I A No.   09/2026 and 10/2026

C.C No. 01/26

ED Vs. Dandamudi Avanindra Kumar

18.08.2026

Present: Sh. Simon Benjamin, Ld. Spl. PP for the ED through VC.
Sh. Anshul Khanduri, Ld. Counsel for ED physically present in the court.
Sh. Shivnath Sawhney, Rohit Bhardwaj, Urvarshi Sharma, Ld. Counsel for the applicant.

<u>ORDER:-</u>

1. By this order I shall decide the bail application U/s 483 of BNSS read with Section 45 of PMLA seeking regular bail in case arising out ECIR/HIU-1/02/26 filed by Dandamudi Avanindra Kumar.

2. Arguments on the bail application wre hear on 28.07.2026.

3. I.A. No. 09/26 is the regular bail application whereas I.A. No. 10/26 is an application seeking extension of the interim bail.

4. Ld. counsel for the applicant submits that applicant is 77 years Senior Citizen and a War Veteran. It is submitted that applicant was granted interim bail on 19.05.2026 and the same has been extended from time to time but applicant has not mis-used the liberty. It is submitted that applicant has no role to play in so far as the main offence in the ECIR is concerned. It is submitted that it is nowhere the case of ED that the amount of Rs. 1 Crore which is being alleged to have been given by the applicant to Pritish Kumar Jhingan was proceeds of crime. It is

submitted that statement of the co-accused recorded u/s 50 of the PMLA cannot be relied upon as it is not a substantive evidence. Lastly, it is argued that the applicant also deserves to be granted regular bail on the ground of his medical condition which has already been noted by this court while granting interim bail.

5. Ld. Senior Counsel for the applicant has relied upon the following judgments:- ***Amit Aggarwal Vs. Directorate of Enforcement Bail application 4124/2025; Prem Prakash v. Enforcement Directorate, (2024) 9 SCC 787; Sanjay Jain v. ED, 2024 SCC Online Del 1656; Arvind Kejriwal Vs. Directorate of Enforcement (2024) SCC Online Del 2685.***

6. On the other hand, Ld. Spl. PP for the ED submits that the medical condition of the applicant is not serious or emergent. It is argued that Section 19(2) of the PMLA was duly complied with. In so far as merit is concerned there is statement of Pritish Kumar Jhingan and consequently cash has been recovered.

7. I have heard Ld. Counsels for the parties and perused the record.

8. Before adverting to the facts of the case it is necessary to know that while on interim bail the accused is deemed to be in the custody of the court. Reference can be made to the judgment of Hon'ble Supreme Court ***Sushila Aggarwal & Ors. Vs. State (2020) 5 SCC 1***. Hence the present regular bail application is maintainable while the accused/applicant is on interim bail.

9. The brief facts of the case are that an ECIR/HIU-1/02/2026 dated 05.01.2026 under the provisions of PMLA against D.V. Rao and others was registered. The scheduled offence for the said case was an FIR bearing no. 336/25 registered at PS DLF phase 3 Gurugram. The main allegation in the said FIR was that M/s

Verset Technologies Pvt. Ltd. was registered in Hyderabad in the name of the father-in-law of D.V. Rao and SEPL (Sravanthi Energy Pvt. Ltd.) was paying Rs. 75,00,000/- per month to Verset Technologies under the guise of consultancy fee for several years. A sum of Rs. 89 crores were diverted and siphoned of by SEPL from financial year 2016-17 to 2024-25. It is further alleged that SEPL was booking bogus expenses through fake invoices in the name of Shell entities without supply of goods/services and in this process bogus expenses to the tune of Rs. 139.21 crores were booked. It is further stated that M/s Verset did not have any office, employee and was a shell company which was not even operating from its registered office and the records were being maintained at the office of SEPL. It is further alleged that Narendra Erapa Raju manager of SEPL in his statement dated 20.11.2025 deposed that he reported to Sanjay Gandhi and was preparing vouchers for the group companies of SEPL on the instructions of Sanjay Gandhi and D.V. Rao.

10. It was firstly contended by the Ld. Counsel for the E.D. that by virtue of provisions of the PMLA there is a presumption of guilt and secondly the rigorous of Section 45 would be applicable. No doubt by virtue of Section 24, there is a presumption against the accused, but the same is rebuttable presumption and the accused during trial can rebut the said presumption. In ***Prem Parkash (Supra)*** it was held that legal presumption with respect to involvement of proceeds of crime in money laundering become relevant only when the prosecution establish three foundational facts, first commission of criminal activity relating to scheduled offence. Secondly, the property in question should be derived or obtained directly or indirectly by

any person as a result of that criminal activity. Thirdly, the personal concern should be directly or indirectly involved in any process or activity connected with the said property being proceeds of crime and if the person concerned disproves the fact about his involvement in any process or activity the legal presumption stands rebutted.

11. Section 45 restricts the power of the court to grant bail unless Public Prosecutor has been given an opportunity to oppose the application and 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.

12. The Hon'ble Supreme Court in ***Vijay Madanlal Chaudhary & Ors. v. Union of India, 2022 SCC Online SC 929*** has noted that the twin conditions as provided U/s 45 of the 2002 Act, though restricts the right of the accused to grant of the bail, but it cannot be said that the conditions provided under Section 45 impose absolute restraint on the grant of bail. The Hon'ble Supreme Court after referring to various authorities held that there is no absolute bar in grant of bail. The relevant para is reproduced as under:-

> *"303. We are in agreement with the observation made by the Court in Ranjitsing Brahmajeetsing Sharma (2005) 5 SCC 294 . The Court while dealing with the application for grant of bail need not delve deep into the merits of the case and only a view of the court based on available material on record is required. The court will not weigh the evidence to find the guilt of the accused which is, of course, the work of the trial court. The court is only required to place its view based on probability on the basis of reasonable material collected during investigation and the said view will not be taken into consideration by the trial court in recording its finding of the guilt or acquittal during trial which is based on the*

> *evidence adduced during the trial. As explained by this Court in Nimmagadda Prasad (2013) 7 SCC 466, the words used in Section 45 of the 2002 Act are "reasonable grounds for believing" which means the* ***court has to see only if there is a genuine case against the accused and*** *the prosecution is not required to prove the charge beyond reasonable doubt".*

13. In light of the judgment it is clear that the court is not required to record a positive finding that accused has committed the offence. In ***Rohit Tondon Vs. E.D. (2018) 11 SCC 46,*** the Hon'ble Supreme Court noted that at the stage of bail, the court is required to see whether the accused was possessed with requisite mensrea. In ***Brahamajeetsing Sharma Vs. State of Maharashtra 2005 5 SCC 294*** it was observed that it is difficult to predict the future conduct of an accused, the court must necessarily consider the antecedents of the accused. Keeping the principles in mind the bail application of the applicant is to be considered.

14. In order to determine whether the applicant had the requisite mensrea or not, it is to be kept in mind that applicant was the brother of Sh. D.K.Rao. The applicant, as per the material available on record, had paid Rs. 1 Crore to Pritish Kumar Jhingan who was to pay to some persons in Delhi and Gurugram to influence the PMLA proceedings against D.V. Rao. In order to prove this allegation statement of Pritish Kumar Jhingan under Section 50 was recorded. Apart from the statement of Pritish Kumar there is nothing on record to prima-faci prove that the money recovered was to be used for the said purpose.

15. A question would arise whether the statement recorded under section 50 of PMLA can be made admissible against the co-accused. In ***Prem Prakash (Supra)*** the Hon'ble Supreme

Court has held that statement u/s 50 of PMLA cannot have the character of substantive evidence against the co-accused.

16. In ***Sanjay Jain (Supra)*** the Hon'ble Delhi High Court has categorically held that statement of co-accused under section 50 of the PMLA is not a substantive evidence and can be used only for the purpose of corroboration in support of other evidence. Hence the statement of Pritish Kumar Jhingan is not a substantive piece of evidence.

17. Secondly in ***Sanjay Jain (Supra)*** the Hon'ble Delhi High Court has clearly laid down that non arrest of co-accused is a relevant factor which can be taken into consideration in addition to the other surrounding factor.

18. In the present case on perusing the complaint, in para 4(1)(v) has noted the role of various employees, the same is reproduced as under:-

> *The role of various employees involved in this process is mentioned as under:*
>
> *a) Ashok Lohumi (Store in-charge at the power plant-office located at village Khaikhera, Dariyal Road, Kasipur Tehsil, Udham Singh Nagar district, Uttarakhand -244713). He generates Material Received Note (MRN) for the fake invoices i.e. invoices received without any supply of goods/ equipment as per the instructions of N. Gurumoorthy and Anil Chaudhary and also signing the said MRN.*
>
> *b) K. Tirumala Rao, (Sr. General Manager at the power plant- office located at village Khaikhera, Dariyal Road, Kasipur Tehsil, Udham Singh Nagar district, Uttarakhand -244713). He approves the MRN prepared by Ashok Lohumi, in respect of the fake involves at the plant/ site office as per the instructions of N. Gurumoorthy.*
>
> *c) Sh. N. Gurumoorthy (Vice President-Procurement and Contracts at SEPL) He is head of procurement at head- office and manages the entire fake invoices system, various fake*

> *documents are created for bogus invoices to appear the same as genuine. The purchase order are issued under his signatures and he first approves the Note of Payment Approval (NOPA) for final approval of Sh. D.V. Rao.*
>
> *d) Sh. Anil Chowdary Lavu (Manager-Procurement and Contracts at SEPL)- He is working under N. Gurumoorthy and preparing purchase orders, NOPA, other documents etc for the fake invoices as per his directions.*
>
> *e) Smt. Parul Chauhan- (Asst. Manager-Procurement) she is involved in preparing various documents including NOPA for the fake invoices at HO.*
>
> *f) Sh. Sandeep Gandhi (Vice President -Finance) He is head of finance in the company and payments to fake vendors are processed for final payments from bank.*
>
> *g) Sh. & Business G. Anjaneyulu (Direct- Project Development)- He is the overall head of the project of the company and responsible for diversion of funds from SEPL.*

19. In para 9 of the complaint, a table 5 has been set out, in which out of these aforesaid persons, investigation has been shown to be pending against Anil Chaudhary Lavu. It clearly shows that E.D. has adopted a policy of pick and choose and the benefit of the same has to go to the present applicant on the *"doctrine of parity"* as laid down in ***Ramesh Manglani Vs. Directorate of Enforcement (2023) SCC Online Del. 3234.***

20. It was argued by the Counsel by the ED that while considering the bail application the court cannot look into the merits of the predicate offence.

21. The Ld. Counsel for the applicant has placed reliance on the judgment of ***Sanjay Pandey Vs. ED,*** **Bail application 2409/22 decided on 08.12.2022** by the Hon'ble Delhi High Court in which

it was held by the Hon'ble Delhi High Court that court can look into the ingredients of the predicate offence and whether at all they are they all are made out or not. The SLP against the said order was dismissed by the Hon'ble Supreme Court on 08.05.2023. The Hon'ble Delhi High Court in para 76 has categorically held which is reproduce as under.

> *"Since I have prima facie given a finding that none of the ingredients of the scheduled offence are made out, the provisions of PMLA are not attracted".*

22. In light of the observations made by the Delhi High court which have been upheld by the Hon'ble Supreme Court it cannot be said that this court is precluded from looking into the merits of the scheduled offence and the submission of the Ld. Counsel for the ED stands rejected.

23. The schedule offence, was an FIR registered at PS. DLF, Phase-3, Gurgaon u/s 120-B/403/406/420 IPC. It is also settle principle of law that Section 406 and 420 IPC cannot co-exist. Reference in this regard can be made to the judgment of ***Delhi Race Club (1940) Ltd. & Ors. Vs. State of U.P. (2024) 10 SCC 690*** wherein the Hon'ble Supreme Court in para 55 has categorically held that both these offences cannot co-exist.

> *Both offences are independent and distinct. The two offences cannot coexist simultaneously in the same set of facts. They are antithetical to each other. The two provisions of IPC (now BNS, 2023) are not twins that they cannot survive without each other.*

24. The schedule appended to PMLA does not list section 403 or 406 as a scheduled offence.

25. As per the reply submitted by complainant that loans taken by SEPL were declared NPA in March 2014 and was sold to new

investor for Rs. 10,12,87,18,577/- and no FIR was filed by the banks. The name of new investor has not been revealed in the complaint. There is no clarity as to who has been cheated. SEPL is a private limited company. None of the shareholders have come forward to allege that they have been cheated. In any case the ED has been unable to show as to what pecuniary gain was caused to the present applicant.

26. Proviso to Section 45 (1) of the PMLA 2002 lays down that in case a person is under the age of 16 or is a woman or is a sick or infirm, he may be released on bail.

27. The Hon'ble Delhi High Court in ***Kewal Kishan Kumar (Supra)*** while placing reliance on the judgment of ***Devki Nandan Garg (Supra)*** noted the objects and reasons for incorporating the proviso. The Hon'ble Delhi High Court noted the purposive interpretation of the proviso to Section 45 (1) shows that it has been incorporated as a lenient provision. In case the case of the applicant is covered under the proviso, the applicant need not satisfy the twin test of Section 45 (1) PMLA.

28. The Hon'ble Delhi High Court in ***Kewal Kishan (Supra)*** also noted since 'sick' and 'infirm' are separated by 'or' consequently a person who though not sick but infirm may also be entitled to the benefit of the exception.

29. In the present case the applicant has placed on record discharge summary of the year 2023 which shows that he under went angioplasty and three intra coronary stents were implanted. The documents so placed on record do suggest that he is suffering from anxiety which requires regular follow up. The documents are undisputed.

30. In ***Kewal Kishan (Supra)*** the Hon'ble Delhi High Court considered the meaning of sick or infirm in terms of the proviso to Section 45 (1) of PMLA and what is the level of sickness or infirmity which would bring an accused within the parameters of the proviso. The Hon'ble Court noted that no straight jacket formula can be laid down as to what is the level of sickness that a person is to suffer to entitle him to bail under Section 45(1) proviso, the thumb rule is that the sickness should be so serious that it is life threatening and the treatment is so specialized that it cannot be provided in the jail hospital.

31. The applicant is aged 77 years with three intra coronary stents. As per the medical records he is suffering from the palpitation and anxiousness, his HB1AC also points that he is a diabetic.

32. The combination of the age, his cardiac history, his HB1AC makes his case fall in the category of sick. The risk of cardiac complication increases with diabetes and in case he falls sick in the hospital it can be life endangering, the jail hospital would not be equipped to handle the case of such emergency.

33. The case of applicant falls under the category of sick. The applicant is a not a flight risk, there are no allegations that he is influencing the witness or had tampered with the evidence.

34. Considering the overall facts and circumstances, the applicant is admitted to bail on furnishing P/B and S/B of Rs. 1,00,000/- with two sureties of the like amount to the satisfaction of this court/Ld. Link Judge/Ld. Duty JMFC and also subject to the following conditions:

a) *Applicant is directed to surrender his passport and shall not leave the country without permission of the court.*

35. Nothing said herein shall tantamount to any expression or opinion of this Court on the merits of this case and all the observations has been made only for the disposal of the present application.

36. Applications i.e. I.A. No. 09/2026 and 10/2026 stands disposed off.

37. The interim bail of the applicant is extended for another one week. Copy of the order be given dasti to both the parties Copy of the order be also sent to the Jail Superintendent for information.

(ANKUR JAIN-I)
ASJ-04/DELHI
18.08.2026

ANKUR JAIN

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Date: 2026.08.18 16:04:17 +0530