

Bail under PMLA granted as original predicate offences did not survive and no proceeds of crime identified

The High Court granted **bail under the Prevention of Money Laundering Act (PMLA)** to the applicant, holding that continued detention was not justified in the facts of the case.

Key Findings

- The **scheduled (predicate) offences** originating in Himachal Pradesh, which formed the basis of the ECIR, did not survive.
- No property or asset belonging to the applicant had been identified as "**proceeds of crime.**"
- The investigation had already been completed.
- A **co-accused had been granted bail**, supporting parity in treatment.
- The applicant had been in custody for **more than 18 months.**
- There was no indication that the applicant would **abscond, influence witnesses, or tamper with evidence.**

Court's Decision

- The Court held that continued incarceration would effectively amount to **punishment before conviction.**
- It would also violate the applicant's **right to a speedy trial.**
- Accordingly, the applicant was granted bail under the PMLA.

Significance

- Reinforces that PMLA detention cannot be prolonged where the underlying scheduled offence is no longer sustainable.
- Highlights the importance of identifying actual **proceeds of crime** for continuing prosecution under PMLA.
- Emphasizes constitutional protections, including **personal liberty** and the **right to a speedy trial.**

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One-Line Summary

The High Court granted bail under PMLA because the underlying predicate offences no longer survived, no proceeds of crime were identified, the investigation was complete, and continued custody for over 18 months would violate the applicant's right to liberty and a speedy trial.

Conditions for Bail under PMLA

Under **Section 45 of the Prevention of Money Laundering Act, 2002 (PMLA)**, bail is subject to stringent conditions, commonly known as the "**twin conditions**".

1. Opportunity to the Prosecution

The Public Prosecutor must be given an opportunity to oppose the bail application.

2. Court's Satisfaction on Twin Conditions

If the prosecution opposes bail, the Court must be satisfied that:

- There are **reasonable grounds for believing that the accused is not guilty** of the alleged money laundering offence; and
- The accused is **not likely to commit any offence while on bail**.

Other Factors Considered by Courts

Apart from the statutory twin conditions, courts also consider:

- Whether the **predicate (scheduled) offence survives**.
- Existence or absence of identifiable **proceeds of crime**.
- Completion of investigation and filing of complaint/charge sheet.
- Length of custody undergone by the accused.
- Possibility of absconding.
- Likelihood of tampering with evidence or influencing witnesses.
- Health, age, and humanitarian considerations.
- Parity with co-accused who have already been granted bail.

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Constitutional Safeguards

The Supreme Court and High Courts have repeatedly held that even under the stringent PMLA regime:

- **Bail is not to be denied mechanically.**
- Prolonged incarceration without conclusion of trial may violate **Article 21 of the Constitution** (Right to Life and Personal Liberty).
- The **right to a speedy trial** remains an important consideration.

In the Present HC Case

The Court granted bail because:

- The underlying scheduled offences did not survive.
- No proceeds of crime were identified.
- Investigation was complete.
- The applicant had spent over 18 months in custody.
- There was no risk of absconding or tampering with evidence.
- A co-accused had already been granted bail.

One-Line Summary

Bail under PMLA requires satisfaction of the twin conditions under Section 45, but courts may also grant bail where there are no identifiable proceeds of crime, investigation is complete, prolonged custody exists, and continued detention would infringe the right to personal liberty and a speedy trial.