



2025:DHC:6658



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 08.08.2025*+ **W.P.(CRL) 2100/2025****SUKHBIR SINGH**

.....Petitioner

Through: Mr. Sidharth Luthra, Sr. Advocate with Mr. Rajiv Mohan, Mr. Swapnil Krishna, Mr. Chandveer Shyoran, Mr. Sachit Sharma, Mr. Rishabh Bhati, and Ms. Madhusruthi N, Advocates.

versus

**STATE NCT OF DELHI THROUGH SHO** .....Respondent

Through: Mr. Sanjeev Bhandari, ASC for the State (through VC) with Mr. Akhand Pratap Singh, SPP and Mr. Arjit Sharma, Mr. Sushant Bali, Ms. Sakshi Jha, Ms. Samridhi Dobhal, Mr. Krishna Mohan Chandel, Mr. Hritik Maurya, Mr. Aashrit Sukhija and Mr. Mayank Kaushik, Advocates.

**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****J U D G M E N T****DR. SWARANA KANTA SHARMA, J****INTRODUCTION**

1. The petitioner is an accused in FIR No. 629/2024, registered



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on 07.12.2024 at Police Station Farsh Bazar, Delhi (*now being investigated by the Special Cell of Delhi Police*), for commission of offence punishable under Sections 103(1)/3(5) of the Bharatiya Nyaya Sanhita, 2023 [hereafter ‘BNS’] read with Sections 25/27 of the Arms Act, 1959. He was arrested in relation to the present case on 16.02.2025. Later, Sections 3 and 4 of the Maharashtra Control of Organised Crime Act, 1999 [hereafter ‘MCOCA’] were invoked in the present case, and the petitioner’s judicial remand was obtained.

2. By way of this writ petition, the petitioner seeks to challenge the order dated 08.07.2025, passed by the learned ASJ-03/Special Judge, Patiala House Courts, New Delhi, *vide* which the petitioner’s application for grant of default bail was dismissed. He further seeks to assail the order dated 13.06.2025, passed by the learned Vacation Judge, Patiala House Courts, New Delhi, extending the period of investigation as enabled under Section 21(2)(b) of MCOCA and also remanding the petitioner.

3. The premise on which the aforesaid reliefs have been sought is as follows – that while the general rule entitles an accused to default bail if the investigation is not completed within a period of sixty or ninety days (as the case maybe), MCOCA, being a special legislation, prescribes a default period of ninety days and empowers the Special Court to extend this period up to one hundred eighty days, provided the Public Prosecutor submits a report justifying the need for such extension. The case set up by the petitioner, and as canvassed by the learned senior counsel appearing on his behalf, is essentially that the



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extension of the period of investigation and the consequential remand of the petitioner *vide* order dated 13.06.2025 passed by the learned Vacation Judge is legally untenable, as Sh. Akhand Pratap Singh – the Special Public Prosecutor (SPP) who had appeared on the said date before the learned Vacation Judge – was not a validly appointed SPP under Section 8 of MCOCA who could have submitted his report for seeking such extension of period of investigation and petitioner’s custody. It is thus contended that the petitioner was entitled to default bail, which came to be arbitrarily denied by the learned Special Judge *vide* order dated 08.07.2025.

4. The writ petition is strongly contested by the respondent–State, which has sought to justify the legality and propriety of the impugned orders and has opposed the prayer for grant of default bail to the petitioner.

5. Before delving into the respective submissions and contentions of the parties, it would be appropriate to first set out the relevant facts necessary for adjudication of the present case.

#### **FACTUAL BACKDROP**

6. The present case arises out of a shooting incident that occurred on the morning of 07.12.2024. At around 08:25 AM, one Sunil Jain was shot dead near the Vishwas Nagar red light while returning home on a Scooty with his friend, Sumit Kumar Nahata, following their routine walk. Two unidentified individuals on a blue-coloured motorcycle had allegedly fired multiple rounds at Sunil Jain and fled.



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The present FIR was registered at P.S. Farsh Bazar, Delhi. The investigation was initially taken over by the Special Cell (NDR) and subsequently transferred to the Counter Intelligence Cell on 31.12.2024. During investigation, the assailants were identified as Naveen Kasana and Mukesh Kumar @ Sachin @ Golu, both having a serious criminal history. It was revealed that the murder was a case of mistaken identity arising from an ongoing gang rivalry involving Yogesh Sharma @ Yogi and the Hasim @ Baba gang, in retaliation for the earlier killings of Akash Sharma @ Chotu and Rishabh. Sunil Jain, who bore a resemblance to the intended target's father, was mistakenly gunned down.

7. The investigation took a significant turn with the interception of mobile communications in early 2025. These conversations revealed that someone was not only assisting Mukesh Kumar @ Golu in evading arrest but was also involved in planning further criminal acts. One of the voices was identified as that of Mukesh Kumar @ Golu. The second speaker was traced through recharge records to a retail shop in Delhi. CCTV footage confirmed the buyer to be Shahnawaz Khan of Dilshad Garden, who stated that he had recharged the number on instructions of one Sub-Inspector Sukhbir of Delhi Police – the petitioner herein. Shahnawaz further identified the two voices in the call recordings as belonging to the petitioner Sukhbir and Mukesh Kumar @ Golu.

8. Subsequent investigation revealed that Sukhbir had allegedly introduced the two shooters, Mukesh Kumar @ Golu and Naveen



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Kasana to each other, prior to the commission of the offence. The petitioner was apprehended on 15.02.2025 while travelling in his car bearing registration number DL7CW7506. The case of prosecution is that the police personnel had introduced themselves to Sukhbir and sought his cooperation in the investigation; however, he had refused to cooperate, locked the vehicle, and during an altercation with the police team, had allegedly misplaced the keys. Despite efforts, the key could not be recovered, and Sukhbir was brought to the Counter Intelligence office for interrogation, while certain staff members were deputed to maintain surveillance of the locked vehicle. Later the same day, the car was opened with the assistance of a mechanic, and a search was conducted.

9. During the search, the following items were recovered from the vehicle: i. One Nokia mobile phone containing SIM number 9220616027, which was allegedly used by SI Sukhbir for direct communication with the absconding accused Mukesh @ Sachin @ Golu; ii. Two personal mobile phones; iii. Nine additional mobile phones; iv. Two dongles; v. Three GPS devices; vi. One hard disk; vii. Cash amounting to ₹5,12,200/-; and viii. Thirty-one illegal live cartridges of various calibers and two used cartridges. The entire search and seizure process was duly videographed. After detailed interrogation and evaluation of the evidence on record, the petitioner was formally arrested on 16.02.2025. He was remanded to police custody for five days on the same day i.e. 16.02.2025.

10. In the meantime, in view of the emerging material suggesting



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that the aforementioned incident of shooting and related events were part of organised criminal activities allegedly led by Anwar Khan @ Chacha and Sabir Chaudhary, Sections 3 and 4 of MCOCA were invoked on 21.04.2025. The investigation was accordingly transferred to the New Delhi Range of the Special Cell, and the case was committed to the court of the learned ASJ-03, Patiala House Courts, New Delhi, which is the designated court for MCOCA trials.

11. Pursuant to the invocation of MCOCA, an application for extension of judicial remand of the petitioner was moved on 22.04.2025, and the petitioner was produced before the designated MCOCA Court. However, as the concerned Judge was not holding court on that day, the petitioner was produced before the Link Judge, who remanded him to judicial custody till 24.04.2025. On 24.04.2025, the petitioner could not be produced from jail, and the matter was adjourned to 26.04.2025. On 26.04.2025, the learned ASJ allowed the State's application and extended the petitioner's judicial remand, which was thereafter further extended till 15.05.2025.

12. It is material to note that the statutory period of ninety days – within which the investigation must be completed failing which the accused becomes entitled to default bail – was due to expire on 16.05.2025. This applied both under Section 167 of the Cr.P.C. (in respect of offences punishable with death, life imprisonment, or imprisonment not less than ten years) and under Section 21 of MCOCA, which provides for a similar default period in all cases covered under the Act. As noted above, the petitioner had been



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arrested and initially remanded on 16.02.2025.

13. In this backdrop, an application was moved by the State, through the Additional Public Prosecutor for the Designated MCOCA Court, seeking extension of the petitioner's judicial custody as well as the time for completion of investigation beyond the 90-day period. The application was opposed on behalf of the petitioner on the ground that the prosecution had failed to make out sufficient justification for the extension sought. However, the learned ASJ, *vide* order dated 14.05.2025, granted an extension of 30 days to the State for completion of investigation. By a separate order dated 15.05.2025, the learned ASJ also extended the judicial custody of the petitioner for a further period of 30 days. It is pertinent to note that the said order dated 14.05.2025 – granting the first extension of time beyond the 90-day period – has not been challenged in the present petition, though it has been separately assailed by the petitioner in another petition.

14. Subsequently, on 17.05.2025, the petitioner filed an application seeking default bail on the ground that no chargesheet had been filed within 90 days of his arrest. It was contended, *inter alia*, that the petitioner had not been formally arrested under provisions of MCOCA, and therefore, any extension of the period beyond 90 days under MCOCA was legally impermissible. It was argued that his arrest could be treated only in relation to the offence under Section 302 of the IPC, for which the 90-day period had already lapsed. This application was dismissed by the learned ASJ *vide* order dated



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09.06.2025, holding that since MCOCA provisions had already been invoked and an extension of time had been granted by the Court on 14.05.2025, which had not been challenged, the application for default bail was premature as the maximum permissible time for investigation (under MCOCA) had not yet expired.

15. As the extended 120-day period was due to expire on 15.06.2025, another application was moved by the State seeking a further extension of the period of investigation, custody, and detention of the petitioner up to the maximum limit of 180 days. The State contended that certain material aspects of the investigation were still pending, necessitating additional time. The petitioner, however, opposed the said application on the ground that despite nearly 120 days of investigation, the prosecution had failed to produce any concrete material linking him with an organised crime syndicate or its activities. As the regular courts were on vacation, the said application was heard and decided by the learned Vacation Judge, who, *vide* the impugned order dated 13.06.2025, allowed a further extension of 30 days for completion of investigation and extended the petitioner's judicial custody for the same period. This order is under challenge in the present petition.

16. Thereafter, the petitioner filed another application seeking default bail, this time questioning the legality of the extension granted on 13.06.2025. It was contended that the report relied upon by the prosecution on that date had not been submitted by a duly authorised SPP, as required under MCOCA, and hence the extension





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of time for investigation was vitiated in law. Accordingly, it was argued that the petitioner was entitled to default bail. The learned ASJ, however, dismissed the application *vide* order dated 08.07.2025, holding that the order dated 13.06.2025 had been passed by the learned Vacation Judge after examining the report of the SPP, as well as reviewing the case diaries and other case materials, and being satisfied with the grounds for extension of time and continued custody. This is the second order assailed by the petitioner in the present petition.

#### **SUBMISSIONS ON BEHALF OF THE PETITIONER**

17. The learned senior counsel appearing on behalf of the petitioner contended that the continued detention of the petitioner beyond 90 days was illegal and unsustainable in law, as the extension of time granted by the learned Vacation Judge on 13.06.2025 was in breach of the mandatory requirements under Section 21(2)(b) of MCOCA. It was submitted that, after invocation of provisions of MCOCA on 21.04.2025, the Additional Public Prosecutor of the Designated Court had moved an application on 09.05.2025 under Section 21(2)(b) of MCOCA seeking extension of the period of investigation for a further 90 days from 16.05.2025 and the learned ASJ, *vide* order dated 14.05.2025, granted only a 30-day extension for completion of investigation. Subsequently, on 12.06.2025, the Investigating Officer (ACP/NDR, Shri Rahul Vikram) addressed an application to the learned SPP requesting that an application be



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moved before the Vacation Court for extension of the investigation period by another 60 days. However, the learned senior counsel argued that the said application, and the extension granted on its basis by the learned Vacation Judge on 13.06.2025, were contrary to Section 21(2)(b) of MCOCA, which mandates that any such extension beyond 90 days must be based – solely on a report of the Public Prosecutor or Special Public Prosecutor appointed by the State Government.

18. The learned senior counsel stressed that, in the present case, the application seeking further extension filed on 12.06.2025 was neither accompanied by a valid report of a duly appointed SPP, nor was any such report placed before the learned Vacation Judge. It was submitted that, under Section 8 of MCOCA, the appointment of a Public Prosecutor or Special Public Prosecutor for a Designated Court must be made by the “State Government.” In the context of the National Capital Territory of Delhi, the Hon’ble Supreme Court in *Govt. of NCT of Delhi v. Union of India: Civil Appeal No. 2357 of 2017* has held that the term “State Government” refers to the Lieutenant Governor. Thus, any person purporting to act as a Special Public Prosecutor under MCOCA must have been appointed by the Lt. Governor through a valid and notified process.

19. It was argued that there was no such appointment or notification on record showing that Sh. Akhand Pratap Singh, who acted as the SPP in the present case, was ever appointed by the Lt. Governor under Section 8 of MCOCA. No notification of his



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appointment was produced or published in the official Gazette, nor was any such appointment placed before the learned Vacation Judge on 13.06.2025. It was only by way of a subsequent status report dated 16.07.2025 filed before this Court – that the prosecution claimed Sh. Akhand Pratap Singh had been appointed retrospectively by notification dated 08.07.2025 with effect from 24.05.2025.

20. The learned senior counsel submitted that such retrospective ratification is impermissible under law, particularly under MCOCA, which creates strict procedural safeguards. The statutory mandate of Section 21(2)(b) cannot be bypassed or retrospectively cured, as it pertains to the liberty of an individual under Article 21 of the Constitution. It was contended that the power to seek extension of investigation beyond 90 days lies exclusively with a Public Prosecutor or Special Public Prosecutor appointed in accordance with Section 8 of MCOCA. Since no such legally appointed prosecutor existed on 13.06.2025, the extension of time granted on that date was without jurisdiction and void ab initio.

21. It was further argued that, once no valid extension of time for investigation was in place, the petitioner acquired an indefeasible right to be released on default bail. Such right, it was contended, could not be defeated by a subsequent or retrospective attempt to appoint an SPP. Accordingly, it was contended that the order dated 13.06.2025, granting further extension of time for investigation, stood vitiated in law. As a direct consequence, the impugned order dated 08.07.2025, whereby the petitioner's application for default



bail was dismissed, was also liable to be set aside.

### **SUBMISSIONS ON BEHALF OF THE STATE**

22. The learned Additional Standing Counsel (ASC) appearing on behalf of the State fervently opposed the present petition and argued that the investigating agency had fully complied with the statutory requirements under Section 21(2)(b) of MCOCA read with Section 167(2) of the Cr.P.C. It was submitted that the investigation agency had, from time to time, sought extensions for the period of investigation by submitting detailed reports of the Public Prosecutor, setting out the progress made in the investigation and furnishing cogent reasons for the continued detention of the petitioner. It was contended that the learned ASJ/Vacation Judge had, on each occasion, independently examined the case diary and the Public Prosecutor's report and, upon application of judicial mind, had duly granted the requisite extensions. Thus, the petitioner's blanket assertion that no valid report of the Public Prosecutor existed was baseless and misleading.

23. The learned ASC further rebutted the contention of the petitioner that there was no valid appointment of the SPP, and therefore the application/report filed by the SPP was *non-est* in law. It was submitted in this regard that such an argument was a deliberate attempt to mislead the Court. It was stated that Sh. Akhand Pratap Singh, the SPP in the present case, had first appeared before the Designated Court on 25.05.2025, following official communication



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from the Police Headquarters, Delhi Police, and his appearance was pursuant to instructions issued *via* email and official endorsement. It was further submitted that the appointment of the SPP had been duly approved by the Government of NCT of Delhi on 24.05.2025, and this appointment was subsequently formalised by a notification dated 08.07.2025, which expressly stated that the appointment would operate with retrospective effect from 24.05.2025.

24. The learned ASC emphasized that the appointment was preceded by a thorough and diligent administrative process, which included movement of the proposal through all competent authorities. The movement chart of the file clearly reflected the seriousness and promptness with which the administration had acted. There was neither arbitrariness nor *mala fide* in the appointment process; rather, the entire exercise was undertaken in good faith to ensure the effectiveness of prosecution and the integrity of the trial.

25. It was also pointed out that the SPP had not taken any steps in the matter until formally instructed, and his participation in proceedings on 25.05.2025 was solely in discharge of his official duties. Moreover, it was submitted that in the present case, the petitioner has neither pleaded nor demonstrated any prejudice suffered due to the appointment process. On the contrary, the Courts below have consistently applied their judicial mind to all relevant material, including the case diary and the Public Prosecutor's reports, before granting any extension of investigation.



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26. Additionally, the learned ASC also sought to bring to the Court's attention that Sh. Akhand Pratap Singh had been appointed as SPP in more than 20 cases involving the Delhi Police, including six cases in the year 2025 alone. Out of these six, four cases involved offences under the MCOCA and two under the UAPA (Delhi Riots cases of 2020). It was submitted that he fulfilled all statutory and administrative requirements for being appointed as an SPP under MCOCA, and there was no legal infirmity in his representation of the State in the present matter. Accordingly, it was urged on behalf of the State that the petition was devoid of merit and liable to be dismissed.

#### ANALYSIS & FINDINGS

27. Before proceeding to evaluate the rival contentions advanced by the parties, this Court considers it apposite to first set out the relevant statutory provisions which govern the present controversy, i.e. the applicable provisions of the MCOCA and Cr.P.C., to determine the legality of the extension of time granted for investigation and the role of the Public Prosecutor in that context.

28. Section 8 of the MCOCA lays down the manner in which Public Prosecutors are to be appointed for the purposes of conducting prosecutions under the said Act. It reads as follows:

**“8. Public Prosecutor.—** (1) For every Special Court, the State Government shall appoint a person to be the Public Prosecutor and may appoint one or more persons to be the Additional Public Prosecutor or Additional Public Prosecutors:  
Provided that, the State Government may also appoint for any case or group of cases, a Special Public Prosecutor.



(2) A person shall not be qualified to be appointed as a Public Prosecutor, an Additional Public Prosecutor or a Special Public Prosecutor unless he has been in practice as an Advocate for not less than ten years.

(3) Every person appointed as a Public Prosecutor or Additional Public Prosecutor or Special Public Prosecutor under this section shall be deemed to be Public Prosecutor within the meaning of clause (u) of section 2 of the Code, and the provisions of the Code shall have effect accordingly.”

29. A plain reading of the provision reveals that it is mandatory for the State Government to appoint either a Public Prosecutor or an Additional Public Prosecutor, or in appropriate cases, a Special Public Prosecutor to conduct prosecutions under MCOCA. The person so appointed must fulfil the eligibility requirement of having at least ten years of practice as an advocate.

30. Next, Section 167(2) of the Cr.P.C. provides that when investigation cannot be completed within 24 hours, and the accused is in custody, the Magistrate may authorize detention of the accused for a period not exceeding 15 days in the whole. Sub-clause (a) further provides that:

“...(a) the Magistrate may authorise the detention of the accused person, otherwise than in custody of the police, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this paragraph for a total period exceeding

(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;

(ii) sixty days, where the investigation relates to any other offence,



and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXIII for the purposes of that Chapter...”

31. Upon expiry of this period – 90 days or 60 days, as the case may be – if the charge sheet is not filed, the accused becomes entitled to bail by default. This is a statutory right accrued in favour of an accused.

32. However, MCOCA being a special law, creates an exception to this default rule in certain cases.

33. Section 21(2) of the MCOCA firstly provides that the statutory time period for completion of investigation shall be 90 days in cases under MCOCA. Section 21(2)(b) further provides a specific exception to Section 167 of Cr.P.C. in cases where investigation is being conducted under MCOCA. It reads as under:

“...Provided further that if it is not possible to complete the investigation within the said period of ninety days, the Special Court shall extend the said period upto one hundred and eighty days, on the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of ninety days.”

34. A few important features emerge from a reading of this provision:

- (i) The default period for completion of investigation is 90 days.





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- (ii) However, this period can be extended up to 180 days by the Special Court.
- (iii) This extension is not automatic; but it requires a 'report' by the Public Prosecutor, and such report must specifically indicate the progress of investigation and justify the necessity of continued detention beyond 90 days.
- (iv) The power to grant such extension vests exclusively with the Special Court under MCOCA, and is exercisable only on the basis of a report filed by the Public Prosecutor.

35. In this background, this Court now turns to examine the primary contention advanced on behalf of the petitioner – that the extension of the investigation period and continued detention beyond 120 days was vitiated owing to the alleged absence of a valid 'report' by the SPP, and the alleged lack of proper appointment of the SPP Sh. Akhand Pratap Singh.

36. To begin with, it is pertinent to note that the first extension beyond the 90-day period was granted by the learned ASJ on 14.05.2025, on the basis of a report placed on record by the Additional Public Prosecutor of the Designated Court for conducting trials under MCOCA. This extension of the period of investigation, from 90 days to 120 days, has not been challenged in the present petition.

37. Thereafter, during court vacations, Sh. Akhand Pratap Singh, the SPP, had appeared in the present matter. The petitioner has



contended that the Investigating Officer i.e. ACP Rahul Vikram, had addressed a letter to the said SPP requesting him to file a report before the concerned Court. It is alleged that despite this, no such report was actually filed by the SPP, and instead, the application of the I.O. alone formed the basis for the order extending the period of investigation. The petitioner has repeatedly emphasised that no independent report of the SPP was available on record. However, at the same time, and significantly, it has also been submitted on behalf of the petitioner that even if a report was indeed filed by the SPP, it would not be legally valid as the SPP had not been formally or properly appointed in accordance with law at the relevant time.

38. In order to appreciate these submissions, it is important to extract the relevant portion of the impugned order dated 13.06.2025, which records as follows:

“7. Although, both the above noted judgments arc passed in cases involving offences punishable under UA(P)A but guidance may be drawn from these judgments as parameters as the parameters would remain same for extension of period under MCOC Act.

8. The Ld. SPP has pointed out in his report that the details of the investigation which is still to be conducted are enumerated in para 17 of the application wherein multiple facets of the alleged crime arc yet to investigated including the tracing the accused Mukesh @ Sachin @ Golu. I have summoned the case diary also and have perused the case diary in detail.

9. In view of the above facts and circumstances of the case, the State is further granted a period of 30 days for completion of investigation...”

39. A bare reading of the aforesaid order indicates that the learned



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Vacation Judge specifically refers to a ‘report’ filed by the learned SPP, noting that the details of pending investigation were highlighted therein. The reference to ‘paragraph 17’ of the application also makes it clear that the learned Vacation Judge was referring to a distinct document (i.e., the SPP’s report), because the I.O.’s own application/letter addressed to the SPP, which has been annexed as Annexure P-3 with the petition, does not contain any paragraph 17. This further affirms that the learned Vacation Judge did, in fact, act upon an independent report submitted by the SPP. The said report of the learned SPP would not have been supplied to the present accused – as such a report is not required to be supplied to an accused as per law.

40. In *State of Maharashtra v. Surendra Pundlik Gadling & Ors.*: (2019) 5 SCC 178, the Hon’ble Supreme Court observed as follows, *albeit* in context of Section 43D(2)(b) of UAPA, 1967, which is *pari materia* to Section 21(2)(b) of MCOCA:

“24. The learned Senior Counsel sought to emphasise that the appellant cannot get away from the requirements stipulated in the judgement of *Hitendra Vishnu Thakur*, for a document to be treated as a report of the Public Prosecutor and the mandatory requirements stipulated in this context, in Section 20(4)(bb) of TADA. In this behalf he referred to para 23 of the aforementioned judgement.

25. A perusal of the aforesaid paragraph shows that the emphasis laid by this Court was on the legislature, in its wisdom, not leaving it to the IO to make an application for seeking an extension of time from the Court and, thus, requiring the investigating agency to submit itself to the scrutiny of the Public Prosecutor, in the first instance, and satisfying him about the progress of the investigation and



furnishing reasons for seeking further custody of an accused. Otherwise, an accused could be kept in continued detention, during unnecessarily prolonged investigation, at the whims of the police.....

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36. No doubt, in para 23 of *Hitendra Vishnu Thakur* case, this Court laid emphasis on the importance of the scrutiny by a public prosecutor so as to not leave the detenu in the hands of the IO alone, being the police 8 (supra) 9 (supra) authority. The public prosecutor, thus, has the option to agree or disagree with the reasons given by the IO for seeking extension of time but in the facts of the present case, the second document in the form of an application shows scrutiny of the first document and thereafter details grounds and expanded reasons for the requirement of further time to complete the investigation.

**37. Undoubtedly the request of an IO for extension of time is not a substitute for the report of the public prosecutor but since we find that there has been, as per the comparison of the two documents, an application of mind by the public prosecutor as well as an endorsement by him, the infirmities in the form should not entitle the respondents to the benefit of a default bail when in substance there has been an application of mind.** The detailed grounds certainly fall within the category of “compelling reasons” as enunciated in *Sanjay Kedia* case...”

(Emphasis added)

41. Therefore, in the facts of the present case, the statutory requirement under Section 21(2)(b) of the MCOCA, which mandates that a report by the Public Prosecutor must be filed, justifying the request for extension of time for investigation, was duly complied with in the present case. Moreover, the learned Vacation Judge did not rely solely on the said report, but also summoned the case diary and perused it in detail, thus exercising judicial discretion with due application of mind, as required by law.



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42. What then remains is the narrow question as to whether Sh. Akhand Pratap Singh was a duly appointed Special Public Prosecutor at the relevant time, and whether any defect in his appointment, if apparent, would vitiate the entire proceedings.

43. Having considered the submissions from both sides, this Court is of the opinion that no such defect, which could vitiate the entire proceeding, exists in the present case.

44. Concededly, Advocate Sh. Akhand Pratap Singh meets all the eligibility criteria for appointment as a Public Prosecutor/Special Public Prosecutor. It has also been shown before this Court that he has been appointed SPP in about 20 cases to represent Delhi Police, including cases involving MCOCA and UAPA, and that in the year 2025 itself, he has been appointed SPP in 6 cases. Furthermore, in the present case, Sh. Akhand Pratap Singh was indeed formally appointed as SPP by the Lt. Governor by virtue of notification dated 08.07.2025, with effect retrospective from 24.05.2025. The material on record shows that the GNCT of Delhi had already approved his appointment on 24.05.2025, and the communication was duly sent to him by the Delhi Police, requesting his appearance in the case.

45. It is thus a matter of record that between 25.05.2025 and 08.07.2025, although the formal notification was pending, the decision to appoint him had already been taken and communicated. Therefore, this Court is of the view that at best, this could constitute a procedural irregularity, but not a substantive illegality.



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46. Importantly, no prejudice has been demonstrated to have been caused to the petitioner on account of the alleged irregularity. The learned Vacation Judge had passed a detailed order, dealing with the submissions of the State and the accused person, and no such argument/objection was raised by the present accused.

47. ***To reiterate and conclude***, the statutory requirement under Section 21(2)(b) of MCOCA was duly complied with in the present case, as discussed above. The emphasis of the provision is that the Special Court shall extend the period of investigation beyond the stipulated 90 days, on the basis of a report of the Public Prosecutor indicating the progress of the investigation and furnishing reasons for such extension. In the present case, such a report was indeed submitted by the SPP Sh. Akhand Pratap Singh, which had set out the reasons justifying the need for extension (as noted in the impugned order dated 13.06.2025). The learned Vacation Judge, in turn, applied his judicial mind to the material placed before him and independently determined by going through the case diary that there existed sufficient cause to extend the period of investigation and allow the continued detention of the petitioner. It is not the case of the petitioner that the SPP Sh. Akhand Pratap Singh did not meet the statutory qualifications to be appointed as an SPP, and rather, it is a matter of fact that he had been appointed as SPP in several other cases, including under MCOCA. Further, he had already been approved for appointment as SPP in the present case by the Government as of 24.05.2025, and the issuance of the official



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notification by the office of the Lt. Governor was the only remaining procedural formality. No mala fides have been alleged against his appearance in the present matter, nor has any prejudice or unfairness been demonstrated to have been caused to the petitioner on account of his appearance. No argument regarding his appointment was raised before the learned Vacation Judge at the time of passing of impugned order dated 13.06.2025. In such circumstances, the argument that, merely on this technical or procedural ground (that the official notification of the appointment of SPP Sh. Akhand Pratap Singh had not been issued), the accused is entitled to default bail and that the entire proceedings stand vitiated – does not merit acceptance. Once the statutory safeguards have been substantively complied with and no prejudice is shown to have been caused to the accused, the process of investigation cannot be derailed or nullified on hyper-technical grounds.

48. The aforementioned procedural lapse, of delay in issuing the official notification of the appointment of SPP, thus, does not cause any prejudice to the petitioner or result in any unfairness, and does not justify setting aside impugned orders which were passed with full application of judicial mind, and there has been no miscarriage of justice or prejudice caused to the petitioner.

49. This Court however clarifies that it is refraining from deciding the issue of retrospective effect of the notification dated 08.07.2025, as that question is not material to the determination of the present challenge, since this Court has held above that irregularity, if any,



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was merely procedural in nature and does not render the extension order legally unsustainable. The petitioner also has not specifically challenged the notification of appointment of the SPP in this case.

50. Therefore, this Court is of the view that impugned order dated 13.06.2025 suffers from no infirmity, and the extension of period of investigation and consequent judicial remand of the petitioner was valid in law. Accordingly, the time period for completion of investigation as per Section 21(2)(b) of MCOCA *qua* the petitioner had not expired and thus, the dismissal of default bail application of the petitioner *vide* impugned order dated 08.07.2025 also suffers from no infirmity.

51. Before parting, this Court deems it appropriate to briefly reflect upon one of the grounds raised by the State while opposing the petition – that leniency in such cases, where a law enforcement officer is alleged to have acted in collusion with organized crime elements, may set a wrong precedent and embolden misuse of official authority.

52. When the State opposes a petition by emphasizing the seriousness and gravity of the alleged offence, it is expected that the same degree of seriousness is reflected in the actions and approach of the prosecuting agency itself. It is pertinent to note that the process for appointment of the SPP in this case was initiated by the ACP/Special Cell on 24.03.2025 and the proposal reached the office of the Additional Commissioner of Police on 26.03.2025. However, it





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took nearly two months for the file to reach the office of the Special Commissioner of Police on 23.05.2025. Although the appointment was approved by the GNCTD on 24.05.2025, the requisite notification was issued only on 08.07.2025.

53. Thus, if the State's contention is that the case is of a serious and grave nature, requiring the Court to adopt a cautious and stringent approach, it is equally incumbent upon the State to act with due promptitude and avoid delays in critical processes such as the appointment of an SPP. This observation is made only as a note of caution, with the expectation that greater administrative efficiency will be ensured in such cases going forward.

54. In view of the foregoing discussion, this Court finds no merit in the present petition, and the same is accordingly dismissed.

55. The judgment be uploaded on the website forthwith.

**DR. SWARANA KANTA SHARMA, J**

**AUGUST 08, 2025/ns**