economic offences affecting the nation's financial health, the duration of incarceration alone cannot be the determining factor for bail. *The gravity of the offence, the nature of evidence, and the influential position of the accused must take precedence.*

79. *The Respondent/ED has opposed the grounds taken by the Applicant and thus, a prayer is made for dismissal of the present Bail Application.*

80. *Ld. Counsel for the Applicant, Senior Advocate Mr. Siddharth Agarwal made a three-fold submission seeking Bail for the accused. At the*



outset, Ld. counsel referred to the detailed Written Submissions filed by the ED and submitted that despite the voluminous nature of these submissions, there is no material evidence to substantiate the allegations against the Applicant.

81. It was submitted that the Applicant has been *in custody since 03.03.2025, i.e. approximately 11 months*, which constitutes prolonged incarceration without trial. Furthermore, the Applicant's name neither appeared in the initial investigations nor in the predicate offence proceedings.

82. It was vehemently argued that when PFI along with its associated organizations and affiliates was declared unlawful in 2022, anyone connected with PFI was made part of that order, but significantly, SDPI (the political party) was neither declared unlawful nor included in the list of banned organizations.

83. Ld. Counsel further submitted that the reliance placed by the ED on *Section 66 of PMLA* is misplaced in the present circumstances.

84. Ld. counsel made reference to a *letter dated June 2025* addressed to the NIA regarding SDPI, pointing out that despite the ED providing all materials in its possession to the NIA, no action has been taken against SDPI or its leadership, which demonstrates that even the investigating agency in the predicate offence does not consider there to be sufficient evidence to proceed against SDPI or the Applicant.

85. Furthermore, *on the ground of parity*, Ld. Counsel submitted that several Co-accused persons have been granted Bail by this Court and by the Special Court, and all of them were similarly associated with SDPI just like



the Applicant. While the ED challenged the Bail Orders granted by this Court before the Apex Court, contending that there was no parity, but, the Order of this Court granting Bail to the co-accused was not cancelled. Furthermore, that there is no material distinction between the role attributed to the Applicant and the roles attributed to the Co-accused who have been granted bail, and therefore, the principle of parity mandates that the Applicant must also be entitled to Bail.

86. On the issue of *alleged non-cooperation with the investigation*, Ld. Counsel submitted that from March 2024 onwards, summons were issued to the Applicant and the Applicant responded to all summons and appeared. It was submitted that there were valid reasons for any delay in appearance, including the Applicant's participation in election-related activities as the National President of a political party and genuine health concerns that prevented immediate compliance. Ld. Counsel emphasized that the Applicant is a resident of Kerala and was arrested in Delhi on 03.03.2025. It was further submitted that proceedings under Section 174 IPC were initiated against the Applicant, which is an offence punishable with a maximum sentence of only one month, and even that period has been undergone by the Applicant. *Therefore, the issue of non-cooperation raised by the ED is incorrect.*

87. On the central issue of the *Applicant's alleged association with PFI*, Ld. Counsel submitted that the Applicant's association with PFI, if any, ended in 2018, which was four years before PFI was declared a banned organization in 2022. Ld. Counsel submitted that the allegation that PFI funded SDPI is irrelevant because SDPI itself is not a banned organization



and continues to function as a legitimate political party. It was emphasized that the Applicant is the National President of SDPI, which is a registered political party participating in democratic elections, and his role and activities are entirely in his capacity as the head of a political party.

88. Furthermore, it was argued that the actual amount involved is only Rs. 3 lakh and not the inflated figures suggested by the ED. It was argued that social movements and political parties are often connected and have overlapping membership, which is a normal feature of democratic political activity. Thus, to say today that anyone who was associated with PFI at any point in time is guilty of criminal offences is incorrect. SDPI was established in 2009 and is still functioning as a legitimate political party, and the allegation that it operated under the “guise” of a political party, is a bald assertion without any evidence.

89. Ld. Counsel further submitted that the Applicant went to *Dubai* solely for the purpose of legitimate work, and this travel occurred over a period from 2010 to 2025 spanning 15 years, during which he went for only 18 days in total.

90. Ld. Counsel further submitted that the specific amounts allegedly involved are mentioned as only Rs. 86,000 and Rs. 1.5 lakh respectively, which are relatively small amounts and do not justify the serious allegations of money laundering and terrorist financing being levelled against the Applicant. It was submitted that a total of 8 Prosecution Complaints have been filed in this case, **and the Applicant’s name did not feature in any of the earlier Complaints, appearing for the first time only in the 7th Supplementary Prosecution Complaint.**



91. Ld. Counsel further submitted that the Applicant has satisfied both the *twin conditions under Section 45 of PMLA*, that there are reasonable grounds to believe that he is not guilty of the offence alleged, and that he is not likely to commit any offence while on Bail. The grant of Bail to similarly placed Co-accused persons, the lack of evidence against the Applicant, and the fact that SDPI is not a banned organization, the Applicant be granted Bail.

92. *Ld. Counsel for the Respondent, ED, Mr. Zoheb Hossain along with Mr. Vivek Gurnani* has vehemently opposed the present Bail Application. Detailed Written Submissions have also been filed by the Respondent/ED.

93. Ld. Counsel emphasized that the Applicant has been in custody since 03.03.2025, and this period of incarceration, while acknowledged, cannot be the sole ground for grant of Bail in a case of this gravity and nature. Ld. Counsel emphasized that Section 120B IPC (*criminal conspiracy*) read with other offences constitutes a predicate offence under PMLA, and the present case involves a deep-rooted conspiracy to *raise, layer, and deploy proceeds of crime* for terrorist activities and anti-national purposes.

94. Moreover, the Applicant is not merely a member or office bearer of PFI but is a founding member of PFI, which establishes his involvement from the very inception of the criminal enterprise and demonstrates his intimate knowledge of the organizational structure, objectives, and *modus operandi*.

95. It was submitted that ED is investigating offences under Section 3 of PMLA relating to funds raised both in India and abroad for terrorist activities, communal violence, and anti-national purposes, and significantly,



these funds were not reflected in the books of accounts, demonstrating deliberate concealment and layering of proceeds of crime. Ld. Counsel emphasized on two critical aspects of the Applicant's role: *firstly*, the Applicant was a founding member of PFI at the time when these unlawful activities were being undertaken, establishing his knowledge and participation in the criminal conspiracy from the beginning; and *secondly*, the Applicant was the head of SDPI, which operated as the political front of PFI, and the entire decision-making process of SDPI was controlled and directed by PFI. *Therefore, any money received or deployed by SDPI was effectively money under the control of PFI, and given that these funds were derived from criminal activities relating to scheduled offences, they necessarily constitute proceeds of crime.*

96. It was further pointed out that the language of Section 3 of PMLA, defines the offence of money laundering. The word “*including*” followed by “*acquisition*” makes it clear that acquisition is a distinct and independent category of activity constituting money laundering.

97. Regarding the *specific role of the Applicant*, Ld. Counsel submitted that the evidence on record establishes a clear and direct link between the predicate offence and the money laundering offence. It was submitted *that the existence of a predicate offence is a condition precedent for invoking the provisions of PMLA*; in the present case, multiple predicate offences have been registered by the NIA and State Police involving serious charges under UAPA, IPC, Explosive Substances Act, and Arms Act. The ED has arrayed the Applicant as an accused based on the material evidence gathered during



investigation establishing his involvement in the process and activity connected with proceeds of crime.

98. Ld. Counsel drew attention to the provisions of Section 66(2) of PMLA and submitted that this provision specifically deals with the situation where proceeds of crime are claimed to be held by a person on behalf of another person, and in such cases, the ED is duty-bound to proceed against the actual beneficiary or controller of such proceeds.

99. Ld. Counsel submitted that in June 2025, the ED had shared all material and evidence in its possession with the predicate agency (NIA), and the fact that the Applicant has not been named as an accused in the predicate offence by the NIA does not mean that he is exonerated or absolved of liability under PMLA. Reliance was placed on the judgment in Anil Tuteja, (supra) wherein it has been held that it is the statutory duty of the ED under Section 66(2) of PMLA is to investigate and prosecute persons involved in money laundering *regardless of whether they are accused in the predicate offence ECIR or not*. It is submitted that money laundering is an independent offence distinct from the predicate offence, and a person not accused in the scheduled offence can nevertheless be guilty of money laundering if he is involved in any process or activity connected with proceeds of crime.

100. Ld. Counsel emphasized that in the present case, the applicable threshold for grant of Bail is **Section 45 of PMLA**. It was submitted that both these conditions are mandatory and cumulative in nature, and the failure to satisfy even one condition would disentitle the accused from Bail. Completion of investigation is not a ground for automatic grant of bail, and the applicable test is not whether investigation is complete but whether the



twin conditions under Section 45 PMLA are satisfied. Without satisfaction of Section 45, bail cannot be granted regardless of the stage of investigation or trial.

101. The Applicant's contention that there is no involvement of the Applicant after 2018, was answered by the Ld. counsel who asserted that the date of declaration of an entity as unlawful cannot be treated as the date of cessation of involvement or liability. The Applicant continued to serve as National President of SDPI, which was the political front of PFI, and through this position, he continued to facilitate the laundering of proceeds of crime even after his formal association with PFI may have ended.

102. *On the issue of parity,* Ld. Counsel submitted that the Applicant's reliance on the grant of Bail to Co-accused is not tenable. While these co-accused were granted Bail by this Court, the period of custody undergone by them was more than 2 years, which is significantly longer than the approximately 10-11 months undergone by the present Applicant. The Supreme Court clarified that its decision dismissing the ED's SLP was not on merits. ***Therefore, the findings in the Bail Order granting Bail to Parvez Ahmed and others cannot be treated as settled law or binding precedent.***

103. Ld. Counsel further submitted that there is a ***fundamental distinction between the case of Parvez Ahmed and the present Applicant's case.*** In Parvez Ahmed's case, the Court held that mere collection of funds for future commission of offences does not constitute proceeds of crime. However, in the present case, the allegation is not of collection of money for future offences, but of conspiracy to commit scheduled offences under UAPA, and



the funds in question are proceeds derived from already committed criminal activities including terrorist training camps, riots, communal violence, and other completed offences.

104. Ld. counsel has placed strong reliance on the judgment of the Hon'ble Supreme Court in *Sagar vs. State of Uttar Pradesh*, 2025 INSC 137 wherein it has been held that the principle of parity in Bail matters must be applied with great caution and cannot be mechanically applied, and that each case must be decided on its own facts considering the specific role, position, and degree of involvement of each accused. The Applicant was also a direct recipient of Rs. 15,40,000/- in his personal account is materially different from and far more culpable than the roles attributed to the Co-accused.

105. To sum up, Ld. Counsel for the ED submitted that the Applicant has failed to satisfy either of the twin conditions under Section 45 of PMLA. There exist overwhelming reasonable grounds to believe that the Applicant is guilty of the serious offence of money laundering linked to terrorist financing and activities threatening national security. Furthermore, given the Applicant's influential position, evasion of 12 summons, his international connections through cross-border fundraising, and the risk of tampering with evidence and influencing witnesses, there are substantial grounds to believe that the Applicant is likely to commit offences while on Bail.

Submissions heard and record perused.

106. The Applicant herein, seeks grant of regular Bail in ECIR dated 21.09.2022. The Applicant was arrested on 03.03.2025 and has been in custody since then.



107. The investigation commenced with ECIR dated 02.05.2018 registered on the basis of various FIRs by NIA and State Police, against office bearers and members of Popular Front of India (PFI) and its related entities, under scheduled offences including *Sections 120-B, 121, 121A IPC, Explosive Substances Act, Arms Act and UAPA*.

108. Subsequently, present ECIR dated 21.09.2022 was registered based on NIA FIR No. RC-14/2022/NIA/DLI dated 13.04.2022. The Applicant's name was neither mentioned nor were any allegations levelled against him, until the filing of the 7th Supplementary Prosecution Complaint dated 15.06.2025.

Role of the Applicant in the present matter:

109. The Respondent/ED in its Complaint has alleged that as a PFI NEC Member and also the SDPI President, the Applicant was involved in *acquiring, concealing, and projecting proceeds of crime as legitimate*. It is also stated that he knowingly participated in laundering Rs.32.94 crore, concealing and using illicit funds to finance riots, terrorist training, and anti-national activities, thereby committing offences under Section 3 and 4 of PMLA, and being vicariously liable under Section 70 as NEC member of PFI and President of SDPI.

110. The Respondent/ED in its Complaint has further alleged that the members of PFI, **conspired to raise funds, domestically and abroad for terrorist activities, promoted communal disharmony through media and radicalised Muslim youth to join proscribed groups.**



Parameters for grant of Bail:

111. The grant of Bail in offences under the Prevention of Money Laundering Act, 2002 is governed by the stringent twin conditions prescribed under Section 45, which are: *(i) reasonable grounds to believe accused is not guilty; (ii) accused unlikely to commit offence while on Bail.* The failure to satisfy even one of these conditions would disentitle the accused from the grant of Bail.

112. In the case of Union of India vs. Kanhaiya Prasad, 2025 INSC 210 it was held that it was *well settled, these two conditions are mandatory in nature and they need to be complied with before the accused person is released on bail under Section 439 of Cr.P.C.*

Proceeds of Crime:

113. The Petitioner has been charged for the offence of money laundering under *Section 3 of PMLA*. It reads as under:

“3. Offence of money-laundering. — Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property shall be guilty of offence of money laundering.”

114. The gravamen for commission of the offence of money laundering is *‘proceeds of crime’* which is defined under *Section 2(1)(u) of PMLA* as under:

“(u) “proceeds of crime” means any property derived or obtained, directly or indirectly, by any person as a result of



criminal activity relating to a scheduled offence or the value of any such property;”

115. The term “*proceeds of crime*” was extensively explained in the case of *Vijay Madanlal Choudhary vs. Union of India*, (2023) 12 SCC 1 as under:

*“To be proceeds of crime, therefore, the property must be derived or obtained, directly or indirectly, “as a result of” criminal activity relating to a scheduled offence. To put it differently, the vehicle used in commission of scheduled offence may be attached as property in the case (crime) concerned, it may still not be proceeds of crime within the meaning of Section 2(1)(u) of the 2002 Act. Similarly, possession of unaccounted property acquired by legal means may be actionable for tax violation and yet, will not be regarded as proceeds of crime unless the tax legislation concerned prescribes such violation as an offence and such offence is included in the Schedule to the 2002 Act. **For being regarded as proceeds of crime, the property associated with the scheduled offence must have been derived or obtained by a person “as a result of” criminal activity relating to the scheduled offence concerned. This distinction must be borne in mind while reckoning any property referred to in the scheduled offence as proceeds of crime for the purpose of the 2002 Act. Dealing with proceeds of crime by way of any process or activity constitutes offence of money laundering under Section 3 PMLA.***

Tersely put, it is only such property which is derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence that can be regarded as proceeds of crime. The authorities under the 2002 Act cannot resort to action against any person for money laundering on an assumption that the property recovered by them must be proceeds of crime and that a scheduled offence has been committed, unless the same is registered with the



jurisdictional police or pending inquiry by way of complaint before the competent forum. For, the expression “derived or obtained” is indicative of criminal activity relating to a scheduled offence already accomplished.”

116. From the aforesaid paragraphs, it is evident that any property being derived or obtained directly or indirectly as a result of criminal activity which is a scheduled offence, would be termed as *proceeds of crime*, under PMLA. *In other words, for any property to be termed as proceeds of crime, it must be obtained from the commission of a scheduled offence.*

117. In *Pavana Dibbur vs. Enforcement Directorate*, 2023 SCC OnLine SC 1586, it was explained that on plain reading of Section 3, an offence under this Section can be committed *after a scheduled offence is committed*. In case of a person who is unconnected with the scheduled offence, knowingly assists the concealment of proceeds of crime or knowingly assists the use of proceeds of crime, would be guilty under Section 3 of PMLA. It was thus, concluded that it is not necessary that a person against whom the offence under Section 3 of PMLA is alleged, must have been shown as an accused in the scheduled offence. *“The condition precedent for attracting offence Section 3 PMLA are that there must be a scheduled offence and that there must be proceeds of crime in relation to the scheduled offence as defined in Clause (u) of sub-section (1) of Section 3 of the PMLA.”*

118. *In the present case*, the entire case of the ED is that the Applicant has been a member of PFI since its formation in 2009, held important posts until he separated from PFI in the year 2018. Essentially, the allegation against the Petitioner is that he is the political face of PFI, the banned organization, and is facilitating bogus donations and disbursement of funds for unlawful



activities and has personally received Rs.15,40,000/- from SDPI. The Applicant is also the authorized signatory in SDPI's national bank account maintained with Canara Bank.

119. According to the ED, the Investigation have revealed that the Applicant knowingly facilitated the acquisition, possession and projection of proceeds of crime as untainted and supported *PFI's conspiracy to fund riots, terrorist camps and anti-national protests*.

120. Thus, *what emerges is that*, the ED's entire case against the Applicant is founded on *guilt by association*. Mere occupancy of leadership positions in PFI, which was a lawful organization during the Applicant's association from 2009 to 2018. The Petitioner as Member of SDPI thus, separated much prior to PFI been declared as a banned Organization on 28.09.2022. SDPI which continues to be a lawful political party not declared unlawful by the Government, does not, without more, constitute the offence of money laundering.

121. The Applicant may have at one point of time be a founding Member of PFI since 2015 and remained a member till 2018, but that or that he may be a National President of SDPI, but these allegations in itself are not enough to *prima facie* make out a case of laundering the proceeds of crime. *Mere association of the Applicant with an organization or holding a position in an organization, without specific and concrete evidence of personal involvement in money laundering activities, cannot constitute an offence under Section 3 of PMLA.*

122. The only allegations are that the funds have been collected in the accounts of PFI/SDPI from unknown sources, which are being shown as



legitimate donations to be used for commission of illegal and unauthorized activities which are the scheduled offences. There is *prima facie* no evidence that the funds being received are generated from commission of any scheduled offence. The money being received from unknown sources may be getting utilized for various activities, but that *per se* does not make the donations, money etc. as the proceeds of crime under the scheme of PMLA. The offence committed by the collection of funds, may be an offence under any law including the scheduled offence, *but cannot be termed as proceeds of crime under Section 3 of PMLA.*

123. The ED, in order to establish that the Applicant was actively involved in fund-raising, has made an allegation that in the year 2016, the Appellant had gone to UAE from 10.02.2016-29.02.2016 i.e. merely 18 days. Such visit was in 2016, much prior to registration of the case by NIA on **02.05.2018.**

124. *In the light of aforesaid discussion, it is concluded that the parameters of Section 45 are satisfied, in the present case.*

Section 66 of PMLA:

125. Another contention was raised by the Ld. Senior Counsel for the Applicant is that Letter dated 13.06.2025 was written by the ED to the NIA for sharing the information, despite which the name of the Applicant has not been included in the Charge-Sheet in the predicate offence.

126. Section 66 of PMLA provides for disclosure of information. Section 66 is reproduced as under:



“(1) The Director or any other authority specified by him by a general or special order in this behalf may furnish or cause to be furnished to--

(i) any officer, authority or body performing any functions under any law relating to imposition of any tax, duty or cess or to dealings in foreign exchange, or prevention of illicit traffic in the narcotic drugs and psychotropic substances under the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985); or

(ii) such other officer, authority or body performing functions under any other law as the Central Government may, if in its opinion it is necessary so to do in the public interest, specify, by notification in the Official Gazette, in this behalf, any information received or obtained by such Director or any other authority, specified by him in the performance of their functions under this Act, as may, in the opinion of the Director or the other authority, so specified by him, be necessary for the purpose of the officer, authority or body specified in clause (i) or clause (ii) to perform his or its functions under that law.

(2) If the Director or other authority specified under sub-section (1) is of the opinion, on the basis of information or material in his possession, that the provisions of any other law for the time being in force are contravened, then the Director or such other authority shall share the information with the concerned agency for necessary action.”

127. This Court in the case of Harish Fabiani and Ors. vs. ED and Ors., WP (Crl.) 408/2022 (Delhi HC) decided on 26.09.2022, observed that an ECIR or a proceeding under the PMLA cannot be triggered merely on that assumption alone, as noticed in Vijay Madanlal Choudhary, (supra). Section 66(2) itself enables disclosure and sharing of information inter se authorities,



however mere disclosure does not crystallize a scheduled offence. It is merely an “*assumption*” till it precipitates as being “*registered with the jurisdictional police or pending inquiry by way of Complaint before the competent forum*”.

128. *Furthermore, in the case of R.K.M Powergen Private Limited vs. ED and Ors., W.P.Nos.4297 & 4300/2025 (Madras HC) decided on 15.07.2025, it was held as under:*

*“60. It is too well settled that where an act has to be done in a particular way, it must be done in that way and in no other way. **The PMLA demands the existence of a predicate offence. When there is no predicate offence, initiation of proceedings under PMLA is a non starter.** If the arguments of the Additional Solicitor General is accepted, then the ED on registration of an ECIR can conduct a roving enquiry with respect to other aspects also. That is not the position of law. To put it pithily, no predicate offence, no action by ED.*

*61. A careful perusal of Section 66(2) of PMLA points out that if during the course of investigation, the ED comes across violations of other provisions of law, then it cannot assume the role of investigating those offences also. It is to inform the appropriate agency, which is empowered by law to investigate into that offence. If that Agency, on the intimation from the ED, commences investigation and registers a complaint, then certainly the ED can investigate into those aspects also, provided there are “proceeds of crime”. In case, the investigating agency does not find any case with respect to the aspects pointed out by the ED, then the ED cannot suo motu proceed with the investigation and assume powers. **The essential ingredient for the ED to seize jurisdiction is the presence of a predicate offence. It is like a limpet mine attached to a ship. If there is no ship, the limpet cannot work. The ship is the predicate offence and “proceeds of crime”.** The ED is not a loitering munition or drone to attack at will on any criminal activity.”*

129. *Applying the ratio of the above judgments to the facts of the present case, the Applicant was neither named in the original FIR No. RC-*



14/2022/NIA/DLI dated 13.04.2022 registered by the NIA nor in the ECIR No. ECIR/STF/17/2022 dated 21.09.2022 registered by the ED based on the NIA FIR. There have been no *prima facie* allegations against the Applicant in the predicate offence. The NIA, after conducting extensive investigation spanning over three years from April 2022 till date, has filed its Chargesheet dated 18.03.2023 against 24 accused persons, arraigning 243 witnesses, **but the Applicant's name does not figure anywhere in the said Chargesheet.** Despite the ED sharing all its material with the NIA *vide* the letter dated 13.06.2025, the NIA has not filed any supplementary Chargesheet against him.

130. The Applicant's name surfaced for the first time, only in the 7th Supplementary Prosecution Complaint filed on 15.06.2025 by the ED, despite several earlier Prosecution Complaints and Supplementary Complaints having been filed since 2018, wherein no allegations were ever made against him. This belated inclusion of the Applicant in the 7th Supplementary ED's Complaint and pertinently, not in the NIA's predicate offence proceedings despite sharing of material, reflects no *prima facie* case against the Applicant.

Delay, period of incarceration and lengthy trial:

131. Another ground raised by the Applicant, is of inordinate delay in the trial. It is argued that he is in Judicial Custody since 03.03.2025 and the trial is not likely to conclude soon. He may thus, be granted Bail.

132. It is well settled that the right to a speedy trial is a fundamental right guaranteed under Article 21 of the Constitution of India. While gravity of



offence is undoubtedly a relevant consideration, it cannot eclipse the constitutional mandate that personal liberty of an undertrial cannot be curtailed for an indefinite period without conclusion of trial. Prolonged incarceration, when coupled with no real likelihood of early completion of trial, assumes constitutional significance.

133. The Apex Court in *Union of India vs. K.A. Najeeb*, (2021) 3 SCC 713, has categorically held that statutory restrictions on bail do not oust the powers of Constitutional Courts to grant bail where continued incarceration would result in violation of Part III of the Constitution. The Court observed that the rigours of stringent bail provisions “melt down” when there is no likelihood of trial being completed within a reasonable time and the accused has undergone substantial incarceration.

134. The principle has been reiterated in *Manish Sisodia (II)*, (supra) wherein the Apex Court emphasized that “*Bail is the rule and Jail is the exception*” and cautioned courts against withholding bail as a form of pre-trial punishment.

135. *In the present case*, the Prosecution itself admits that the matter involves voluminous records running into approximately 90,000 pages, more than 240 witnesses, multiple accused persons, digital and forensic evidence, and complex financial transactions spanning several years. The scale and nature of the evidence make it apparent that the trial is bound to take a considerable period of time before conclusion.

136. Although the 7th Supplementary Prosecution Complaint was filed on 15.06.2025 and cognizance taken on 20.05.2025, the proceedings are still at



a nascent stage. Charges are also yet to be framed. In light of the sheer volume of evidence and number of witnesses, the trial is likely to take long.

137. The Applicant is in Jail since 03.03.2025 i.e. for more than 11 months. Continued incarceration without commencement and foreseeable completion of trial would amount to pre-trial punishment, which is impermissible under Article 21.

138. *The rigours of Section 45 of PMLA cannot be permitted to operate so as to sanction indefinite detention of the Applicant.*

Conclusion:

139. In light of the foregoing reasons, the Bail Application is **allowed**. The Applicant be released on Regular Bail, subject to the following terms and conditions:

- a) The Applicant / Petitioner shall furnish a personal bond in the sum of Rs 50,000/- (Rupees fifty thousand only) with 1 surety in the like amount, to the satisfaction of the concerned trial court;
- b) The Applicant / Petitioner shall not leave the country without the permission of the concerned court and if the Applicant / Petitioner has a passport, he shall surrender the same to the concerned trial court;
- c) The Applicant / Petitioner shall furnish to the I.O. concerned his cell phone numbers on which the Applicant / Petitioner may be contacted at any time and shall ensure that the number is kept active and switched on at all times;



- d) The Applicant / Petitioner will furnish their permanent address to the concerned I.O. and in case he changes his address, he will inform the I.O. concerned;
- e) The Applicant / Petitioner shall not indulge in any act or omission that is unlawful, illegal or that would prejudice the proceedings in pending cases, if any;
- f) The Applicant / Petitioner shall appear in Court as and when required;
- g) The Applicant / Petitioner shall not communicate with, or come into contact with any of the prosecution witnesses, or tamper with the evidence of the case.

140. It is made clear that any observations made hereinabove, are not an expression on the merits of the case. It is further clarified that these observations shall not, in any manner, influence the trial before the Ld. Trial Court, as they have been made solely for the purpose of examining the Bail Application of the Applicant.

141. Accordingly, in the facts and circumstances of the present case, and in view of the foregoing discussion and analysis, the present Bail Application is allowed.

142. The present Bail Application is accordingly disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

FEBRUARY 16, 2026/VA