



2026:DHC:5432



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

Decided on: 07.07.2026

+ **BAIL APPLN. 881/2025**

B. MOHANRAJ

.....Petitioner

versus

THE STATE OF NCT OF DELHI & ANR.

.....Respondent

Appearance:-

Mr. Anand Grover, Sr. Advocate with Mr. Ravinder Singh, Ms. Raveesha Gupta, Mr. Ritvik Bhardwaj, Ms. Nishita Kushwaha, Advocates for Petitioner.

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

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

J U D G M E N T

PRATEEK JALAN, J. (ORAL)

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



["IT Act"]. At the time of filing of the chargesheet, Sections 3 and 4 of the Maharashtra Control of Organised Crime Act, 1999 ["MCOCA"], were also invoked.

2. At the outset, it may be noted that this is the second bail application filed by the petitioner before this Court. His first bail application¹ was dismissed by a judgment dated 11.07.2023 [hereinafter, "the 2023 judgment"]. The petitioner had thereafter applied for bail before the Special Court for the second time. However, the Special Court rejected his application *vide* order dated 08.05.2024, which has brought him back to this Court.

3. In the meanwhile, the petitioner had also filed a Special Leave Petition² before the Supreme Court, challenging the observations contained in paragraph 54 of the 2023 judgment, with regard to the validity of the sanction under MCOCA. The said Special Leave Petition was disposed of by the Supreme Court *vide* order dated 01.04.2026, with the following observations:

"1. Delay condoned.

2. Having heard Mr. Anand Grover, learned senior counsel appearing for the petitioner as well as Mr. S. D. Sanjay, learned Additional Solicitor General for the respondent, we dispose of the special leave petition with the clarification that paragraph 54 of the impugned judgment and order shall be read as necessary for disposal of the application before the High Court and any observation made in such paragraph shall have no bearing insofar as the petition that is pending before the High Court challenging the order of sanction.

3. Pending application(s), if any, shall stand disposed of."

¹ BAIL APPLN. 1170/2022.

² SLP (Crl.) Diary No. 56122/2024.



4. I have heard Mr. Anand Grover, learned Senior Counsel for the petitioner, and Mr. Sanjay Jain, learned Senior Counsel for the State. The State has also filed a status report, which is on record.

5. I have also recently decided three bail applications arising out of the same proceedings, filed by co-accused Leena Paulose [hereinafter, “Leena”], Deepak Ramnani [hereinafter, “Deepak”], and Pradeep Ramdanee [hereinafter, “Pradeep”]. The application filed by Leena³ was dismissed, whereas the applications filed by Deepak⁴ and Pradeep⁵ were allowed.

I. PROSECUTION CASE:

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

- a. FIR No. 208/2021, dated 07.08.2021, lodged at Police Station Special Cell, Delhi, under Sections 170/384/385/388/419/420/506/120B of the IPC and Section 66D of the IT Act, was registered at the instance of one Ms. Aditi Singh.
- b. According to the complaint, on 15.06.2020, the complainant received a call on her mobile phone from a landline number. The caller introduced himself as a senior officer in the Ministry of Law and offered assistance in securing bail for her husband, who was in judicial custody in cases related to M/s Religare Enterprises Limited.

³ BAIL APPLN. 1802/2024, decided on 05.05.2026 [hereinafter, “Leena Paulose”]. An earlier application for bail filed by Leena in the State proceedings [BAIL APPLN. 3706/2022] was also rejected by the 2023 judgment.

⁴ BAIL APPLN. 4286/2024, decided on 05.06.2026 [hereinafter, “Deepak Ramnani”].

⁵ BAIL APPLN. 4441/2024, decided on 05.06.2026.



2026:DHC:5432



- c. It is alleged that the caller demanded Rs. 50 crores in exchange for facilitating the bail and explained the method of delivering the money.
- d. Subsequently, through his associates, the caller allegedly extorted money from the complainant on multiple occasions between June 2020 and August 2021, amounting to Rs. 217 crores. There are further allegations with regard to impersonation of senior officials, including the Home Secretary, Government of India, and misrepresenting the involvement of other government functionaries, including the Home Minister.
- e. Acting on the said information, on 07.08.2021, the police laid a trap and apprehended Pradeep, while he was receiving the extorted amount. He was arrested on the same day. During interrogation, he disclosed that he was acting on the instructions of his brother, Deepak, who was subsequently arrested on 08.08.2021.
- f. Using technical surveillance of the mobile phone used for making the calls, and the statements of co-accused, the caller was identified as one Sukesh Chandra Shekhar @ Sukash Chandra Shekhar [hereinafter, "Sukesh"].
- g. At this time, Sukesh was already lodged in Tihar Jail as an undertrial prisoner in a separate case, involving allegations of collecting money from a political leader on the pretext of helping him retain a particular election symbol. He was later shifted to Rohini Jail.
- h. A raid was conducted on the intervening night of 07/08.08.2021 by the Special Cell, during which two mobile phones were recovered



from Sukesh, while he was in custody, and he was formally arrested in connection with the present FIR. His interrogation led to the identification and arrest of other associates and co-conspirators. The petitioner was arrested on 05.09.2021.

- i. During investigation, it was found that Sukesh was involved in multiple cases, including attempt to murder, criminal intimidation, cheating, and extortion, often by impersonating high-ranking officials.
- j. Part of the extorted amount was allegedly transmitted by Sukesh, through *hawala* channels, to his wife, Leena, in Chennai.
- k. As far as the present petitioner is concerned, his role in the aforesaid offences is summarised in the chargesheet as follows:

“5. Accused B. Mohanraj:

- *B. Mohanraj is an advocate by profession and he has been close associate of accused Sukash and Leena. Apart of facilitating the legal matters he has also helped them in disposing off crime proceeds.*
- *Accused B. Mohan Raj helped in purchasing property No. Plot No. 12813 Sneha Garden, Kanathur, ECR Road, Chennai against payment of Rs. 7.75 Crores and also purchased two high end carsd make Lambhorgini for Rs. 3 Crores and BentleyBehtayaga for Rs. 2 Crore for Leena Maria Paul from the crime proceeds sent by Sukash.*
- *B. Mohanraj helped Sukash and Leena in purchasing these assets in the name of third parties by arranging bank entries against receipt of cash. B. Mohanraj sought the help of his friend/contract namely Kamlesh Kothari and Jitender Kothari to accept the cash and then channelize the same for making banking transactions.*
- *The property and the cars were also purchased in the names of the associates so engaged and then Lease Agreement and rent Agreement were executed with Leena Paul w/o SukeshChanderSekha with the the engaged owners of her use.*
- *The arrangement was made to de-associate themselves with the properties acquired out of the proceeds of crime by*



procuring these in the name of third parties and then entering into Lease Agreement /rent Agreement for personal use.

- *He received Rs. 15 lakhs and 10 lakhs as his fees cum consultancy from Sukash Chandra Shekar in purchasing aforesaid assets and cars respectively.*
- *Statements U/s 18 (1) MCOCA of Sukash and B. Mohan Raj.”*

1. The State relied upon confessional statements under Section 18 of MCOCA made by Sukesh and the petitioner herein. The relevant portions of the statements of Sukesh, to the extent they relate to the present petitioner, and the petitioner himself, have been summarised in the status report filed on behalf of the State, as follows:

“CONFESSONAL STATEMENTS U/S 18 MCOC ACT OF ACCUSED/APPLICANT B. MOHAN RAJ

During investigation, accused B. Mohan Raj was arrested on 05.09.2021 and his confessional statement u/s 18 MCOC Act was recorded as per procedure by an independent DCP rank officer.

In his confessional statement, accused B. Mohan Raj had admitted that while handling cases of Sukash Chandra Shekhar and Leena Paulose, he found that they were working as a group and obtaining lot of money from their illegal activities.

He also got into the affairs of management of their funds and joined their syndicate. He received a lot of commission from them. Over the period, he became one of the most integral part the syndicate. Though overtly, he was managing their legal affairs, but covertly he was managing their funds obtained from their illegal activities and getting his share too.

In the year 2017, Sukash Chandra was arrested by Delhi Crime Branch in connection with the Election Commission bribery case. In that case, Sukash Chandra Shekhar made a phone call to accused M. Mohan Raj and informed that he had struck a deal with TTV Dinakaran, a politician of AIADMK party for Rs. 50 Cr. and since then, Sukash Chandra Shekhar was lodged in Tihar Jail, Delhi. Accused B. Mohan Raj was continuously in contact with Sukash Chandra Shekhar and Leena Paulose. In 2019, Sukash Chandra Shekhar came out on interim bail for 4 months. Accused B. Mohan Raj met him in Leena’s parlour Nail Artistry, Alwarpet, Chennai and also met them at their house. He was introduced to one Arun Muthu, who is a friend of Sukash Chandra Shekhar and Leena



Paulose. B. Mohan Raj came to know that Arun Muthu was running a Garment business in the name of Stash Wear, in Chennai.

In January, 2020, a case was registered against Sukash Chandra Shekhar while he was in Tihar Jail, by the C.B.I, Hyderabad wherein he came to know that Sukash Chandra Shekhar impersonated himself as a senior CBI officer and extorted money from the victim. CBI raided the house of Leena Paulose in Boat Club, Chennai which was taken on rent in the name of Arun Muthu for Leena. He has facilitated the rent deal in which Arun Muthu used to receive cash with huge commission. In June 2020, B. Mohan Raj got a call from Sukash Chandra Shekhar on Telegram App on his mobile number. Sukesh asked him to buy cars for Leena. He introduced his friend Kamlesh Kothari, a high-end car dealer in Chennai to Leena Paulose. Then, Leena Paulose bought three cars, Range Rover Sport, Bentley and Fortuner from Kamlesh Kothari in connivance with B Mohan Raj. Kamlesh Kothari and B. Mohan Raj himself arranged all these transactions and got huge commission. During August 2020, Sukash Chandra Shekhar called B. Mohan Raj on Telegram and asked him to buy a house for Leena Paulose in some other person's name. He discussed it with Kamlesh Kothari who suggested a house, Plot No.12&13, Sneha Garden, Kanathur, ECR Road, Chennai. They finalized the deal. Sukash Chandra Shekhar sent cash Rs.7.75 Crores through Sudheer and Joel Daniel and handed over the money to accused Kamlesh Kothari at his office at Chennai in his presence. The house was registered in the name of Shri Jai Jinendra Constructions Company in which Kamlesh Kothari's cousin brother Jitender Kothari is a director. The cost of the house was Rs.6.5 crores out of which Rs.4.5 crores was paid in Demand Draft by Jitender Kothari to the seller and Rs.2 crores cash was paid to the seller by Kamlesh Kothari. Rs.50 Lakhs was the cost of registration. Out of the remaining Rs.75 Lakh, Jitender Kothari got Rs.45 Lakhs, Kamlesh Kothari got Rs.15 Lakhs and B. Mohan Raj got Rs.15 Lakh as his share.

Leena Paulose occupied the said house and got the renovation work done and interior work and bought all the interiors. A rental agreement for this house was executed between Leena Paulose and Jitender Kothari for Rs.2.5 Lakhs per month from January 2021. Leena used to send the monthly rent through RTGS to Jitender Kothari and he in turn used to deduct the tax amount and return the balance amount to Kamlesh Kothari and he used to get that amount and handed it over to Leena Paulose.

The original documents of the house property were handed over to Leena Paulose by accused B. Mohan Raj in the presence of Sukash Chandra Shekhar at his TVH House, Adyar, Chennai, when Sukash Chandra Shekhar came on interim bail in October, 2020.



Later on, in August 2020, Sukash Chandra Shekhar wanted to buy two cars for his wife Leena Paulose. Sukash Chandra Shekhar informed accused B. Mohan Raj that he had spoken to the sellers of the car and Sukash wanted it to be bought in some other's names. Kamlesh Kothari arranged two buyers for the same. Sukash Chandra Shekhar sent cash through Sudheer to them and they bought two cars (1) Lamborghini Urus for Rs. 3.5 crores, and (2) Bentley Bentayga for Rs. 2 crores for which B. Mohan Raj received Rs.10 Lakhs and Kamlesh Kothari got Rs.10 Lakhs. For buying these cars, the cash was handed over by Sudheer to Kamlesh Kothari at Kamlesh's office. Kamlesh Kothari gave it to the owners and they sent it to the sellers through RTGS and bought the cars.

CONFESSSIONAL STATEMENTS U/S 18 MCOC ACT OF ACCUSED SUKASH CHANDRA SHEKHAR

The accused Sukash Chandra Shekhar confessed that "I told her (Leena Paulose) to brief each of our aid. The said cash was received at sow carpet Chennai and collected by Sudheer and Joel. Cash was delivered to B. Mohan Raj and further delivered to Kamlesh Kothari and Arun Muthu. Arun Muthu deals in providing bank entries and Kamlesh Kothari deals in high end cars and house. For me and Leena, it was B. Mohan Raj who looked after all the affairs. All members were paid hefty commissions for their respective works. B. Mohan Raj also arranged some entity for purchasing house also. B. Mohan Raj and Kamlesh Kothari connected us to Jitender Kothari and bought house at 12/13, Kannathur village, opposite Mayajaal Cinemas, ECR, Chennai in name of Jitender Kothari in August 2020."

II. JUDGMENT DATED 11.07.2023:

7. As noted above, an earlier bail application preferred by the present petitioner before this Court was dismissed by the 2023 judgment. Mr. Grover submitted that the Court ought to reconsider the petitioner's entitlement to bail, in view of the lapse of approximately three years since the said decision. As the 2023 judgment deals with the same FIR and the same petitioner, it is necessary to summarise the following *prima facie* factual findings and legal conclusions contained therein:



- 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 limited role.
- 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 suffice⁶.
- 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 MCOCA⁷.
- d. Membership of the syndicate itself constitutes an offence under Sections 2(1)(d) and 2(1)(e) of MCOCA⁸.
- e. The question of whether confessional statements recorded under Section 18 of MCOCA can be read into evidence in the absence of independent corroboration is a matter of trial⁹. Confessional statement may also be attributable to the co-accused¹⁰.
- 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 case¹¹.

⁶ 2023 judgment, paragraph 45.

⁷ 2023 judgment, paragraph 46.

⁸ 2023 judgment, paragraph 47.

⁹ 2023 judgment, paragraph 49.

¹⁰ 2023 judgment, paragraph 50.

¹¹ 2023 judgment, paragraph 54. This conclusion has been referred to in the order of the Supreme Court



- 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*”¹².
- h. The present petitioner played an active role in assisting the crime syndicate led by accused Sukesh and Leena in managing the proceeds of crime derived from cheated and extorted funds. He was also a member and an integral part of the group headed by Sukesh and Leena. The petitioner admitted that, while he was overtly managing their legal affairs, he was covertly managing funds derived from their illegal activities. He not only facilitated the purchase of vehicles but also handled the delivery of cash. Further, he played an instrumental role in the purchase of a property worth several crores in Chennai, which was a benami property of Leena. The said property was purchased in the name of Jitender Kothari on the instructions of accused Kamlesh Kothari [hereinafter, “Kamlesh”]¹³. Investigation further revealed that the petitioner had introduced Kamlesh to Leena¹⁴.
- i. The present petitioner was involved in aiding and abetting the foundational crime by channelising the proceeds of crime, and his role was not limited to that of a lawyer¹⁵.

dated 01.04.2026 in SLP (Crl.) Diary No. 56122/2024, extracted in paragraph 3 above.

¹² 2023 judgment, paragraph 55.

¹³ 2023 judgment, paragraphs 67, 68, and 69.

¹⁴ 2023 judgment, paragraph 77.



III. SUBMISSIONS BY LEARNED COUNSEL FOR THE PARTIES:

8. In support of the present application, Mr. Grover submitted that the petitioner has remained incarcerated for nearly 4 years and 10 months. It was pointed out that charges have only recently been framed by the Special Court *vide* order dated 03.06.2026. Despite the prolonged period of custody, the trial is not likely to conclude within a reasonable timeframe, as the State has cited 403 witnesses and the chargesheets collectively run into more than 10,000 pages. It was further submitted that one of the co-accused, Navas KI, has been arrested only recently, and it is likely that a supplementary chargesheet will be filed in relation to his case, which would occasion further delay in the conclusion of the trial. Mr. Grover relied upon *Union of India v. K.A. Najeeb*¹⁶, and several later judgments of the Supreme Court, in support of this contention, which have been considered later in this judgment.

9. It was further submitted that the allegations against the petitioner do not attribute any role to him in the alleged coercion or extortion activities of Sukesh. The prosecution case against him, namely, that he facilitated the purchase of cars and property for Leena and parked funds on behalf of Sukesh and Leena, rests primarily on confessional statements recorded under Section 18 of MCOCA, which have since been retracted. There is no independent documentary evidence or money trail, linking the petitioner to the alleged offences. In these circumstances, it was submitted that there is no material to establish that the petitioner was a member of the OCS.

¹⁵ 2023 judgment, paragraph 69.

¹⁶ (2021) 3 SCC 713 [hereinafter, “K.A. Najeeb”].



10. Mr. Grover further submitted that the confessional statements under Section 18 of the MCOCA were recorded contrary to the statutory procedure. He contended that Section 18(3) mandates that the police officer certify his satisfaction that the confession was made voluntarily, which is a precondition for recording the confession. However, in the present case, no such certification was recorded. He further submitted that the validity of the confessional statements was undermined by the absence of a cooling-off period between the petitioner being in police custody, and the recording of the confession. In support of this contention, he placed reliance on the decision of the Supreme Court in *Kartar Singh v. State of Punjab*¹⁷.

11. Lastly, Mr. Grover submitted that the petitioner is a practising Advocate¹⁸ with deep roots in society. The petitioner is married, has two minor daughters, and is also responsible for the care of his paralysed father. He stated that the petitioner has no criminal antecedents apart from the present case, and the connected proceedings¹⁹ under the Prevention of Money Laundering Act, 2002 [hereinafter, “PMLA”], wherein he has already been granted bail²⁰.

12. Mr. Jain, on the other hand, submitted that the issues now sought to be raised have already been raised²¹ and dealt with in the 2023 judgment, which specifically considered the petitioner’s role in light of his

¹⁷ (1994) 3 SCC 569, paragraph 390.

¹⁸ Mr. Grover placed on record a compilation to show that the petitioner was engaged in regular legal practice during the relevant period.

¹⁹ ECIR/54/DLZO-II/2021, dated 08.08.2021, under Sections 3 and 4 of the PMLA.

²⁰ Order of the Special Court dated 16.12.2025.

²¹ 2023 judgment, paragraphs 12 to 17.



confessional statement²². It was observed that a sum of Rs. 21 crores was remitted to Leena by the petitioner, co-accused Arun Muthu, and other persons, in exchange for cash provided by Leena and Sukesh²³. The petitioner made arrangement for the purchase of cars and property, as well as for the delivery of cash, despite his knowledge that the funds had been derived from the activities of the OCS. Further, call data from the Hushed App showed communication between the petitioner and Sukesh. The petitioner's involvement, therefore, demonstrates his active membership in the OCS.

13. Mr. Jain also submitted that the benefit of Article 21 cannot be granted in a case where the delay in trial is attributable to the accused. He contended that the judgment in *K.A. Najeeb* does not foreclose such considerations. According to him, the grant of bail in cases where statutory restrictions, such as those under Section 21(4) of MCOCA, apply cannot be determined solely on the basis of the length of custody. In support of this contention, he reiterated the submissions recorded in *Leena Paulose*²⁴ and *Deepak Ramnani*²⁵.

14. In rejoinder, Mr. Grover reiterated his reliance upon *K.A. Najeeb*, to submit that statutory restrictions “*melt down where there is no likelihood of trial being completed within a reasonable time*”²⁶. He also submitted that the Hushed App call data between the petitioner and Sukesh consists of only a single call of 36 seconds and, in any event, is of

²² 2023 judgment, paragraphs 67 to 69.

²³ 2023 judgment, paragraphs 60 and 61.

²⁴ Paragraphs 15, 16, 24, and 25.

²⁵ Paragraphs 9(a)-(c), 25, and 26.

²⁶ Paragraph 17.



no probative value in the absence of any material pertaining to the contents of the conversation.

IV. ANALYSIS:

15. As noted above, this Court has, in the 2023 judgment, considered the petitioner's application for bail, in the course of which the prosecution case against the petitioner was discussed in detail. The role ascribed to the petitioner, as described in the 2023 judgment, has been summarised in paragraphs 7(h) and 7(i) above. As this Court has already analysed the material on record, *albeit* on a *prima facie* basis, I do not consider it appropriate to revisit that question at this stage.

16. However, in view of the lapse of a further period of three years since the 2023 judgment, this case raises a question of the interplay between the constitutional rights of an undertrial, who remains in custody for a prolonged period, with the statutory restrictions on grant of bail found in several special statutes such as the Unlawful Activities (Prevention) Act, 1967 [hereinafter, "UAPA"]²⁷, the Narcotic Drugs and Psychotropic Substances Act, 1985²⁸, MCOCA²⁹, and PMLA³⁰. I have had the opportunity to consider the legal position governing this question, both in *Leena Paulose* and *Deepak Ramnani*.

17. In *Leena Paulose*, upon consideration of the interpretation of the three-Judge Bench decision of the Supreme Court in *Gulfisha Fatima v. State (Govt. of NCT of Delhi)*³¹, which had interpreted an earlier three-

²⁷ Section 43-D (5).

²⁸ Section 37.

²⁹ Section 21(4).

³⁰ Section 45.

³¹ 2026 SCC OnLine SC 10 [hereinafter, "*Gulfisha Fatima*"].



judge bench judgment in *K.A. Najeeb*, I had proceeded on the following basis:

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

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 along with 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.”³²

18. Soon after the judgment in *Leena Paulose* was delivered, the Supreme Court’s decision in *Syed Iftikhar Andrabi v. National Investigation Agency*³³ expressed reservations, with regard to the correctness of *Gulfisha Fatima*. This has led to a reference to a larger

³² Emphasis supplied.

³³ 2026 SCC OnLine SC 881 [hereinafter, “*Andrabi*”].



bench of the Supreme Court in *Tasleem Ahmad v. State Govt. of NCT of Delhi*³⁴. Pending resolution of the issue by the larger bench, this Court, in *Deepak Ramnani*, considered it appropriate to adopt the following approach:

“22. The question that arises before this Court, in light of the aforesaid decisions, is to determine the approach which must be adopted in adjudication of the present applications. Needless to say, the differing approaches expounded by the Supreme Court in *Gulfisha Fatima* and *Syed Iftikhar Andrabi*, are both binding upon this Court. Although the question has been referred to a larger bench in *Tasleem Ahmed 2*, the factum of reference itself does not denude a Supreme Court decision of its binding authority³⁵.

23. The possible course of awaiting an authoritative decision by the larger bench of the Supreme Court does not commend to me, in the context of these applications for bail, which by their very nature require expeditious resolution. Instead, having considered the judgments cited by both sides, which were rendered after *Gulfisha Fatima*, I am of the view that a practical approach must be adopted, at least until the reference is answered by a larger bench. In the present case, such an approach requires this Court first to adjudicate upon Mr. Malik’s submission that, even in terms of the interpretation of *K.A. Najeeb* in *Gulfisha Fatima*, as understood by this Court in *Leena Palouse-II*, the petitioners are entitled to bail. If this contention is accepted, it is unnecessary to delve further into the exercise of reconciliation between the views expressed in *Gulfisha Fatima* and *Syed Iftikhar Andrabi*, with regard to the competing interpretation of *K.A. Najeeb*.

24. Before embarking upon this exercise, I may only add that this course is also not, in my view, inconsistent with the interpretation of *K.A. Najeeb* in *Syed Iftikhar Andrabi*. **The position of law laid down in *Gulfisha Fatima*, as I have understood it in *Leena Paulose-II*, was that the ground of prolonged incarceration without likelihood of culmination of proceedings, must be considered even in cases involving statutory restrictions on grant of bail. However, these must be analysed, alongwith the nature of offence, and the prima-facie material available against the accused. The articulation in *Syed Iftikhar Andrabi*, is that the statutory limitation on the grant of bail cannot override rights under Article 21, but that “of course, in an appropriate case, bail can be**

³⁴ SLP (CRL.) No. 3867/2026, dated 22.05.2026 [hereinafter, “*Tasleem Ahmad*”].

³⁵ *Harbhajan Singh and Another v. State of Punjab*, (2009) 13 SCC 608, paragraph 15; *National Insurance Company Limited v. Pranay Sethi*, (2017) 16 SCC 680; *Union Territory of Ladakh and Ors. v. Jammu and Kashmir National Conference and Anr.*, (2024) 18 SCC 643, paragraph 35.



denied having regard to the facts of that particular case”³⁶. Syed Iftikhar Andrabi therefore also requires a factual examination, to determine whether a particular accused is to be granted bail, despite an argument based upon his/her Article 21 rights. It may be noted that, both in Gulfisha Fatima and in Syed Iftikhar Andrabi, the Supreme Court examined the case of accused on merits, in the backdrop of period of incarceration and the likely length of trial. In Gulfisha Fatima, five of the seven accused were granted bail, as was the sole accused in Syed Iftikhar Andrabi.”³⁷

19. I propose to adopt the same approach in the present case also. I may also note that, in *Khuram Parvez v. National Investigation Agency*³⁸, which was rendered after the aforesaid judgments of the Supreme Court, including the reference order in *Tasleem Ahmad*, a Division Bench of this Court has adopted a similar approach. The case concerned an application for bail in a UAPA offence. The Court’s approach is indicated by the following observations:

“61. Keeping in view the above, we have proceeded to consider the case of the appellant for releasing him on bail.

62. For the same, we would note that the appellant was taken into custody in the present case on 22.11.2021, and has, therefore, undergone prolonged incarceration of almost 4½ years. The stage of the trial is at the arguments for framing of charge. We are further informed that the prosecution intends to examine 197 witnesses in case the charge is framed against the appellant.

63. We shall also conduct a surface evaluation of the case alleged by the prosecution against the appellant.

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71. We have taken note of the above allegations and the defence of the appellant, only to highlight that they must be tested against the long period of incarceration of the appellant and the fact that there is no likelihood of the trial ending soon as also against the yardstick of bail being the rule, while denial thereof being an exception. The appellant’s rights under Article 21 of the Constitution of India need to be balanced

³⁶ *Andrabi*, paragraph 35.

³⁷ Emphasis supplied.

³⁸ CRL.A. 1234/2024, decided on 10.06.2026.



and may even trump the restriction imposed under Section 43D(5) of the UAPA.

72. We are also mindful of the fact that one of the co-accused, namely, Zafar Abbas (A-4), has been denied bail by this Court and the said order has been upheld by the Supreme Court, however, we find that the **allegations against the said co-accused were very different from the one against the appellant herein.**³⁹

20. Applying the same benchmark to the present case, it may be noted that the petitioner is not accused of participation in the alleged acts of extortion, against the complainant or any other person. Even as per the prosecution case, as noted in the 2023 judgment, the role attributed to him concerns planning and management of funds transferred by Sukesh to Leena, including the facilitation of bank entries, and acquisition of immovable properties and luxury cars in the names of other individuals or entities. The alleged confessional statements, of the petitioner and Sukesh, relied upon by the prosecution, do not *prima facie* accord any higher role to the petitioner than this.

21. As against this, the petitioner has already spent approximately 4 years and 10 months in custody as an undertrial. The offence under Section 3(4) of MCOCA carries a sentence which may extend to imprisonment of five years to life imprisonment. However, the factors indicated above, including the number of accused [24], number of witnesses [403], and the complexity of the case, make expeditious conclusion of the proceedings unlikely. Having regard to the role ascribed to the petitioner by the prosecution, I am of the view that his further incarceration as an undertrial, is inappropriate. Although I have held, in

³⁹ Emphasis supplied.



*Leena Paulose*⁴⁰, that the delay in the present case cannot be attributed to prosecutorial delays or court inaction alone, I am nonetheless of the view that the facts of each case have to be examined on their own merits, with due consideration of the specific roles ascribed to the individual in question.

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

V. CONCLUSION:

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

- a. The petitioner shall appear before the Special Court on each and every date of hearing;
- b. The petitioner shall surrender his passport before the Special Court, and shall not leave the country without prior permission of the concerned Court;
- c. The petitioner shall provide his permanent address to the concerned Court, as also the address where he is residing during the pendency of the case. The petitioner shall intimate the Investigating Officer [“IO”], and file an affidavit before the Special Court, regarding any

⁴⁰ Paragraph 37.



2026:DHC:5432



- change in residential address;
- d. The petitioner shall provide his mobile number to the concerned IO/Station House Officer, which shall be kept in working condition at all times. The mobile number shall not be switched off or changed without prior intimation to the IO during the pendency of the trial;
 - e. The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
 - f. The petitioner shall not commit any offence during the period of his release.
24. The bail application is disposed of in terms of the above.
25. It is clarified that any observations made in the present judgment are solely for the purpose of deciding the present bail application, and shall neither influence the trial proceedings, nor be construed as an expression of opinion on the merits of the case.
26. Copy of the judgment be communicated to the concerned Jail Superintendent electronically for information and necessary compliance.

PRATEEK JALAN, J

JULY 7, 2026
PV/AD/KA/