



**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.212 OF 2025
(Arising out of S.L.P.(Criminal) No.16260 of 2024)

SHASHI BALA @ SHASHI BALA SINGH ... APPELLANT(S)

VS.

DIRECTORATE OF ENFORCEMENT ... RESPONDENT(S)

O R D E R

Leave granted.

Heard the learned senior counsel appearing for the appellant and the learned Solicitor General appearing for the respondent.

The appellant is an accused in a complaint filed under Section 44 of the Prevention of Money Laundering Act, 2002 (for short "the PMLA"). The appellant has been under incarceration since 25th November, 2023. Admittedly, the appellant is a woman.

Our order dated 19th December, 2024 reads thus:

"The learned ASG appearing for the Directorate of Enforcement seeks time. Initially, he submitted that even if an accused is a woman, notwithstanding the *proviso* to sub-Section (1) of Section 45 of the Prevention of Money-Laundering Act, 2002 (for short, "the PMLA"), rigours of clause (ii) of sub-Section (1) of Section 45 of the PMLA will apply. In short, his submission is

that even if a person, who is under the age the sixteen years, or is a woman, or is a sick or infirm person, still the stringent conditions under clause (ii) of sub-Section (1) of Section 45 of the PMLA will apply. When we called upon the learned ASG to make submissions on this aspect, he seeks time even to take instructions on this aspect.

The counter affidavit to be filed by 10th January, 2025.

List the Petition on 15th January, 2025."

On its plain reading, the first proviso to sub-Section (1) of Section 45 operates as an exception to clause (ii) of sub-Section (1) of Section 45 of the PMLA. Therefore, when a woman applies for bail, the twin conditions in clause (ii) need not be satisfied. Though we have granted time to the learned Additional Solicitor General to make submissions in support of the submission that notwithstanding the proviso to sub-Section (1) of Section 45 of the PMLA, rigours of clause (ii) of sub-Section (1) of Section 45 of the PMLA will apply even to a woman, today the learned Solicitor General appears and states that rigours of clause (ii) of sub-Section (1) of Section 45 of the PMLA will not apply to a woman, in view of proviso to sub-Section (1) of Section 45 of the PMLA.

A charge has been framed. However, there are 67 witnesses and recording of evidence is yet to commence. Our attention is invited to the counter affidavit filed by the respondent and, in particular, what is stated in paragraph Nos. 9 to 16.

There are no antecedents of the appellant brought on record.

As rigours of clause (ii) of sub-Section (1) of Section 45 of the PMLA will not apply, the Special Court ought to have treated the application as the one under Section 439 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C.") or Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (for short, "BNSS"). Hence, the first proviso to sub-Section (1) of Section 437 of the Cr.P.C. (the first proviso to sub-Section (1) of Section 480 of the BNSS) will apply. As the predicate offence is not under the Narcotic Drugs and Psychotropic Substances Act, 1985, the maximum sentence can be of 7 years. The appellant is a woman. There is no possibility of the trial concluding in near future, considering the fact that 67 witnesses are to be examined. There are no antecedents of the appellant brought on record. Therefore, a case is made out for enlarging the appellant on bail till the conclusion of the trial.

For that purpose, the appellant shall be produced before the Special Court within a maximum period of one week from today. The Special Court shall enlarge the appellant on bail on appropriate terms and conditions including the condition of regularly and punctually attending the Special Court and cooperating with the Special Court for early conclusion of the trial. Apart from the other conditions which will be imposed by the Special Court, a condition of deposit of the passport shall be imposed. The learned counsel for the respondent shall be heard on the terms and conditions.

We make it clear that if the appellant fails to cooperate for early disposal of the case, it will be open for the respondent to apply for cancellation of bail.

The appeal is accordingly allowed.

.....J.
(ABHAY S.OKA)

.....J.
(UJJAL BHUYAN)

NEW DELHI;
January 15, 2025

ITEM NO.10

COURT NO.5

SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (CrI.) No(s). 16260/2024

[Arising out of impugned final judgment and order dated 10-09-2024 in CRMBA No. 6762/2024 passed by the High Court of Judicature at Allahabad, Lucknow Bench]

SHASHI BALA @ SHASHI BALA SINGH

Petitioner(s)

VERSUS

DIRECTORATE OF ENFORCEMENT

Respondent(s)

(IA No. 269448/2024 - EXEMPTION FROM FILING O.T.
IA No. 269449/2024 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES

WITH SLP(CrI) No. 18369/2024

Date : 15-01-2025 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s) :

Mr. U.K Uniyal, Sr. Adv.
Mr. D.K Garg, Adv.
Mr. Dhananjay Garg, AOR
Mr. Abhishek Garg, Adv.
Ms. Ishita Bist, Adv.
Mr. Neelabh Bist, Adv.

Mr. Sidharth Luthra, Sr. Adv.
Mr. M. R. Shamshad, Sr. Adv.
Mr. Ankit Yadav, AOR
Mr. Syed Tamjeed Ahmad, Adv.
Mr. Mihir Joshi, Adv.
Mr. Advait Ghosh, Adv.
Mr. Arijit Sarkar, Adv.
Ms. Shaoni Das, Adv.

For Respondent(s) :

Mr. Tushar Mehta, SG
Mr. Satya Darshi Sanjay, A.S.G.
Mr. Zoheb Hossain, Adv.
Mr. Annam Venkatesh, Adv.
Ms. Astha Singh, Adv.
Mr. Arvind Kumar Sharma, AOR
Ms. Aditi Singh, Adv.

UPON hearing the counsel the Court made the following
O R D E R

SLP(Cr1) No. 16260/2024

Leave granted.

The appeal is allowed in terms of the signed order.

The appellant shall be produced before the Special Court within a maximum period of one week from today. The Special Court shall enlarge the appellant on bail on appropriate terms and conditions including the condition of regularly and punctually attending the Special Court and cooperating with the Special Court for early conclusion of the trial. Apart from the other conditions which will be imposed by the Special Court, a condition of deposit of the passport shall be imposed. The learned counsel for the respondent shall be heard on the terms and conditions.

Pending applications also stand disposed of.

SLP(Cr1) No. 18369/2024

We grant time of three weeks to file a counter affidavit.

List on 17th February, 2025.

(ANITA MALHOTRA)	(AVGV RAMU)
AR-CUM-PS	COURT MASTER
(Signed order in Criminal Appeal @ SLP(Cr1.) No.16260/2024 is placed on the file.)	