



2026:DHC:3810



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

Reserved on: 08.04.2026

Pronounced on: 05.05.2026

Uploaded on: 05.05.2026

+ **BAIL APPLN. 1802/2024 & CRL.M.A. 18038/2025, CRL.M.A. 32923-32924/2025**

LEENA PAULOSE

.....Petitioner

versus

STATE NCT OF DELHI

.....Respondent

Appearances:-

For Petitioner:

Mr. Anant Malik, Mr. Paul John, Mr. Kunal Narwal & Ms. Ananya Chandra, Advocates.

For Respondent:

Mr. Sanjay Jain, Senior Advocate with Mr. Akhand Pratap Singh, SPP & Mr. Nishank Tripathi, Mr. Krishna Mohan Chandel, Ms. Samriddhi Dobhal, Mr. Apoorv Paliya, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

JUDGMENT

1. By way of this application under Section 439 of the Code of Criminal Procedure, 1973 ["CrPC"] (corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ["BNSS"]), the petitioner seeks regular bail in connection with FIR No. 208/2021, dated 07.08.2021, lodged at Police Station Special Cell, Delhi. The FIR was originally registered under Sections 170/384/385/388/419/420/506/120B



of the Indian Penal Code, 1860 [“IPC”], and Section 66D of the Information Technology Act, 2000 [“IT Act”]. At the time of filing of the chargesheet, Sections 3 and 4 of the Maharashtra Control of Organised Crime Act, 1999 [“MCOCA”], were also invoked.

2. This is the second bail application filed by the petitioner before this Court. Her first bail application¹ was dismissed by a judgment of this Court dated 11.07.2023 [hereinafter, “the 2023 judgment”]. Against the 2023 judgment, the petitioner approached the Supreme Court by way of a special leave petition², which was withdrawn on 30.10.2023, with liberty to the petitioner to approach the Special Court afresh in view of some co-accused having been granted bail in the interregnum. Pursuant to this liberty, the petitioner applied for bail before the Special Court for the second time. The Special Court rejected her application *vide* order dated 09.04.2024, which has brought her back to this Court.

3. I have heard Mr. Anant Singh Malik, learned counsel for the petitioner, and Mr. Sanjay Jain, learned Senior Counsel for the respondent – State. The prosecution has handed up a status report, which is taken on record.

A. PROSECUTION CASE:

4. The prosecution case, as it emerges from the FIR and status report, is summarized hereinbelow:

A. FIR No. 208/2021, dated 07.08.2021, lodged at Police Station
Special Cell, Delhi, under Sections

¹ BAIL APPLN. 3706/2022.

² SLP (CRL.) No. 13605/2023.



170/384/385/388/419/420/506/120B of IPC and Section 66D of the IT Act, has been registered at the instance of one Ms. Aditi Singh.

- B. According to the complaint, on 15.06.2020, the complainant received a call on her mobile phone from a landline number. The caller introduced himself as a senior officer in the Ministry of Law and offered assistance in securing bail for her husband, who was in judicial custody in cases related to M/s Religare Enterprises Ltd.
- C. It is alleged that the caller demanded Rs. 50 crores in exchange for facilitating the bail and explained the method of delivering the money.
- D. Subsequently, through his associates, the caller allegedly extorted money from the complainant on multiple occasions between June 2020 to August 2021, amounting to a total of Rs. 217 crores. There are further allegations with regard to impersonation of senior officials, including the Home Secretary, Government of India, and misrepresenting the involvement of other government functionaries, including the Home Minister.
- E. Acting on the said information, the police laid a trap and apprehended co-accused Pradeep Ramdane while he was receiving the extorted amount. During interrogation, he disclosed that he was acting on the instructions of his brother, Deepak Ramnani, who was subsequently arrested.
- F. Using technical surveillance of the mobile phone used for making the calls, and the statements of co-accused, the caller was identified as one Sukesh Chandra Shekhar @ Sukash Chandra Shekhar [hereinafter, "Sukesh"], who is the husband of the petitioner.



- G. At this time, Sukesh was already lodged in Tihar Jail as an undertrial prisoner in a separate case, involving allegations of collecting money from a political leader on the pretext of helping him retain a particular election symbol. He was later shifted to Rohini Jail.
- H. A raid was conducted on the intervening night of 07/08.08.2021 by the Special Cell, during which two mobile phones were recovered from Sukesh, while he was in custody, and he was formally arrested in connection with the present FIR. His interrogation led to the identification and arrest of other associates and co-conspirators.
- I. During investigation, it was found that Sukesh was involved in multiple cases, including attempt to murder, criminal intimidation, cheating, and extortion, often by impersonating high-ranking officials.
- J. The investigation revealed that Sukesh, alongwith the petitioner herein, had allegedly been operating an organized crime syndicate since 2013 with the objective of unlawful financial gain through cheating and extortion. Four criminal cases had been registered against the petitioner, in all of which Sukesh was also a co-accused. Details of the said cases are as follows:
- i. FIR No. 186/2017, lodged at Police Station Crime Branch, Delhi, under Sections 201/120B of IPC and Sections 7/12/13 of the Prevention of Corruption Act, 1988.
 - ii. Crime No. 24/2013, registered at Central Crime Branch Police, Chennai, under Sections 406/409/420/34 of IPC and Section 66D of the IT Act.



- iii. Crime No. 33/2015, registered at Economic Offences Wing, Mumbai, under Sections 420/120B of IPC and Sections 3/4 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978³.
- iv. Crime No. 64/2013 [RC 6E/2014/BSFC] registered at Central Crime Branch, Chennai, under Sections 406/409/420/120B of IPC and Sections 13(1)(d)/13(2) of the Prevention of Corruption Act, 1988.

K. During further investigation, it emerged that co-accused Kamlesh Kothari, B. Mohan Raj, Joel Daniel Jose, Arun Muthu, Subhash Batra, and Dharam Singh Meena, were actively involved in operating the organized crime syndicate led by Sukesh and the petitioner, with the objective of obtaining unlawful financial gains and other benefits.

L. Furthermore, as more than one chargesheet had been filed against the petitioner for offences punishable with imprisonment of three years or more, and cognizance had been taken in those cases by the Trial Court within the last ten years, Sections 3 and 4 of the MCOCA, were invoked with due approval from the competent authority.

M. Investigation indicated that the petitioner maintained continuous contact with Sukesh while he was lodged in prison, where he was allegedly allowed the use of mobile phones, with the assistance of

³ The petitioner was not chargesheeted in Crime No. 33/2015, registered at Economic Offences Wing, Mumbai.



jail staff. Further, she also maintained contact with Dharam Singh Meena and Subhash Batra, who were officials of Rohini Jail.

N. It is alleged that the petitioner was actively and continuously coordinating with Sukesh as well as his associates, in furtherance of organised crime and disposal of proceeds of crime. Specifically, she paid for a “Silent Calling App”⁴, used by Sukesh to commit the foundational offence of extortion, while in custody. She also received funds from Sukesh through *hawala* channels with the assistance of associates such as Joel Daniel Jose, Kamlesh Kothari, B. Mohan Raj, and Arun Muthu. The petitioner facilitated the routing of funds into her accounts through various entities and individuals, against cash provided by her. These funds were then invested in luxury cars, real estate, and her business ventures. A total of 23 high-end luxury vehicles were reportedly seized, out of which 16 were seized from the petitioner’s premises in Chennai in August 2021.

O. On 05.09.2021, the petitioner was formally arrested in this case. During her interrogation, she disclosed that since Sukesh was lodged in jail, she handled disposal of the money obtained through cheating and extortion, with the assistance of B. Mohan Raj, Kamlesh Kothari, Arun Muthu, Sudhir, and Joel Daniel Jose. She further admitted that she utilized funds sent to her by Sukesh through *hawala* channels. She also disclosed that on 09.08.2021, upon learning about Sukesh’s arrest in the extortion case, she



contacted Arun Muthu via WhatsApp and instructed him to move and park 7–8 luxury vehicles at his premises.

- P. During the investigation, several other accused persons involved in the crime syndicate, being the petitioner, Arun Muthu, B. Mohan Raj, Joel Daniel Jose, Kamlesh Kothari, and Sukesh, were arrested.
- Q. Disclosure statements of multiple accused persons, including Arun Muthu, B. Mohan Raj, Joel Daniel Jose, Kamlesh Kothari, and Sukesh, were recorded, wherein all have attributed active roles to Sukesh and the petitioner, as the leaders of the organised crime syndicate.
- R. Additionally, confessional statements under Section 18 of the MCOCA were made by Sukesh, B. Mohan Raj, and Dharam Singh Meena. Sukesh disclosed that *hawala* funds were received in Chennai and distributed among associates such as Sudheer, Joel, Mohanraj, Kamlesh Kothari, and Arun Muthu, each handling specific aspects like collection, investment, and banking entries. B. Mohanraj, in his statement, confirmed his association with Sukesh, who had contacted him in June 2020 to buy cars and houses in the name of other persons, and the same were utilised by the petitioner. He also admitted that the petitioner started a business, being M/s Super Car Artistry and got cash converted to be shown as legitimate business funds. Dharam Singh Meena, in his statement, confirmed being in contact and coordinating with the petitioner, who was actively monitoring the activities of the crime syndicate.

⁴ I was informed by learned counsel for the parties that the “Silent Calling App” permits generation of masked telephone numbers, which makes it difficult to identify the caller, despite caller identification



- S. During investigation, bank statements of several proprietorship firms operated by the petitioner, namely M/s Nail Artistry, M/s Super Car Artistry, M/s LS Fisheries, M/s LS Education, and M/s News Express Post, were obtained. It was found that three of these entities, namely Nail Artistry, Super Car Artistry, and News Express Post, were extensively used to park and layer the proceeds of crime by disguising them as legitimate business transactions. Between June 2020 and August 2021, approximately Rs. 21 crores was deposited into these accounts through cash deposits, card swipes, and arranged banking entries, all of which were alleged to be sham transactions intended to legitimize illicit funds.
- T. The proceeds of crime have also been used by Sukesh for various other purposes, including gratification of jail officials for provision of facilities such as single use of barrack, uninterrupted use of mobile phones, electronic gadgets to run the syndicate, and gifts to celebrities. Some of the other co-accused are alleged to have provided for adjustment of the proceeds of crime in their accounts.
- U. The material against the petitioner has been detailed in the status report, as follows:

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- *Involvement in four cases with Sukash, i.e. 1. FIR No. 33/2015 u/s 420, 120 B IPC & 3, 4, Price Chits and Money Circulation Act. EOW, Mumbai, 2. FIR No. 24 of 2013, Central Crime Branch Police Chennai, u/s 406, 420 r/w 34 I.P.C. and u/s 66 D of Information Technology Act and 3. FIR No. 186/2017 u/s 7/12/13 POC Act & 120B IPC, PS Crime Branch, Delhi. 4. CCB Crime No. 64/13, now RC 6E/2014/BSFC u/s*

on the recipient's telephone.



406,409,420, 120B IPC & 13(2) r/w 13(1)(d) of PC Act, 1988
Chennai.

- Recharge of Silent Calling APP & mobile number 9311910260 (Sukash) from her account.
- Recovery of 26 high end cars, Benami property papers (purchased in the name of Jitender Kothari, cousin of Kamlesh Kothari), details of other costly items worth in crores.
- Cash amount in A/Cs of her two firms, i.e. Super Car Artistry and Nail Artistry as well as her personal bank accounts.
- Money spent in opening of three salons (at Chennai, Bangalore, and Cochin) received through hawala channels and used debit/credits cards of various persons who swapping purpose for escalating the fake sale in the saloons during even Corona/Pandemic period.
- Statements u/s 18(1) MCOC Act of Sukash, B. Mohan Raj and D.S. Meena.
- 9311910260 – This number belongs to Sukash & recovered from him. Recharge of this number was done through Leena by using a/c of one Noufal.
- Statement u/s 161 Cr.P.C. of Naufal, Surender Panwar, Sarvan Priyan, Shiva Subramanium, T. Macheil, Jitender Kothari, Bharat K. Duggar, Jagdish K. Naveen Kumar, Alok Damani, T. Shobby Paul, and Anand Murthy were recorded, the examination of these witnesses clearly established that accused/applicant was instrumental in carrying out the illegal activities of organized crime syndicate.”

B. RELEVANT PROVISIONS:

5. Statutory provisions referred to by learned counsel for the parties in the course of their arguments are set out below for ease of reference⁵.

a. **MCOCA:**

“Section 2: Definitions.

(1) In this Act, unless the context otherwise requires,-

(a) “**abet**”, with its grammatical variations and cognate expression, includes,

⁵ Learned counsel for the parties also referred to the bail provisions in Narcotic Drugs and Psychotropic Substances Act, 1985 [Section 37], and Prevention of Money-Laundering Act, 2002 [Section 45]. These are not separately reproduced as they are *pari materia* to Section 21(4) MCOCA.



(i) the communication or association with any person with the actual knowledge or having reason to believe that such person is engaged in assisting in any manner, an organised crime syndicate;

(ii) the passing on or publication of, without any lawful authority, any information likely to assist the organised crime syndicate and the passing on or publication of or distribution of any document or matter obtained from the organised crime syndicate; and

(iii) the rendering of any assistance, whether financial or otherwise, to the organised crime syndicate;

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(d) “continuing unlawful activity” means an activity prohibited by law for the time being in force, which is a cognizable offence punishable with imprisonment of three years or more, undertaken either singly or jointly, as a member of an organised crime syndicate or on behalf of such syndicate in respect of which more than one charge-sheets have been filed before a Competent Court within the preceding period of ten years and that Court has taken cognizance of such offence;

(e) “organised crime” means any continuing unlawful activity by an individual, singly or jointly, either as a member of an organised crime syndicate or on behalf of such syndicate, by use of violence or threat of violence or intimidation or coercion, or other unlawful means, with the objective of gaining pecuniary benefits, or gaining undue economic or other advantage for himself or any other person or promoting insurgency;

(f) “organised crime syndicate” means a group of two or more persons who, acting either singly or collectively, as a syndicate or gang indulge in activities of organised crime;

Section 3: Punishment for organized crime.

(1) *Whoever commits an offence of organised crime shall,—*

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(ii) in any other case, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to a fine, subject to a minimum fine of rupees five lacs.

(2) *Whoever conspires or attempts to commit or advocates, abets or knowingly facilitates the commission of an organised crime or any act preparatory to organised crime, shall be punishable with imprisonment for a term which shall be not less than five years but which may extend to imprisonment for life and shall also be liable to a fine, subject to a minimum fine of rupees five lacs.*

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(4) Any person who is a member of an organised crime syndicate shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to a fine, subject to a minimum fine of rupees five lacs.

(5) Whoever holds any property derived or obtained from commission of an organised crime or which has been acquired through the organised crime syndicate funds shall be punishable with a term which shall not be less than three years but which may extend to imprisonment for life and shall also be liable to fine, subject to a minimum fine of rupees two lacs.

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Section 17: Special rules of evidence.

(1) Notwithstanding anything to the contrary contained in the Code, or the Indian Evidence Act, 1872 (I of 1872), for the purposes of trial and punishment for offences under this Act or connected offences, the Court may take into consideration as having probative value, the fact that the accused was,-

(a) on any previous occasion bound under section 107 or section 110 of the Code;

(b) detained under any law relating to preventive detention; or

(c) on any previous occasion was prosecuted in the Special Court under this Act.

(2) Where it is proved that any person involved in an organised crime or any person on his behalf is or has at any time been in possession of movable or immovable property which he cannot satisfactorily account for, the Special Court shall, unless contrary is proved, presume that such property or pecuniary resources have been acquired or derived by his illegal activities.

(3) Where it is proved that the accused has kidnapped or abducted any person, the Special Court shall presume that it was for ransom.

Section 18: Certain confessions made to the police officer to be taken into consideration.

(1) Notwithstanding anything in the Code or in the Indian Evidence Act, 1872 (I of 1872), but subject to the provisions of this section, a confession made by a person before a police officer not below the rank of the Superintendent of Police and recorded by such police officer either in writing or on any mechanical devices like cassettes, tapes or sound tracks from which sounds or images can be reproduced, shall be admissible in the trial of such person or co-accused, abettor or conspirator:



Provided that, the co-accused, abettor or conspirator is charged and tried in the same case together with the accused.

(2) The confession shall be recorded in a free atmosphere in the same language in which the person is examined and as narrated by him.

(3) The police officer shall, before recording any confession under sub-section (1), explain to the person making it that he is not bound to make a confession and that, if he does so, it may be used as evidence against him and such police officer shall not record any such confession unless upon questioning the person making it, he is satisfied that it is being made voluntarily. The concerned police officer shall, after recording such voluntary confession, certify in writing below the confession about his personal satisfaction of the voluntary character of such confession, putting the date and time of the same.

(4) Every confession recorded under sub-section (1) shall be sent forthwith to the Chief Metropolitan Magistrate or the Chief Judicial Magistrate having jurisdiction over the area in which such confession has been recorded and such Magistrate shall forward the recorded confession so received to the Special Court which may take cognizance of the offence.

(5) The person from whom a confession has been recorded under sub-section (1) shall also be produced before the Chief Metropolitan Magistrate or the Chief Judicial Magistrate to whom the confession is required to be sent under sub-section (4) alongwith the original statement of confession, written or recorded on mechanical device without unreasonable delay.

(6) The Chief Metropolitan Magistrate or the Chief Judicial Magistrate shall scrupulously record the statement, if any, made by the accused so produced and get his signature and in case of any complaint of torture, the person shall be directed to be produced for medical examination before a Medical Officer not lower in rank than of an Assistant Civil Surgeon.

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Section 21: Modified application of certain provisions of the Code.

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(4) Notwithstanding anything contained in the Code, no person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond, unless-

(a) the Public Prosecutor has been given an opportunity to oppose the application of such release; and

(b) where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.



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Section 23: Cognizance of, and investigation into, an offence.

(1) Notwithstanding anything contained in the Code,-

(a) no information about the commission of an offence of organised crime under this Act, shall be recorded by a police officer without the prior approval of the police officer not below the rank of the Deputy Inspector General of Police;

(b) no investigation of an offence under the provisions of this Act shall be carried out by a police officer below the rank of the Deputy Superintendent of Police.

(2) No Special Court shall take cognizance of any offence under this Act without the previous sanction of the police officer not below the rank of Additional Director General of Police.”⁶

b. **The Unlawful Activities (Prevention) Act, 1967 [“UAPA”]:**

“Section 43-D: Modified application of certain provisions of the Code.

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(5) **Notwithstanding anything contained in the Code, no person accused of an offence punishable under Chapters IV and VI of this Act shall, if in custody, be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity of being heard on the application for such release:**

Provided that such accused person shall not be released on bail or on his own bond if the Court, on a perusal of the case diary or the report made under Section 173 of the Code is of the opinion that there are reasonable grounds for believing that the accusation against such person is prima facie true.”⁷

C. **JUDGMENT DATED 11.07.2023:**

6. As noted above, an earlier bail application filed by the present petitioner before this Court, was dismissed by the 2023 judgment. It was Mr. Malik’s submission that the Court must re-consider the question of the petitioner’s entitlement to bail, in light of lapse of two and half years since then. However, he rightly accepted that this Court is bound by the

⁶ Emphasis supplied.

⁷ Emphasis supplied.



factual and legal findings contained in the said judgment. It is therefore necessary to enumerate the following *prima facie* factual findings and legal conclusions recorded in the 2023 judgment:

- A. After noticing the case of the prosecution and the contents of various statements recorded in the course of investigation, the Court considered the submissions made on behalf of the present petitioner, including as to the petitioner's independent source of income, good faith use of money received from her husband – Sukesh, conduct in joining the investigation, and that the petitioner has firm roots in society, being a successful professional, qualified as a dentist, and a businesswoman in her own right.
- B. In order to satisfy the ingredients of Sections 2(1)(d) of MCOCA, it is not necessary that the chargesheet should be against an individual, but a chargesheet against the syndicate as a whole, would also suffice⁸.
- C. Individual members of the syndicate may have different roles in the commission of the crime. Channelising the money obtained through the foundational crime of extortion is, in fact, sufficient to make out an offence under MCOCA⁹.
- D. Membership of the syndicate itself constitutes an offence under Sections 2(1)(d) and 2(1)(e) of MCOCA¹⁰.
- E. The question of whether confessional statements recorded under Section 18 of MCOCA can be read into evidence in the absence of

⁸ 2023 judgment, paragraph 45.

⁹ 2023 judgment, paragraph 46.

¹⁰ 2023 judgment, paragraph 47.



independent corroboration is a matter of trial¹¹. Confessional statement may also be attributable to the co-accused¹².

- F. Objections with regard to validity of the sanction under Sections 23(1)(a) and 23(2) of MCOCA can only be examined at trial, except when they touch upon inherent lack of jurisdiction, which was not argued in this case¹³.
- G. The twin conditions for grant of bail incorporated in Section 21(4) of MCOCA requires the Court to be satisfied that there are “*reasonable grounds for believing that the accused is not guilty of such offence*”, which is “*something more than prima facie grounds*”¹⁴.
- H. The present petitioner “*was involved in running an organized crime syndicate since 2013 with the motive of pecuniary gain by cheating and extortion*”. She was in continuous contact with Sukesh, who was using a mobile phone despite being in custody, as well as co-accused Dharam Singh Meena and Subhash Batra, who were jail officials. She was coordinating with Sukesh and his associates in furtherance of organized crime and disposal of crime proceeds. She procured bank entries from various entities/persons to whom she provided cash received from Sukesh through *hawala* transactions, and invested thereafter in high-end cars, properties, and her business firms. She is also stated to have made the payment for the

¹¹ 2023 judgment, paragraph 49.

¹² 2023 judgment, paragraph 50.

¹³ 2023 judgment, paragraph 54.

¹⁴ 2023 judgment, paragraph 55.



“Silent Calling App” used by Sukesh to allegedly commit the foundational crime of extortion¹⁵.

- I. These conclusions are supported by various statements recorded under Sections 161 and 164 of the CrPC¹⁶.
- J. During the period of offence [June 2020 to August 2021], a sum of Rs. 21 crores was deposited into the bank accounts in the name of the petitioner or her proprietorship concerns, namely M/S Nail Artistry, M/S Super Car Artistry, and M/S News Express Post¹⁷.
- K. Although a mini trial is not called for at this stage, the present petitioner was involved in the organized crime syndicate, and cannot be found to have accepted such large sums of money from her husband, only in the context of the matrimonial relationship¹⁸.

D. SUBMISSIONS BY LEARNED COUNSEL FOR THE PETITIONER:

7. In the light of the findings already recorded in the 2023 judgment, Mr. Malik confined his submissions to two broad aspects:

- i. Prolonged incarceration and likely delay in completion of trial.
- ii. Parity with other co-accused who have already been granted bail.

i. Re: Prolonged incarceration and delay in completion of trial

8. Mr. Malik submitted that the petitioner has already been in custody for a period of over four and half years, but charges have not yet been framed. The prosecution filed the first chargesheet in November 2021, but also filed five supplementary chargesheets thereafter, the last of which was filed only on 04.10.2024. Thus, filing of chargesheets itself

¹⁵ 2023 judgment, paragraphs 56-57.

¹⁶ 2023 judgment, paragraphs 58-59.

¹⁷ 2023 judgment, paragraphs 60-62.

¹⁸ 2023 judgment, paragraph 76.



took a period of almost three years. The arguments on charge were commenced upon filing of each of the chargesheets, but were disrupted on account of filing of successive chargesheets. He submitted that, even after the filing of the last chargesheet, arguments were addressed, but there was a change in the Presiding Officer of the Special Court on 05.12.2025, after which arguments recommenced. It is specifically urged that, as far as the present petitioner is concerned, there was no delay whatsoever in advancing arguments on charge, either before the predecessor Judge or before the Judge presently presiding over the Special Court. As the case involves 23 accused persons, 403 witnesses cited in the chargesheets, and the chargesheets collectively exceed 10,000 pages, Mr. Malik submitted that the trial is unlikely to conclude within a reasonable time.

9. Mr. Malik submitted that, in *Union of India v. K.A. Najeeb*,¹⁹ and several later cases, the Supreme Court has clearly held that the mandate under Article 21 of the Constitution prohibits prolonged pre-trial incarceration of an accused, particularly when there is no reasonable likelihood of expeditious conclusion of proceedings. He submitted that, in *KA Najeeb*, this principle was applied even to UAPA, which also incorporates similar stringent conditions for the grant of bail, as in MCOCA.

10. Relying upon Section 479 of the BNSS [corresponding to Section 436A of CrPC], Mr. Malik submitted that the petitioner has already been in custody for close to the minimum period of sentence under Section 3(1) of MCOCA, which is five years. Although the sentence can extend to



life imprisonment, he submitted that the allegations in the present case are not at all commensurate with such a sentence and that the petitioner, being a woman, would in any event be entitled to release after seven years.

11. Mr. Malik also drew my attention to several judgments and orders of the Supreme Court and this Court, in which bail has been granted on this ground even in cases under MCOCA, to which I shall refer at the appropriate stage.

ii. Re: Parity with co-accused

12. Mr. Malik, in support of the argument on parity with other co-accused, pointed out that four co-accused have been granted bail – Joel Daniel by the Special Court²⁰, and Avtar Singh Kochhar²¹, Pinky Irani²² and Sunil Kumar²³ by this Court. He submitted that the role attributed to the petitioner in the commission of the offence is no graver than that attributed to the co-accused.

E. SUBMISSIONS BY THE RESPONDENT-STATE:

i. Re: Prolonged incarceration and delay in completion of trial

13. Mr. Jain, on the other hand, submitted, on the basis of the statement of objects and reasons of MCOCA, that the offences contemplated thereunder are serious offences with the potential of prejudicing the security of the nation. In the present case, he emphasized that the offences alleged against the syndicate were committed by impersonation of senior government officials, on the inducement of securing bail for the

¹⁹ (2021) 3 SCC 713 [hereinafter, “*KA Najeer*”].

²⁰ Order dated 21.11.2022 in SC 308/2021.

²¹ Avtar Singh Kocchar v. State of NCT of Delhi; BAIL APPLN 1811/2023, decided on 29.11.2023.

²² Pinky Irani v. Govt. of NCT of Delhi; BAIL APPLN 1127/2023, decided on 20.10.2023.

²³ Sunil Kumar v. State of NCT of Delhi; BAIL APPLN. 1130/2023, decided on 02.04.2024.



complainant's husband. He argued that the offence thus involves a grave attempt to interfere with the administration of justice, which is further underlined by the fact that Sukesh committed the offence while lodged in jail, by procuring the complicity of jail officials. He submitted that the seriousness of the offences, and the facts relating to the petitioner's involvement have already been determined in the 2023 judgment, and ought not to be revisited by this Court.

14. Mr. Jain also urged that, on the question of admissibility of confessional statements under Section 18 of MCOCA, the MCOCA regime is stricter than the corresponding regime under the NDPS Act²⁴, rendering the judgments under the NDPS Act inapplicable to a case under MCOCA.

15. Specifically on the question of prolonged incarceration, Mr. Jain submitted that the bail provisions in MCOCA are materially different from the corresponding provision in UAPA, and have been held to be "*on a higher pedestal*". In any event, Mr. Jain argued that several judgments of the Supreme Court and this Court make it clear that, in the case of special statutes incorporating conditions restricting bail, prolonged incarceration is not by itself a ground for release of an accused on bail. Reference to the said judgments is included at the appropriate juncture in this judgment.

16. Factually, it was argued by Mr. Jain that the present case is not one where delay can be attributed to the prosecution alone, so as to enable the Court to grant bail to the petitioner on this ground. He submitted that, in

²⁴ Section 67 of the NDPS Act read with the judgment of the Supreme Court in *Tofan Singh v. State of T.N.*, (2021) 4 SCC 1.



fact, several adjournments have been taken by the accused, resulting in delay in framing of charges.

ii. **Re: Parity with Co-accused**

17. On the ground of parity, Mr. Jain submitted that the roles of the co-accused who have been enlarged on bail were materially different. The petitioner is the leader of the syndicate and played a central role in the foundational offence of extortion. She made payments for the “Silent Calling App,” which Sukesh allegedly used from jail to carry out the foundational crime of extortion, and remained in constant contact with Sukesh through mobile phones illegally used by him while in jail, as well as actively facilitated the handling and disposal of the proceeds of crime. In contrast, the roles of the other co-accused were limited and distinct – Avtaar Singh Kochhar acted as a *hawala* operator, Joel Daniel was a salaried employee, Sunil Kumar was a jail official, and Pinky Irani was involved in arranging meetings with celebrities.

F. **ANALYSIS**

i. **Re: Prolonged incarceration and delay in completion of trial**

a) **Statement of Objects and Reasons of MCOCA**

18. In order to appreciate the statutory scheme of MCOCA in its proper context, reference may be made to the Statement of Objects and Reasons of the statute, which is re-produced hereinbelow:

“Statement of Objects and Reasons

Organised crime has been for quite some years now come up as a very serious threat to our society. It knows no national boundaries and is fueled by illegal wealth generated by contract killing, extortion, smuggling in contrabands, illegal trade in narcotics kidnappings for ransom, collection of protection money and money laundering, etc. The illegal wealth and black money generated by the organised crime being very huge, it has had serious adverse effect on our economy. It



*was seen that the organised criminal syndicates made a **common cause with terrorist gangs and foster narco terrorism** which extend beyond the national boundaries. There was reason to believe that organised criminal gangs have been operating in the State and thus, there was immediate need to curb their activities.*

It was also noticed that the organized criminals have been making extensive use of wire and oral communications in their criminal activities. The interception of such communications to obtain evidence of the commission of crimes or to prevent their commission would be an indispensable aid to law enforcement and the administration of justice.

2. The existing legal framework i.e. the penal and procedural laws and the adjudicatory system were found to be rather inadequate to curb or control the menace of organised crime. Government, therefore, decided to enact a special law with stringent and deterrent provisions including in certain circumstances power to intercept wire, electronic or oral communication to control the menace of the organised crime.

It is the purpose of this act to achieve there objects.

An Act to make special provisions for prevention and control of, and for coping with, criminal activity by organized crime syndicate or gang, and for matters connected therewith or incidental thereto.

Whereas it was expedient to make special provisions for prevention and control of, and for coping with, criminal activity by organized crime syndicate or gang and for matters connected therewith or incidental thereto;

And whereas both Houses of the State Legislature were not in session;

And whereas it is expedient to replace the said Ordinance by an Act of the State Legislature; It is hereby enacted in the Fiftieth Year of the Republic of India as follows—..”²⁵

b) Legal Principles

19. Before turning to the judgments cited on both sides, as several of them are under UAPA, it may be noted that the bail provision under the two statutes (reproduced above) are not identical. It has been held that

²⁵ Emphasis supplied.



Section 21(4) of MCOCA provides for a stricter regime, than Section 43D(5) of UAPA. Both in *National Investigation Agency v. Zahoor Ahmad Shah Watali*²⁶ and *Kekhriesatuo Tep & Ors. v. National Investigation Agency*²⁷, the Supreme Court has indicated that the test under MCOCA requires a much stronger degree of satisfaction, than the corresponding stipulation in UAPA. The key distinction, as analysed by the Court, lies in the difference in the formulation of the test: in UAPA, the Court must be satisfied that “*there are reasonable grounds for believing that the accusation against such person is prima facie true*”, whereas under MCOCA, the satisfaction required is that “*there are reasonable grounds for believing that he is not guilty of such offence*”.

20. The Division Bench of this Court in *Neelam Ranolia v. State of NCT of Delhi*²⁸ has also followed the aforesaid decisions. *KA Najeeb*, and other judgments under UAPA, must therefore be read in this context.

21. That said, it is also clear from the judgments and orders of the Supreme Court under MCOCA itself, that prolonged incarceration is a relevant ground, despite the distinction in the bail provisions.

22. Mr. Malik has, in this context, relied upon the following orders and judgments of the Supreme Court, all being cases of offences under MCOCA:

- i. In *Rockysingh Jalindersingh Kalyani v. State of Maharashtra*²⁹, the Supreme Court granted bail to the accused having regard to the fact

²⁶ (2019) 5 SCC 1, paragraph 23.

²⁷ (2023) 6 SCC 58, paragraph 13.

²⁸ 2025 SCC OnLine Del 5742, paragraphs 15-16.

²⁹ Criminal Appeal No. 176/2022, decided on 03.02.2022.



that the accused was disabled, the trial was yet to commence, and the accused had already been in custody for four years.

- ii. In *Ranjana Tanaji Wanve v. State of Maharashtra*³⁰, the Supreme Court noted that charges had not been framed despite filing of the chargesheet more than three years before, and more than 100 witnesses were to be examined. In view thereof, the Supreme Court granted bail to the accused.
- iii. In *Siddhant v. State of Maharashtra*³¹, the Supreme Court recorded that the accused had been incarcerated for a period of approximately five years without charges having been framed, which would amount to imposition of a sentence without trial. The accused was, therefore, released on bail.
- iv. In *Vinod v. State of Maharashtra*³², the Supreme Court granted bail to the accused, having regard to the fact that charges had not yet been framed, the accused had already undergone a sentence of 20 months, with 65 witnesses to be examined.
- v. In *Vivek @ Vicky Janak Paneri v. State of Maharashtra*³³, the Supreme Court, while noting the prolonged period of incarceration, granted bail to the accused primarily on the ground of parity with a co-accused.
- vi. In *Kailash Ramchandani v. State of Maharashtra & Anr.*³⁴, the Supreme Court found that only one witness had been examined out

³⁰ SLP (CrI.) No. 12740/2024, decided on 22.10.2024.

³¹ 2024 SCC OnLine SC 3798.

³² SLP (CrI.) No. 14166/2024, dated 08.01.2025.

³³ SLP (CrI.) No. 2677-2678/2025, dated 15.04.2025.

³⁴ SLP (CrI.) No. 4276/2025, dated 06.01.2026.



of 146 witnesses, and released the accused on bail, as the trial would take a long time.

vii. In *Jagruti Dhanesh Thorat v. State of Maharashtra*³⁵, the Supreme Court observed that the accused was alleged to have received sale proceeds arising out of MCOCA offence for her own use, but held that the question of utilization of proceeds of crime would be examined at trial. The Supreme Court released the accused on bail, principally on the ground of parity with other co-accused.

23. Coordinate Benches of this Court in *Arun v. State (Government of NCT of Delhi)*³⁶, *Ashish @ Deva v. State (NCT of Delhi)*³⁷, *Rajesh Kumar v. State (Government of NCT of Delhi)*³⁸, and *Jitender Dixit @ Bantu v. The State (Government of NCT of Delhi)*³⁹ have also *inter alia*, adopted the yardstick of prolonged incarceration, without likelihood of completion of proceedings, to grant bail to petitioners accused of offences under MCOCA.

24. While these decisions clearly establish that grounds under Article 21 are indeed relevant, even while considering bail applications of persons accused under MCOCA, Mr. Jain has cited the following judgments of the Supreme Court and this Court which, according to him, suggest that Section 21(4) of MCOCA cannot be overridden:

i. In *Jayashree Kanabar v. State of Maharashtra & Ors.*⁴⁰, the judgment of the High Court granting bail to a MCOCA accused

³⁵ SLP (Crl.) No. 17295/2025, dated 13.01.2026.

³⁶ BAIL APPLN. 3348/2023, dated 07.04.2025.

³⁷ BAIL APPLN. 1618/2024, dated 29.04.2025.

³⁸ BAIL APPLN. 2986/2023, dated 08.05.2025.

³⁹ BAIL APPLN. 3831/2023, dated 19.05.2025.

⁴⁰ (2025) 2 SCC 797.



was set aside, on the ground that the High Court had not considered the parameters under Section 21(4) of MCOCA. Although a plea was raised before the Supreme Court that the accused was entitled to bail in view of the fundamental rights under Part-III of the Constitution, the Supreme Court set aside the order granting bail, holding that the High Court had not decided the case on such a ground.

- ii. In *Dheerpal v State (Govt. of NCT of Delhi)*⁴¹, a coordinate Bench of this Court declined to extend the benefit of Section 436A CrPC, notwithstanding that the accused had undergone eight years of incarceration, noting that the offence was punishable with death or imprisonment for life. The Court held that, while delay in trial is a relevant consideration, it cannot by itself be a determinative ground for grant of bail. The facts of each case must be assessed to determine whether there has been a violation of the fundamental rights of the accused. It was further observed that the rights of the society must be balanced with those of the accused, particularly in cases involving heinous offences, or those under special statutes such as MCOCA.
- iii. In *Umesh @ Kala v. State*⁴², a coordinate Bench of this Court, while declining bail to the accused, held that factors such as prolonged incarceration or delay in trial cannot, by themselves, justify the grant of bail. The Court emphasized that such considerations must be weighed alongside the gravity of the

⁴¹ 2024 SCC OnLine Del 4106.

⁴² 2025 SCC OnLine Del 6573.



offence and the specific role attributed to the accused, which can only be assessed upon a proper examination of the merits of the case.

iv. In another decision, also entitled *Dheerpal v. Govt. of NCT of Delhi*⁴³, a coordinate Bench of this Court, while declining grant of bail, noted that although the accused had undergone incarceration for a considerable period, of about nine years, “*the same has to take a back seat, unless there are other mitigating circumstances therewith*”⁴⁴, particularly in view of the stringent twin conditions prescribed under Section 21(4) of MCOCA.

25. Additionally, Mr. Jain, referred to two recent judgments, which arose out of the same proceedings under the UAPA. *Gulfisha Fatima v. State (Govt. of NCT of Delhi)*⁴⁵ and *Tasleem Ahmed v. State Govt. of NCT of Delhi*⁴⁶, were rendered by the Supreme Court and a Division Bench of this Court, respectively. He submitted that these judgments require an analysis of the factual allegations and seriousness of the offence, in addition to the ground urged under Article 21 of the Constitution. As these judgments were rendered in the context of the bail provision under UAPA, Mr. Jain submitted that they would *fortiori* apply to the more stringent provision of MCOCA.

26. In *Gulfisha Fatima*, delivered on 05.01.2026, the Supreme Court has dealt with the interplay between Article 21 of the Constitution and Section 43D(5) of UAPA, referring to *KA Najeeb* and other authorities.

⁴³ 2026 SCC OnLine Del 909.

⁴⁴ *Ibid*, paragraph 8.

⁴⁵ 2026 SCC OnLine SC 10 [hereinafter, “*Gulfisha Fatima*”].

⁴⁶ 2025 SCC OnLine Del 5754 [hereinafter, “*Tasleem Ahmed*”].



As this is the very issue at the heart of the present matter, *albeit* in the context of MCOCA, it is appropriate to extract the relevant observations at some length:

*“29. We may at the outset clarify the limited compass of the present discussion. This Court is not engaged in any abstract comparison between the Constitution and a statute, nor in declaring that delay must invariably prevail over statutory restrictions, or that delay can never warrant constitutional relief. **The question is more precise: in prosecutions under the UAPA, when delay and prolonged incarceration are invoked as grounds for bail, what is the principled approach by which a constitutional court is to examine such a plea.***

30. Article 21 occupies a central place in the constitutional scheme. The right to life and personal liberty, and the insistence that any deprivation must conform to procedure established by law, are foundational guarantees. The right to a speedy trial has been recognised as an important facet of this guarantee. It follows that pre-trial incarceration cannot, by the mere passage of time, be permitted to assume the character of punishment.

31. At the same time, Article 21 has never been understood as operating in isolation from law. The constitutional promise is not that liberty will be unregulated, but that deprivations of liberty will not be arbitrary, unconscionable, or unfair. The expression “procedure established by law” reflects that balance. The UAPA, as a special statute enacted to address offences alleged to affect the security of the State and the stability of civic life, represents a legislative judgment as to the conditions under which bail may be granted at the pre-trial stage. Section 43D(5) of UAPA embodies the exercise of that judgment.

32. In Union of India v. K.A. Najeeb, this Court recognised a constitutional safeguard that cannot be ignored: statutory restrictions cannot be applied so as to render the guarantee of personal liberty illusory. It was held that where the trial is not likely to commence or conclude within a reasonable period, constitutional courts retain the jurisdiction to grant bail notwithstanding statutory restraints. The decision thus operates as a protection against unconscionable detention and there can be no second opinion on the said principle.

33. The same decision, however, does not indicate as laying down a mechanical rule under which the mere passage of time becomes determinative in every case arising under a special statute. The jurisprudence of this Court does not support a construction whereby delay simpliciter eclipses a statutory regime enacted by Parliament to address offences of a special category.



34. The constitutional inquiry into delay is not an inquiry into guilt. It is an inquiry into whether continued detention remains constitutionally permissible in the circumstances of the case. That inquiry is necessarily contextual. Context includes the nature of the allegation, the statutory field, the stage of the proceedings, the realistic trajectory of the trial, the causes contributing to delay, and the risks attendant upon release. Delay cannot be detached from these considerations and treated as a solitary determinant.

35. The proper constitutional question, therefore, is not whether Article 21 is superior to Section 43D(5). The proper question is how Article 21 is to be applied where Parliament has expressly conditioned the grant of bail in relation to offences alleged to implicate national security. The law does not contemplate an either-or approach. Nor does it contemplate an unstructured blending of statutory and constitutional considerations. What is required is disciplined judicial scrutiny that gives due regard to both.

36. The appellants have urged that their continued incarceration over a prolonged period, coupled with the pace at which the trial has progressed, warrants their enlargement on bail notwithstanding the statutory embargo contained in Section 43D(5) of the Unlawful Activities (Prevention) Act, 1967. Prolonged custody undoubtedly implicates the constitutional guarantee of personal liberty under Article 21 of the Constitution, and such a plea cannot be rejected on the basis of duration alone without a careful and fact-sensitive examination. At the same time, the Court is required to examine whether the narrative of delay, as projected, is borne out by the record, and whether such delay is of a nature that constitutionally displaces the statutory mandate.

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45. A finding that these circumstances exist does not, by itself, compel bail. It merely calls for the next level of constitutional consideration. At that stage, the Court is required to examine whether, notwithstanding delay, continued detention remains constitutionally justified having regard to the statutory context and the facts of the case. This examination is not a free-ranging balancing exercise; it is structured by legally relevant considerations.

46. One such consideration is the gravity of the alleged offence in its statutory setting. Under the UAPA, Parliament has legislatively characterised certain conduct as implicating the security of the State and the peace of society. That legislative characterisation does not conclude the judicial inquiry, but it is not constitutionally irrelevant. It forms part of the context in which the Article 21 claim is assessed.



47. A closely allied consideration is the role attributed to the accused. Prosecutions under the UAPA may allege varying degrees of participation, ranging from peripheral acts to strategic, organisational, or ideological centrality. The constitutional significance of prolonged incarceration cannot be assessed uniformly for all accused regardless of role. Where the attribution suggests a central or organising role in the alleged design, the need for circumspection before constitutional intervention displaces a statutory embargo is correspondingly greater. Conversely, where the role is peripheral or episodic, prolonged incarceration may more readily assume a punitive character.

48. Another consideration is the prima facie strength of the accusation at the limited threshold contemplated by Section 43D(5). At this stage, the Court does not weigh evidence, test defences, or conduct a mini trial. Yet, the constitutional inquiry cannot proceed as if all allegations are identically situated. Whether the prosecution material, taken at its highest, discloses a prima facie nexus between the accused and the statutory ingredients is a circumstance that informs the assessment of continued detention.

49. Consideration must also be given to the integrity of the trial process and the risks associated with release. Depending on the nature of the case, these may include the possibility of influencing witnesses, tampering with evidence, or undermining the fairness of the proceedings. In prosecutions alleging organised activity, the assessment of such risks may differ from that in ordinary criminal cases. This is not to presume guilt, but to recognise that bail decisions are necessarily forward-looking in terms of ensuring an effective trial.

50. The Court must also bear in mind that it is not confined to a binary choice between continued custody and unconditional release. Where delay becomes a matter of constitutional concern, appropriate directions for expeditious trial, prioritisation of witnesses, or periodic review of progress may be issued. Such measures are constitutionally significant responses that address the vice of delay while respecting the statutory framework. The liberty to renew a prayer for bail upon continued stagnation may also be preserved.

51. There is a further constitutional aspect that warrants articulation. Article 21 protects individual liberty. It also, within the same guarantee of life, reflects the State's obligation to protect the life and security of the community. In prosecutions alleging threats to public order and national security, the Court cannot be unmindful that both dimensions are engaged. The constitutional order is not served by an approach that treats liberty as the sole value and societal security as



peripheral. Both must be accommodated through reasoned adjudication.

52. The consequence of the above is that Najeeb (supra) must be understood as a principled safeguard against unconscionable detention. Prolonged incarceration is a matter of serious constitutional concern and carries great weight. It is not, however, the sole determinant. The Court must consider, in totality, whether continued detention has become constitutionally unjustifiable, having regard to the role attributed, the statutory context, the limited prima facie material, the trajectory of the trial, the causes of delay, and the availability of intermediate remedies.

53. This approach does not dilute Article 21. It gives Article 21 structured content in a field where the Constitution itself recognises competing interests. Nor does it render Section 43D(5) absolute. It recognises that statutory restraint must yield in an appropriate case where detention becomes punitive by reason of unreasonable and unjustified delay. What it excludes is a mechanical override based on time alone, divorced from legal context.

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61. To read Najeeb (supra) as mandating bail solely on account of prolonged incarceration, irrespective of the statutory context or the nature of the allegations, would be to attribute to the decision a consequence it neither intended nor supports. Such a construction would also lead to an interpretive absurdity, whereby a special statute enacted by Parliament to address offences implicating the sovereignty, integrity, and security of the State would stand effectively neutralised by the mere passage of time, even at a pre-trial stage. Such an outcome cannot be countenanced in constitutional adjudication. Accordingly, the finding in Najeeb (supra) is properly situated as a constitutional safeguard to be invoked in appropriate cases, and not as a mathematical formula of universal application.

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101. It is well recognised that Article 21 rights, though not absolute, require the State and the Court to justify continued custody with reference to the specific individual before it. Treating all accused identically irrespective of their roles would risk transforming pre-trial detention into a punitive mechanism divorced from individual circumstances. The constitutional mandate demands a differentiated inquiry: where prolonged custody disproportionately burdens those whose roles are limited, the balance between individual liberty and collective security may call for conditional release, while the same balance may tilt differently for those alleged to have orchestrated the offence.



102. The statutory restrictions under special enactments do not preclude the Court from recognising distinctions between accused persons based on the quality of material, the nature of involvement, and the necessity of further detention.

103. At this stage, the Court must be careful not to confuse two distinct legal exercises. One is the determination of criminal liability, which belongs to trial. The other is the regulation of personal liberty pending trial, which is the limited concern of bail. The law of conspiracy explains how several persons, acting at different levels and at different points of time, may be bound together by a common design. That doctrine answers the question of liability. It does not answer, by itself, the separate question of how long and on what basis the liberty of each individual may be restrained before guilt is proved. Bail adjudication therefore necessarily proceeds on a different plane. It requires the Court to look at what is attributed to each accused, how that attribution fits within the statutory ingredients, and whether continued detention, at that stage, serves a legitimate purpose recognised by law. This exercise does not dismantle the prosecution case of conspiracy, nor does it rank culpability. It merely ensures that pre-trial detention does not become indiscriminate or automatic, and that statutory restraint operates with reason, proportion, and fidelity to individual attribution. Seen thus, differentiation is not an exception to conspiracy law, but a constitutional discipline imposed upon the exercise of bail jurisdiction.”

27. In *Tasleem Ahmed*, the Division Bench emphasised that the Court must first satisfy itself with regard to fulfilment of the twin statutory restrictions on grant of bail, as also the normal considerations mandated by the bail jurisprudence of our Courts. As far as the aspect of prolonged pre-trial custody is concerned, the Court held that *KA Najeeb* requires harmonization of the constitutional guarantee of liberty and the legislative objectives which result in statutory provisions restricting bail.

28. In *Haris Nisar Langoo v. National Investigation Agency*⁴⁷, another recent Division Bench decision under UAPA, cited by Mr. Malik, the accused were granted bail, after considering the ratio in *Gulfisha Fatima*.

⁴⁷ CRL.A. 406/2023 and connected matter, decided on 20.03.2026 [hereinafter, “*Haris Nisar Langoo*”].



29. The decision in *Gulfisha Fatima*, in my view, provides guidance on the approach to be adopted while adjudicating bail application under MCOCA also. Section 21(4) of MCOCA being on a “higher pedestal” than Section 43D(5) of UAPA, I agree with Mr. Jain that, at the very least, the same principles would govern the interplay between Section 21(4) of MCOCA and the Article 21 rights of an accused. The apparently distinct lines of authority cited above can, in my view, be reconciled, by applying the ratio of *Gulfisha Fatima*.

30. The position which emerges therefrom is that statutory restrictions on grant of bail cannot preclude constitutionally protected claims, referable to Article 21 of the Constitution. The ground of prolonged pre-trial incarceration without likelihood of culmination of proceedings must therefore be considered, even in cases involving special statutes. However, these are not stand-alone considerations, but require to be analysed alongwith the nature of the offence and the *prima facie* material on record. Conversely, while adjudicating the satisfaction required in terms of the statutory conditions, the material must be assessed through the lens of the right under Article 21 of the Constitution. In order to adjudicate such a question, the factors to be borne in mind include the length of custody already undergone, the possible sentence for the offence, the possibility of concluding the proceedings within a reasonable time, whether delay in proceedings is attributable to the prosecution or the defence, and the nature of the *prima facie* case made out against the accused.

31. *Haris Nisar Langoo*, in my view, does not depart from the above principles, but provides an example in which the Court was satisfied that



the petitioner was entitled to bail, even after applying Section 43D(5) of UAPA. In fact, it may be noted that, even in *Gulfisha Fatima*, some of the accused were granted bail, having regard to the specific facts of their cases.

c) Application to the facts of the present case

32. At the very outset, I accept Mr. Malik's submission that custody of four and a half years, without framing of charges, is a substantial period.

33. The question of responsibility for the delay is, however, in the facts of this case, seriously contested. Mr. Malik and Mr. Jain, both placed detailed list of dates with regard to the proceedings before the Special Court.

34. Mr. Malik emphasised that the prosecution filed six chargesheets between 02.11.2021 and 04.10.2024. Thereafter, arguments on charge were addressed on 17.01.2025 on behalf of six accused, including the present petitioner. Several accused were heard until 12.11.2025, after which there was a change in Presiding Officer of the Special Court. Subsequently also, arguments on behalf of the present petitioner were concluded on 24.12.2025, and the case has been pending at the stage of arguments on charge by other accused. Mr. Malik submitted that, in these circumstances, the majority of delay in trial can only be attributed to the prosecution, and in any event, cannot be attributed to the petitioner herein.

35. Mr. Jain, on the other hand, submitted that, even after filing of the last supplementary charge sheet on 04.10.2024, the Special Court scheduled and listed the case on 93 occasions, out of which 32 adjournments was sought by one or the other of the defence counsel. He



has drawn my attention to specific orders⁴⁸ of the Special Court, which record that none of the defence counsel came forward for arguments on several dates, and that many opportunities were given to the accused to complete arguments on charge.

36. In *Gulfisha Fatima*⁴⁹, the Supreme Court has analysed the question of responsibility of delay in trial *inter alia* in the following terms:

*“37. The present prosecution arises out of FIR No. 59 of 2020 and involves multiple accused persons, voluminous documentary and electronic evidence, and allegations of a structured and continuing conspiracy. The record reflects that compliance under Section 207 of the Code of Criminal Procedure was completed only on 05.08.2023, after which the Trial Court directed that arguments on charge would commence on a day-to-day basis from 11.09.2023 onwards. **The nature of the prosecution, the number of accused, and the breadth of material necessarily render the proceedings complex and time-consuming. The mere passage of time, therefore, cannot be viewed in isolation.***

*38. **What assumes significance is that the procedural history and order sheets do not support the assertion that the delay is attributable to prosecutorial inaction or judicial inaction.** The common counter affidavit and the Trial Court's orders record that, at various stages, the prosecution expressed readiness to proceed, including readiness to commence arguments on charge, while objections, requests for deferment, and issues relating to sequencing of arguments were raised on behalf of the accused. At the stage of compliance under Section 207 CrPC itself, the Trial Court noted that despite repeated directions, certain accused declined to receive copies of the charge-sheet in the manner directed, insisted on alternate modes of supply, or filed successive applications, necessitating further procedural orders and contributing to delay at the pre-charge stage. These aspects emerge from the record and are not matters of conjecture.*

*39. The plea of delay has also undergone judicial scrutiny in respect of a co-accused arising out of the very same FIR. In *Tasleem Ahmed v. State (NCT of Delhi)*³, the High Court of Delhi undertook a detailed examination of the Trial Court order-sheets and, after tabulating the procedural history, recorded categorical findings that*

⁴⁸ 17.01.2025; 21.01.2025; 22.02.2025; 28.02.2025; 06.03.2025; 07.03.2025; 06.05.2025; 11.08.2025; 25.08.2025; 26.08.2025; 27.08.2025; 08.09.2025; 09.09.2025; 23.09.2025; 06.10.2025.

⁴⁹ Paragraphs 37-44.



the alleged inordinate delay could not be attributed either to the prosecution or to the Trial Court. The High Court noted repeated adjournments sought on behalf of the accused, reluctance to commence arguments on charge despite directions for day-to-day hearing and recorded the Trial Court's expression of distress at the inability to move forward notwithstanding consensus schedules arrived at amongst the defence. The High Court expressly rejected the contention that bail under Section 43D(5) of the UAPA could be granted solely on the ground of delay in such circumstances, holding that the statutory embargo cannot be permitted to be circumvented by delay attributable, at least in part, to the manner in which the defence conducted the proceedings.

40. This Court is conscious that the appellants in the present appeal may not stand on identical factual footing in all respects with the co-accused whose appeal was considered by the High Court. Nevertheless, the findings recorded therein are relevant insofar as they arise from the same trial, the same order-sheets, and the same procedural milieu. They negate the overarching portrayal that the appellants have remained in custody solely on account of prosecutorial inertia or a dormant trial.

41. At the same time, the Court does not proceed on the assumption that the entire delay can be laid at the door of the accused, nor does it characterise the proceedings as free from institutional or systemic constraints. This is not a casual prosecution, nor one involving a narrow factual canvas. The law has taken its course, albeit at a pace dictated by the complexity of the case, the number of accused, and the nature of issues raised. The constitutional concern arising from prolonged custody is therefore acknowledged, but it does not, on the present record, translate into a finding that continued detention has become punitive or unconscionable solely by reason of delay.

42. The approach of addressing delay-related concerns through calibrated judicial supervision, rather than automatic enlargement on bail, stands reinforced by the decision of this Court in Union of India v. Saleem Khan⁴. In that case, despite the accused having remained in custody for over five years and the trial not having commenced, this Court declined to interfere with the rejection of bail qua one accused, while upholding bail granted to another, thereby reiterating that delay-based pleas must necessarily be adjudicated on an accused-specific footing. Significantly, even while acknowledging the constitutional imperative of a speedy trial, the Court did not eclipse the statutory rigour under Section 43D(5) of the UAPA but instead directed expeditious conclusion of the trial and cautioned against any conduct on the part of the accused that may further protract the proceedings. The decision thus affirms that prolonged custody, though



a matter of concern, does not operate as an automatic ground for grant of bail where the statutory threshold continues to be attracted.

43. Viewed cumulatively, the record does not support the absolute proposition that the appellants have remained “innocently incarcerated” without any contribution to delay, nor does it disclose a situation where the delay is so wholly unjustified as to override the statutory embargo contained in Section 43D(5). *The appropriate constitutional response, at this stage, lies in ensuring vigilant oversight of the trial and its expeditious progression, rather than in eclipsing the statutory mandate governing bail in offences of the present nature. The plea of delay in the facts of the particular case, therefore, does not warrant enlargement on bail, though it justifies continued judicial emphasis on the timely conduct of the proceedings.*

44. *It is in this sense that the plea of delay must first be examined to see whether it arises in a manner that warrants constitutional scrutiny of continued custody. Broadly stated, the Court must consider whether the custody undergone is substantial, whether the proceedings have made meaningful progress, and whether there exists a realistic prospect of conclusion of trial within a reasonable period. The Court must also take note of the causes contributing to delay, including whether delay is attributable to the inherent complexity of the prosecution or to the conduct of parties, including the accused.”⁵⁰*

37. These factors, applied to the present case do not, in my view, make out a case for release of the petitioner on bail at this stage, on the ground of delay in trial. On the basis of the undisputed records, even after filing of the supplementary chargesheets, several adjournments have been taken on behalf of the accused, *albeit* not the petitioner. The delay is not attributable to prosecutorial inaction or Court delays alone, without any contribution of the accused. The case is also undoubtedly complex, and the pace of trial is impacted by the number of accused and institutional factors, such as change in the Presiding Officer, for which the prosecution cannot be held responsible.

⁵⁰ Emphasis supplied.



38. Mr. Malik is right in stating that the trial is likely to be prolonged due to multitude of the accused and witnesses. However, the period of sentences for the offences in question is also relevant. In this case, the minimum and maximum sentence for the offence under Section 3 of MCOCA are five years to life imprisonment, alongwith a minimum fine of Rs. 5 lakhs. Mr. Malik submitted that, although the maximum sentence for the offence in question is life imprisonment, the petitioner, being a woman, would be entitled to remission after seven years, under Rule 1254 of the Delhi Prisons Rules, 2018. Such consideration at this stage, is in my view, premature. The best that can be said is that the petitioner may be eligible for consideration for premature release after seven years, but it cannot be said at this stage that the period of custody must be assessed against a possible sentence of only seven years.

39. A further significant consideration is the role ascribed to the petitioner in the commission of the offences. It is here that the *prima facie* findings returned in the 2023 judgment, to my mind, come in the petitioner's way. The Court has analysed the *prima facie* material, including the statements recorded under Sections 161 and 164 of the CrPC, and held as follows:

“56. The investigation has revealed that was **Leena Paulose was involved in running an organized crime syndicate since 2013 with the motive of pecuniary gain by cheating and extortion.** It is a matter of record that Leena Paulose was accused along with Sukash in the following four cases:

1. FIR No 186/2017 u/s 7,12,13 POC Act & 201,120B IPC PS Crime Branch, Delhi Police.
2. Cr.No.24 of 2013 Central Crime Branch Police, Chennai u/s 406, 409, 420 r/w 34 IPC and u/S 66 D of Informationn Technology Act.
3. Crime No.33/2015 u/S 420, 120B IPC and 3/4 Prize Chits and Money Circulation Act, EOW, Mumbai.



4. CCB Crime No.64/13, now RC 6E/2014/BSFC u/s 406, 409, 420, 120B IPC & 13 (2) r/w 13 (1) (d) of PC Act, 1988, Chennai.

57. *The investigation revealed that **the petitioner Leena Paulose was in continuous contact with Sukash through her mobile phone, as Sukash was using mobile phone with the connivance of jail staff during custody period.** Further, **she also remained in contact with Sukash's associates jail officials** namely Dharm Singh Meena and Subhash Batra. Thus, **she was actively and continuously coordinating with Sukash as well as his associates in furtherance of organized crime and disposal of crime proceeds.** She procured bank entries in her account from various entities/persons to whom she provided cash, received from Sukash through Hawala transactions with the help of Joel Daniel Jose, Kamlesh Kothari, B Mohanraj and Arun Muthu etc. and invested in high end cars, properties and her business firms. The Enforcement Directorate, seized 23 High end luxury cars from her house at ECR Chennai in Aug 2021. During interrogation, the accused applicant failed to justify as to how she got funds to purchase 12 cars in Super Car Artistry. Further, **it was revealed that she made the payment of "Silent Calling App" which was being used by accused Sukash in his mobile phone, to commit the crime, while he was in Jail.**⁵¹*

40. On a holistic consideration of the case of the petitioner, I am of the view that the role attributed to her in the syndicate, and involvement in the offence, is such that the grant of bail is unjustified, despite the period of custody undergone. In particular, it *prima facie* appears, from the material on record, that she is the person controlling the syndicate in the absence of Sukesh⁵². Further, she is alleged to have been recharging the mobile phone used by Sukesh while he was in judicial custody, and also responsible for his use of the "Silent Calling App", which were central to the commission of the offence of extortion. It therefore *prima facie* appears that she had a pivotal role in the alleged offence, which itself, as noted above, was one which was a grave attempt to undermine the administration of justice at many levels. The entire exercise of extortion,

⁵¹ Emphasis supplied.



as alleged, was on the promise of subverting criminal justice system to secure bail for an accused, and was committed by Sukesh while he was in judicial custody, with the alleged involvement of jail officials.

41. The allegation with regard to the petitioner's use of the extorted money to sustain a lavish life style, and investments in her proprietorship businesses also, at the very least, demonstrate a *prima facie* case that she was an important member of the organized crime syndicate. Mr. Malik argued that the petitioner's own income and that of her husband, provide a credible alternative source of money, thus denying the foundational case of the prosecution. That, in my view, is a matter which would have to be agitated at trial. Suffice it to state that the petitioner has placed on record only an income tax notice dated 03.11.2023 addressed to Sukesh, pertaining to assessment years 2012–13 to 2018–19, whereby he was informed of outstanding tax and penalty demands following dismissal of his appeals. At this stage, this is insufficient to come to the conclusion that the petitioner is not guilty of the offence of which she is accused.

42. Mr. Malik emphasized the fact that the confession under Section 18 of MCOCA allegedly made by Sukesh, in which the petitioner was also implicated, was retracted by him at the first possible opportunity. This aspect has, however, already been considered in the 2023 judgment⁵³, and I see no reason to revisit the said finding.

ii. Re: Parity with Co-accused

43. Mr. Malik argued that the petitioner is entitled to parity with four co-accused who have been granted bail:

⁵² 2023 judgment, paragraphs 58 and 59.

⁵³ 2023 judgment, paragraph 49.



- a. Avtar Singh Kochar
- b. Pinky Irani
- c. Joel Daniel Jose
- d. Sunil Kumar

44. At the outset, it may be noted that in the three cases where bail was granted by this Court, notice has been issued by the Supreme Court in special leave petitions challenging the said orders⁵⁴.

45. In any event, Mr. Jain distinguished the case of the above accused, on the ground of their specific roles in the offence.

46. Upon consideration of the judgments in each of the cases, I agree with Mr. Jain. The role of each of the individuals who have been granted bail are quite distinct from the role attributed to the petitioner, and the *prima facie* material against her.

- a. In the case of Avtar Singh Kochhar, the Court found that the role of the accused was limited to facilitation of the transfer of the extorted money through *hawala* channels, and that there was no evidence of any direct interaction between him and Sukesh⁵⁵. Noting the ingredients of offence, the age of the petitioner [about 69 years], and the fact that he was in poor health, the Court was inclined to grant bail.
- b. In the case of Pinky Irani, the role ascribed to the accused was that she knew that Sukesh was in judicial custody, but nonetheless helped him in his effort to impersonate influential public figures,

⁵⁴ In the case of Avtar Singh Kochhar, SLP (Crl.) 6651/2024, notice was issued on 06.05.2024; In the case of Pinky Irani, SLP (Crl.) 5659/2024, notice was issued on 19.04.2024; In the case of Sunil Kumar, SLP (Crl.) 9306/2024, notice was issued on 30.09.2024.

⁵⁵ *Supra* (note 21), paragraph 40.



and arranged meetings between him and famous celebrities, and buying them gifts, for which she received an amount of Rs. 75 lakhs in her bank account⁵⁶.

- c. In the case of Joel Daniel Jose, wherein bail was granted by the Special Court, he was found to be a salaried employee, whose role was confined to handling of the alleged extorted amount.
- d. The fourth co-accused who has been granted bail is Sunil Kumar. He was the Jail Superintendent of the jail in which Sukesh was an inmate. He was accused of enabling Sukesh to access various illegitimate privileges and to operate his syndicate from within the jail. The detailed facts of the aforesaid case do not require consideration, as the Supreme Court has specifically directed *vide* order dated 30.09.2024 that the said judgment shall not be cited as a precedent in other similar cases⁵⁷.

47. The role of the petitioner, in contrast, is of the co-leader of the organised crime syndicate, who was directing its affairs in coordination with Sukesh, particularly during the period of his incarceration. Her role, and the material against her, have been discussed above. For the reasons stated, I do not consider her case to be comparable with any of the other co-accused who have been enlarged on bail in the present case.

G. CONCLUSION:

48. For the reasons above, and in view of the findings recorded in the 2023 judgment, I do not consider it to be a fit case for grant of bail to the petitioner. The petition is accordingly dismissed.

⁵⁶ Supra (note 22), paragraphs 51-52.

⁵⁷ State of NCT of Delhi v. Sunil Kumar, [SLP (Crl.) 9306/2024, dated 30.09.2024].



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49. From the order sheets of the Special Court which have been placed on record, I find that the Court is already scheduling the case several times in each month. However, if it is possible for the Special Court to expedite the proceedings further, considering its board and the age of matters pending before it, it is requested to do so, and to refuse any unjustified adjournments. It is also expected of the prosecution that, after the framing of charges, it may reconsider whether all the cited witnesses are, in fact, required.

50. The bail application is disposed of.

51. It is clarified that the observations made herein are solely for the purpose of adjudication of the present bail application and shall not be construed as an expression of opinion on the merits of the case, nor shall they prejudice the rights and contentions of the parties at any stage of the proceedings.

PRATEEK JALAN, J

MAY 5, 2026
Bhupi/AD/KA/