JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

E-ISSN: 3139-8650

Volume: 2 Issue: 3 Month: October 2026

The Waiting Prisoner: A Case-Law Matrix of Delay, Dignity and Bail under India's Special Statutes (UAPA and PMLA)

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Submitted to: Journal of International Research & Multidisciplinary Innovation (JIRMI)
Date: 12/10/ 2026

Abstract

Indian criminal law rests on a basic assumption that bail is the rule and jail the exception, but it is not so in two special legislations which govern offences. Section 43D(5) of the Unlawful Activities (Prevention) Act, 1967 prohibits the bail when the accusation is prima facie true and section 45 of the Prevention of Money-Laundering Act, 2002 requires that the court has reasonable grounds for believing that the accused should be acquitted. Both statutes involve slow proceedings; the real issue is, what happens to a person who waits for a verdict for years? This article is doctrinally answering the question this time. It documents 23 Supreme Court cases decided between April 2019 and May 2026 in a matrix with the following details: statute, period of custody, outcome, reasoning and principle. The matrix reflects that over time, the Court has read Article 21 into the bars of both bail and the UAPA, and that the typical conclusion is that when custody extends beyond a period of about fourteen months under the PMLA, and for several years under the UAPA, release is generally preferred, provided it has not meaningfully commenced. A fault line is also revealed in that there has been material difference of opinion regarding the controlling three-judge decision of Union of India v K.A. Najeeb between two-judge Benches, which resulted in a referral to a larger Bench on 22 May

2026, but remains unresolved. The article concludes that delay is now established but unquantified basis for bail, and suggests a time limited trial, a review of custody should be held periodically, and an express delay threshold in the statute to ensure predictability of the right of bail.

Keywords: bail; prolonged pre-trial detention; UAPA Section 43D(5); PMLA Section 45; Article 21; speedy trial

1. Introduction

1.1 A rule and its exceptions

No words in the Indian criminal law are repeated more than “bail, not jail”. Parliament has, however, provided for categories of offences in which such a presumption is either inverted, or qualified.1, 2 Two of the most common laws used are the Unlawful Activities (Prevention) Act, 1967 (UAPA) and the Prevention of Money-Laundering Act, 2002 (PMLA). Both impose a statutory condition that an accused person must "satisfy" before he or she can enjoy the ordinary discretion to obtain bail.

1.2 The human cost of waiting

If trials were speedy, these obstacles would be less significant. They are not. Charges are often not framed for years; co-accused are often numerous, hundreds of witnesses, and massive electronic evidence. A population of undertrial convicts convicted of nothing and yet having served sentences that would be considered lengthy sentences on their own. While official prison statistics show that three-fourths of inmates in India's prisons are undertrial inmates, the cases in this study are just the tip of the iceberg of such inmates, and the Supreme Court has had to adjudicate whether a statutory bar can justify an indeterminate period of incarceration.

1.3 Research problem, questions and hypothesis

The research problem is the clash between two orders: a statue which seeks to limit the right to be released on bail and Article 21 which guarantees personal liberty and a speedy trial. There are three questions posed in the article. First, when, if ever, does the bar of section 43D(5) of the UAPA or section 45 of the PMLA get trumped by extended pre-trial custody? Second, what other elements (advancement of the trial, strength of evidence and gravity of the charge) influence that? Third, do the Benches deal consistently with the Supreme Court? The working

hypothesis is that the Court has started to come around to treating the statutory bar as close to a bar as an independent constitutional basis for release and has done so in an uneven way that is yet not clear cut. The study includes Supreme Court cases from the period April 2019 (when Watali was decided) to May 2026 and pronounces the law as of 31 October 2026.

2. Research Methodology

2.1 Approach

The study is doctrinal & analytical. It reads the reasoning of reported judgments, finds the rule each makes and follows up the way that later Benches interpret, distinguish or challenge the rule. The analytical layer is created by coding each decision to fixed variables, thus uncovering patterns across decisions rather than within a single decision.

2.2 Case selection

Decisions were found on the Supreme Court's official judgment portal, the Supreme Court Digital Reports, SCC Online and law reports, which were then referenced by subsequent judgments, and were checked against case commentary in SCC Times, LiveLaw and Supreme Court Observer. The decision has been included when it was a Supreme Court judgment or reasoned order issued between April 2019 and May 2026, which determined or significantly influenced the bail/release process of an accused person under the UAPA or PMLA. Two general decisions were added which are subsequently followed in bail decisions in both of the statutes: Satender Kumar Antil on bail guidelines and Vijay Madanlal Choudhary on the constitutionality of section 45. Overall, 23 decisions were coded: 12 under the UAPA, 10 under the PMLA and one general decision. Each decision was then further analysed for subsequent treatment, to ensure it had not been reversed since writing.

2.3 Coding criteria

Seven variables were used to code each decision: case name, year, statute, length of custody at the time of decision, outcome (bail granted, bail denied, bail set aside, release on procedural grounds, or a structural ruling), key reasoning, and the principle laid down. The time of custody was based on the judgment or, if no time was mentioned in the judgment, on reliable case reports; approximate times are indicated with an asterisk (*). The coding of outcomes was based on the perspective of the accused. The coding protocol is reprinted in Appendix B.

3. Legal Framework

3.1 Bail under the CrPC and the BNSS

From 1 July 2024 the Code of Criminal Procedure, 1973 (CrPC) was replaced by the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). Formerly, bail of non-bailable offences was governed by sections 437 and 439 CrPC whereas now it is governed by sections 480 and 483 BNSS. The general principles are discretionary: nature of the accusation, risk of flight, likelihood of tampering with evidence, or influencing witnesses and antecedents of the accused. All offences have been classified by the Supreme Court in section 479 BNSS for the purposes of granting bail and stringent bail provisions have been reserved for “special” acts, reserving “special” offences in a separate category, and at the same time insisting that even for “special” offences, the right to speedy trial and the bail provision on maximum detention must be observed.

3.2 UAPA section 43D(5): the “prima facie true” test

Section 43D(5) is applicable to offences as outlined in Chapters IV and VI of the UAPA relating to acts of terror and affiliation to or support of terrorist organisations. It overrides the general bail provisions and requires that the Public Prosecutor be heard. It is subject to the proviso that the court, on perusal of the case diary or the police report, has reasonable grounds for believing the accusation to be prima facie correct, so that a bail is not granted. The test is negative; that is, the court does not ask if the accused is likely to be acquitted, but whether the prosecution's material, read at face value, makes out the case. If it does, then the statute prohibits bail.

3.3 PMLA section 45: the twin conditions

Section 45(1) of PMLA provides that where the Public Prosecutor opposes the grant of bail, the court must be satisfied of two things, namely, that there are reasonable grounds for believing the accused is not guilty of the offence; and that the accused is not likely to commit any offence while on bail. A proviso waives these conditions for people below 16, women, infirm and sick individuals and those accused of laundering lesser than one crore rupees. Review petitions challenging the same were pending in a three-judge Bench before which it was re-enacted in modified terms by Parliament in 2018 and which was reconstituted on 20 August 2026.

3.4 Article 21 and the right to a speedy trial

After *Maneka Gandhi*, any procedure depriving a person of liberty must be fair, just and reasonable.6 The right to a speedy trial was read into Article 21 in the *Hussainara Khatoon* litigation, which exposed the plight of undertrials held in Bihar's jails for longer than the maximum sentences for their alleged offences. The Court later applied the same reasoning to special statutes, directing release of long-detained undertrials under the Narcotic Drugs and Psychotropic Substances Act, 1985 despite its own bail bar.8 It also accepted, in the context of the Terrorist and Disruptive Activities (Prevention) Act, 1987, that a stringent bail regime remains subject to the requirement of a timely trial. These decisions supply the constitutional foundation on which the later UAPA and PMLA cases build.

4. The Judicial Journey: From Restriction to Relief

4.1 The stringent phase

The modern beginning is *NIA v Zahoor Ahmad Shah Watali.* The Delhi High Court had granted bail to an accused in a terror-funding case after looking at the evidence. The Supreme Court overturned that order and explained that the inquiry under section 43D(5) was limited: the court would have to consider the material obtained by the investigating agency as a whole and determine whether it created a prima facie case against the accused, but not on the admissibility or the weight of the evidence as would happen at trial. In practice, Watali made charge-sheet almost decisive, it said, as compared to other special statutes, which ask to be "not guilty" satisfied.

The PMLA paired up with is Vijay Madanlal Choudhary. The three judge Bench accepted the amended section 45 because money laundering is a serious offence with transnational effects which was reasonably connected with the objective of the Act. Benches that followed, as Bench #2, wanted it to be strictly enforced. In Tarun Kumar, the Court refused to bail an accused in a bank-fraud case, pointing out that the twin conditions had to be satisfied. In Kanhaiya Prasad, it quashed a bail order granted by the High Court without taking into account the twin conditions and ordered that the accused be remanded.

4.2 The liberty-oriented turn

It was a three-judge Bench formed by the Union of India v K.A. Najeeb, which made the change. The accused was in custody for over five years, a huge number of witnesses were yet

to be examined and co-accused who had been tried had been sentenced to a maximum of eight years. The Kerala High Court had issued bail, which the Supreme Court refused to overturn. It noted that a statutory provision like section 43D(5) does not exclude the power of the constitutional court to grant bail against violation of Part III of the Constitution and that the requirement of a reasonable time would be futile if there was no chance of the trial being conducted within a reasonable period of time, while the period during which the accused is already in custody is a significant portion of the prescribed sentence.

Later Benches took this line of argument two ways. The first was related to the standard of the Watali instrument itself. In the case of Vernon v State of Maharashtra, the Court has ruled that the prima facie test is not satisfied unless the Court conducts at least a surface analysis of the probative value of the evidence and in that case, the evidence against the accused was too weak to satisfy that test, and both accused were then on bail for about 5 years. That was applied to an accused who had been in custody for almost six years and Shoma Kanti Sen held that a subsequent two-judge ruling had not upset Najeeb.

The second direction was with respect to delay as a separate ground. A series of bail decisions in mid-2024 were granted because of the failure to take trials, despite the serious nature of the offences for which they were charged: *Javed Gulam Nabi Shaikh,* who was charged after four years, but where the Court was saying the right to a speedy trial is not dependent on the gravity of the offence; Sheikh Javed Iqbal, after about nine years; and Jalaluddin Khan, where the Court held that the principle that “bail is the rule” also applies under special statutes like the UAPA.

This movement went to the PMLA as well. Most recently, bail was granted to Arvind Dham after some seventeen months and two days, observing that the economic offences do not constitute a class for the purpose of granting bail and that much of the delay was due to the prosecuting agency.10 Under the women's proviso, bail has thus been granted in cases where investigation had taken around seventeen months but where no trial took place or where the trial was likely to last an eternity.

A parallel procedural route was also established. Pankaj Bansal insisted that the Enforcement Directorate must provide the reasons for arrest in writing and Prabir Purkayastha ruled that arrests under UAPA were invalid and remanded persons because of failure to provide the

reasons for arrest in writing: These rulings do not depend on the delay, but reflect the Court's policing of the gate into custody and its duration.

4.3 The counter-current and the 2026 reference

The turn is not even. In Gurwinder Singh v State of Punjab, a two-judge Bench observed that the classic maxim doesn't apply to the UAPA, which had been enacted with the objective of making jail the norm, and that failure to adequately address serious offences is not basis for granting bail. In this case, the Delhi riots “larger conspiracy” case, another two-judge Bench in January 2026 granted bail to five accused, but denied it to Umar Khalid and Sharjeel Imam, and granted the bail to the former two only after the protected witnesses have been examined, or after one year, and did so not as a rule of delay but as a “principled safeguard” to prevent “unconscionable detention”. In April 2026, the review petition against the refusal was rejected, and in July 2026, the trial court rejected new applications.

A different two-judge Bench in the case of Syed Iftikhar Andrabi v NIA, on 18/05/2026, raised serious doubts with regard to Gulwinder Singh and Gulfisha Fatima. It has held that ‘smaller Benches’ cannot change the binding three-judge authority of the larger ones; that there is no constitutional principle that can be derived from section 43D(5) as a constitutional slogan; and that the maxim ‘bail, the rule’ is a constitutional principle and section 43D(5) is subordinate to it. On the facts, it granted bail to an accused held for nearly six years, and four days later, it had seen the bail applications filed by both the co-accused in the same case and referred the perceived conflict to the Chief Justice for the constitution of a larger Bench, and granted them interim bail. By early October 2026, no order constituting the larger Bench was reported.

Status note. As this is being written, all decisions in the matrix are good law because none have been overruled. Two qualifications apply. Both the reading of Najeeb and and the criticism of those reading, in Andrabi, are before a bigger Bench. Vijay Madanlal Choudhary's case is before the constitutionality of section 45 PMLA is under review. The location of both references must be verified by the reader before using this analysis.

5. The Case-Law Matrix

Table 1 codes the 23 decisions in chronological order. Asterisks (*) mark approximate custody periods; "n/a" indicates that custody was not a variable in the decision.

Table 1. Supreme Court decisions on bail under the UAPA and PMLA, April 2019 – May 2026

Case	Year	Statute	Custody at decision	Outcome	Key reasoning	Principle laid down
NIA v Zahoor Ahmad Shah Watali	2019	UAPA	Not material to reasoning	HC bail set aside	HC exceeded the inquiry permitted at the bail stage by weighing evidence	Material is taken as a whole and at face value; "prima facie true" is a lower bar than "not guilty"
Union of India v K.A. Najeeb (3 judges)	2021	UAPA	Over 5 years	HC bail upheld	Many witnesses still to be examined; co-accused sentenced to 8 years or less	Statutory bar "melts down" where trial cannot end in reasonable time and custody is a substantial part of the sentence
Satender Kumar Antil v CBI	2022	General	n/a	Guidelines	Systemic over-incarceration of undertrials	Special-Act offences form a distinct category, but speedy trial and maximum-detention limits still apply
Vijay Madanlal Choudhary v Union of India (3 judges)	2022	PMLA	n/a	Section 45 upheld	Gravity and transnational nature of money laundering	Amended twin conditions are valid and mandatory (review pending)
Vernon v State of Maharashtra	2023	UAPA	c. 5 years*	Bail granted	Evidence of low probative value; mere possession of literature insufficient	Prima facie test requires at least a surface analysis of probative value
Pankaj Bansal v Union of India	2023	PMLA	Short (months)*	Arrest quashed; release	Grounds of arrest not furnished in writing	Written grounds of arrest are mandatory under section 19 PMLA
Tarun Kumar v Assistant Director, ED	2023	PMLA	Not material to reasoning	Bail denied	Material showed direct role in laundering	Twin conditions mandatory; parity with co-accused not automatic
Gurwinder Singh v State of Punjab	2024	UAPA	Not stated in sources reviewed	Bail denied	Trial under way; 22 witnesses examined	Delay alone no ground in grave offences; "jail is the rule" under UAPA (questioned in *Andrabi*; under reference)
Shoma Kanti Sen v State of Maharashtra	2024	UAPA	Nearly 6 years	Bail granted	Material did not prima facie show Chapter IV/VI offences; age and health	*Najeeb* not disturbed by *Gurwinder*; prolonged custody weighs heavily
Prabir Purkayastha v State (NCT of Delhi)	2024	UAPA	c. 7 months*	Arrest invalid; release	Grounds of arrest not supplied in writing	*Pankaj Bansal* applies to UAPA arrests
Javed Gulam Nabi Shaikh v State of Maharashtra	2024	UAPA	4 years	Bail granted	Charges not framed; many witnesses	Right to speedy trial applies however serious the crime

Case	Year	Statute	Custody at decision	Outcome	Key reasoning	Principle laid down
Sheikh Javed Iqbal v State of Uttar Pradesh	2024	UAPA	c. 9 years	Bail granted	Trial made little progress	Statute-specific bars cannot justify indefinite custody
Manish Sisodia v Directorate of Enforcement	2024	PMLA	c. 17 months	Bail granted	Trial not commenced; earlier assurance of trial in 6–8 months unmet	Right to bail on delay read into section 45
Jalaluddin Khan v Union of India	2024	UAPA	c. 2 years*	Bail granted	Charge-sheet did not support terrorist offences against the accused	Bail is the rule even under special statutes
Kalvakuntla Kavitha v Directorate of Enforcement	2024	PMLA	c. 5 months	Bail granted	Investigation complete; 493 witnesses; women's proviso	Proviso to section 45 cannot be denied on the ground of the accused's education or status
Prem Prakash v Union of India	2024	PMLA	c. 1 year*	Bail granted	Reliance on co-accused's custodial statements questioned	Article 21 cannot be subordinated to section 45
V. Senthil Balaji v Deputy Director, ED	2024	PMLA	c. 15 months	Bail granted	Hundreds of witnesses in predicate cases; no early trial	Section 45 cannot become a tool for indefinite incarceration
Union of India v Kanhaiya Prasad	2025	PMLA	Under 7 months	HC bail set aside	HC ignored twin conditions	Cursory bail orders under PMLA unsustainable
Udhaw Singh v Enforcement Directorate	2025	PMLA	14 months	Bail granted	One of 225 witnesses examined	*Senthil Balaji* applies; *Kanhaiya Prasad* distinguished on custody and delay
Gulfisha Fatima v State (NCT of Delhi)	2026	UAPA	Over 5 years	Bail to 5; denied to 2	Individualised assessment of roles	Delay is weighty but not decisive; *Najeeb* not a formula (under reference)
Arvind Dham v Directorate of Enforcement	2026	PMLA	c. 16 months, 20 days	Bail granted	Delay largely attributable to ED; maximum sentence 7 years	Economic offences are not a separate class; agency-caused delay favours bail
Syed Iftikhar Andrabi v NIA	2026	UAPA	c. 6 years*	Bail granted	Terror charge depended on unproven narcotics recovery	*Najeeb* binding; "bail is the rule" is a constitutional principle
Tasleem Ahmed v State (NCT of Delhi) (reference order)	2026	UAPA	c. 6 years*	Interim bail; larger Bench reference	Perceived conflict among two-judge Benches	Correct reading of *Najeeb* referred to a larger Bench

Source: Author's coding of the judgments listed in Appendix A. Custody periods are as stated in the judgments or reliable reports of them and should be confirmed against the judgment text.

6. Analysis: Delay and Dignity

6.1 When does delay override the statutory bar?

The decisions together demonstrate that delay is important, but often not sufficient, but when it is coupled with an "inert trial" it is almost always enough. In Najeeb, Vernon, Shoma Kanti Sen, Javed Gulam Nabi Shaikh, Sheikh Javed Iqbal, Manish Sisodia, Senthil Balaji, Udhaw Singh, Arvind Dham and Andrabi were among the accused who got relief in the absence of meaningful commencement of the trial after more than a year and a half of custody. The only exception was in the case of two accused in the case of Gulfisha Fatima who were denied bail even after their custodial sentences for over five years. Each threshold varies by law. However, under the PMLA (maximum sentence of seven years) relief has come after custody of fourteen to seventeen months. The successful applicants had been in custody for an average of four years or more under the UAPA, which carries life imprisonment for a multitude of offences. In High Court Bar Association, Allahabad, the Court has stated time and again that it is not bound by the timelines imposed by the trial Courts and the working rule is that custody should be accorded in proportion to the likely sentence and the realistic date of verdict of the trial Courts.

6.2 Trial progress, strength of evidence and gravity

The remainder of outcomes are mainly attributable to three additional variables. Progress in trials is the most obvious. Gurwinder Singh was denied bail when 22 witnesses were examined and Udhaw Singh granted when one out of 225 was examined, which indicates that the Court is not concerned about the number of witnesses but rather whether the trial is nearing its end. Delay is also a factor here: Arvind Dham was of the view that a delay because of the agency's own litigation weighed in favour of bail while delay on the other hand because of the accused weighed against. The strength of evidence is the operation of the statutory test. But, after Vernon, a court may examine whether the material is actually connected with the alleged offence, and both *Shoma Kanti Sen* and *Jalaluddin Khan* and Andrabi have been unable to find a connection. Gravity works in reverse. It was telling in *Gulfisha Fatima*, a case involving two co-accused who had been booked for the same period for the same charges, but were treated differently based on the roles they were playing in the case; it also forms the basis of stricter treatment of UAPA cases in general.

6.3 Inconsistency across Benches

The matrix reveals two types of contradiction. The first is doctrinal. *Gurwinder Singh* said the UAPA made jail the rule and Jalaluddin Khan and Andrabi said the bail was the rule even under the UAPA. They both say they are faithful to Najeeb and the reference to 22 May 2026 is because they can't both be right. The second is practical. Under the same Section, two different two-judge Benches gave divergent rulings four days apart in February 2025 to *Kanhaiya Prasad* and *Udhaw Singh* respectively. Udhaw Singh reconciled them on custody/delay which is defensible, but it is enough to make one realize how different a case might be adjudicated in different Benches. A system which measures results based on the makeup of the Bench rather than on the facts is uncomfortable with equality before the law. The structural problem is that the Supreme Court is composed of panels of two or three judges, and a three-judge ruling like Najeeb can be read by many such smaller panels, which do not officially disagree with it; Andrabi singled out that problem.

6.4 Dignity as part of Article 21

The decisions are increasingly about prolonged custody as a matter of dignity, as well as delay. Pre-trial detention should not be punitive, but the longer the duration the closer it is to being a sentence without a verdict. In a direct challenge to the disproportionately high charge for a likely sentence, Arvind Dham said the sending away was in effect a punishment. The age and health of the accused was given credence by Shoma Kanti Sen, while Kalvakuntla Kavitha challenged the notion that an educated woman is not a woman as per the definition of the statute. These are dignity-based considerations: They ask not so much what is in the State's interest in continued detention as what detention does to the person who is detained. This can be supported by the jurisprudence on Article 21, which has long recognized human dignity as part of the right to life. Its implication is that this burden to explain the necessity of the continued custody ought to grow over time, such that the State has more to offer for the fifth year for a child's detention than for the first.

6.5 International standards

The International Covenant on Civil and Political Rights (ICCPR) was ratified in India in 1979. Taking the above standard into account, a categorical ban on pre-trial detention would be

incompatible with the Covenant unless courts had discretion to release due to delay, but this is a power which Najeeb retains.

Comparative systems have different ways of achieving the same result. Preventive detention for dangerousness has been approved in the United States on the basis that it is regulatory and not punitive, and the reasoning here is important to India: preventive detention is defensible only as a regulatory measure, and when it becomes indefinite detention pending delay during a trial that is not making any progress it loses its regulatory quality. What they have in common, and what India doesn't have for special statutes – is an outer limit that is fixed in advance and not identified on a case by case basis.

7. Findings

The matrix gives rise to five findings. **First,** the Supreme Court is now the court of relief. In 21 cases involving liberty of an identified accused, 16 were released, one was granted partial liberty and four cases were rejected and/or the liberty was set aside. **Second**, it's not just a large custody amount, but the combination of a large amount of custody and a trial with no end in sight. **Third,** the threshold varies by statute: about fourteen to seventeen months for the PMLA, but four years or more for the majority of successful UAPA cases. **Fourth,** there are common characteristics among the denials – one fast-track trial (Gurwinder Singh), two short custody cases (Kanhaiya Prasad, Watali) or a central role (Gulfisha Fatima, in both cases). **Fifthly,** the doctrinal framework of delay-based bail under the UAPA remains unfinalised in the larger Bench, and that of section 45 is being examined. These should not be interpreted as the percentage of bail granted by the trial courts and High Courts.

8. Recommendations

Time-bound trials. Special courts under both statutes should be well staffed and should establish a date for trial at the time of framing charges; and should conduct daily hearings once evidence starts. It should be the duty of the prosecution to weed out witnesses that repeat the same evidence, such as Udhaw Singh who has 225 witnesses listed.

Periodic custody review. Every person accused of committing any of the acts of offences contained in this or any other Act should have the custody of such persons reviewed at regular

intervals, say every six months, by a special court, on the record of which its reasons for continuing the custody and its progress in the trial should be recorded. It would make the inquiry become a routine procedure, the same way that Najeeb and Senthil Balaji need to do it only when the accused is brought to the Supreme Court.

Judicial guidelines. When the question of bail on the basis of delay arises, the larger Bench should give, as far as the subject permits, a clear indication, as to which factors are relevant and how they are weighted: the proportion of time the accused has spent already in prison; stage and speed of trial; attribution of delay; material links between accused and the offence. A clear statement would diminish the number of times that the outcome of a case depends on who's on the Bench.

Legislative reform. Parliament should insert an express proviso in section 43D(5) of the UAPA and section 45 of the PMLA that the bar should not intervene when the accused has been in custody for a certain period and it is not likely that the trial shall be completed within another period. For ordinary offences, this is implicit in section 479 BNSS; extending this in an adapted form to special statutes would make it a predictable right rather than a safeguard which the judge can choose to apply or not.

9. Limitations

There are four limitations of this study. Again, it is doctrinal and does not say anything specific about trial courts and High Courts – where the majority of bail applications are heard and where the results can vary widely. The sample did not consist of random decisions but rather those that were of doctrinal importance, so the descriptive statistics of these decisions cannot be generalized. Judgments and other sources of information used for custody periods were drawn from reliable reports and some are assumed. Lastly, the law on the move: the larger Bench under the UAPA and the hearing of Vijay Madanlal Choudhary could alter this framework of analysis, and the matrix should be updated when these cases are heard.

10. Conclusion

The prisoner awaiting trial sits uneasily in Indian law. The statute says there is no bail, the Constitution says that people cannot be deprived of their liberty without trial forever. The Supreme Court has on many occasions settled those conflicts in favour of liberty between 2019

and 2026 by incorporating Article 21 in section 43D(5) of the UAPA, and section 45 of the PMLA, so that when there is a stalled trial, the individual's release becomes the norm, not the exception. It is a true but incomplete resolution. It relies on a three-judge opinion that has been interpreted in various ways by the smaller Benches, on criteria that the Court has not articulated numerically and on the order in which cases are assigned to the smaller Benches. The potential for the larger Bench in the UAPA question and the review of Vijay Madanlal Choudhary will be a chance to provide shape to the right. Until that time, the matrix indicates a useful guideline—The longer the delay and the slower the trial, the more difficult it is for the State to justify detention without a verdict.

Declarations

Acknowledgements. No acknowledgements.

Use of AI tools. AI-assisted tools were used solely for language refinement, grammatical corrections and improving the readability of the manuscript. The author has reviewed and verified the final content and take full responsibility for its accuracy, originality and integrity.

Conflict of interest. The author declares that there are no conflicts of interest, financial or otherwise, that could have influenced the research, its findings or the preparation of this manuscript.

Funding. This research received no specific grant or financial support from any funding agency in the public, commercial or not-for-profit sectors.

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29. *V Senthil Balaji v Deputy Director, Directorate of Enforcement* 2024 SCC OnLine SC 2626
30. *Vernon v State of Maharashtra* 2023 SCC OnLine SC 885
31. *Vijay Madanlal Choudhary v Union of India* 2022 SCC OnLine SC 929

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2. Bharatiya Nagarik Suraksha Sanhita 2023
3. Code of Criminal Procedure 1973
4. Constitution of India 1950, arts 21, 22
5. International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171
6. Prevention of Money-Laundering Act 2002, s 45
7. Prosecution of Offences (Custody Time Limits) Regulations 1987, SI 1987/299
8. Speedy Trial Act 1974, 18 USC §3161
9. Unlawful Activities (Prevention) Act 1967, s 43D(5)

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5. 'On Trial Again' *India Legal* (2026) <https://indialegallive.com/cover-story-articles/il-feature-news/pmla-review-supreme-court-constitution-bench-vijay-madanlal-choudhary-ruling/> accessed 5 November 2026

Appendix A: List of Judgments Coded

Case	Citation	Date	Bench strength
NIA v Zahoor Ahmad Shah Watali	(2019) 5 SCC 1	2 Apr 2019	2
Union of India v K.A. Najeeb	(2021) 3 SCC 713	1 Feb 2021	3
Satender Kumar Antil v CBI	(2022) 10 SCC 51	11 Jul 2022	2
Vijay Madanlal Choudhary v Union of India	2022 SCC OnLine SC 929	27 Jul 2022	3
Vernon v State of Maharashtra	2023 SCC OnLine SC 885	28 Jul 2023	2
Pankaj Bansal v Union of India	(2024) 7 SCC 576	3 Oct 2023	2

Case	Citation	Date	Bench strength
Tarun Kumar v Assistant Director, ED	2023 SCC OnLine SC 1486; 2023 INSC 1006	20 Nov 2023	2
Gurwinder Singh v State of Punjab	(2024) 5 SCC 403	7 Feb 2024	2
Shoma Kanti Sen v State of Maharashtra	2024 SCC OnLine SC 498; 2024 INSC 269	5 Apr 2024	2
Prabir Purkayastha v State (NCT of Delhi)	(2024) 8 SCC 254	15 May 2024	2
Javed Gulam Nabi Shaikh v State of Maharashtra	(2024) 9 SCC 813	3 Jul 2024	2
Sheikh Javed Iqbal v State of Uttar Pradesh	(2024) 8 SCC 293	18 Jul 2024	2
Manish Sisodia v Directorate of Enforcement	2024 SCC OnLine SC 1920; 2024 INSC 595	9 Aug 2024	2
Jalaluddin Khan v Union of India	(2024) 10 SCC 574	13 Aug 2024	2
Kalvakuntla Kavitha v Directorate of Enforcement	2024 SCC OnLine SC 2269; 2024 INSC 632	27 Aug 2024	2
Prem Prakash v Union of India	(2024) 9 SCC 787	28 Aug 2024	2
V. Senthil Balaji v Deputy Director, ED	2024 SCC OnLine SC 2626; 2024 INSC 739	26 Sep 2024	2
Union of India v Kanhaiya Prasad	2025 SCC OnLine SC 306; 2025 INSC 210	13 Feb 2025	2
Udhaw Singh v Enforcement Directorate	2025 SCC OnLine SC 357; 2025 INSC 247	17 Feb 2025	2
Gulfisha Fatima v State (NCT of Delhi)	2026 SCC OnLine SC 10	5 Jan 2026	2
Arvind Dham v Directorate of Enforcement	2026 INSC 12	6 Jan 2026	2
Syed Iftikhar Andrabi v NIA	2026 SCC OnLine SC 881	18 May 2026	2
Tasleem Ahmed v State (NCT of Delhi)	Order (reference to larger Bench)	22 May 2026	2

Dates of Najeeb and Prem Prakash are as commonly reported and should be confirmed from the judgment headers before publication.

Appendix B: Coding Protocol

Variable	Definition and coding rule
Case	Short title as reported; bench strength noted where it bears on precedential weight
Year	Year of the judgment or reasoned order
Statute	UAPA, PMLA, or General (decision not confined to either statute but relied on in both)
Custody at decision	Period in custody when the Supreme Court decided, as stated in the judgment or reliable reports; * marks an approximation; “n/a” where custody was not a variable

E-ISSN: 3139-8650
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Variable	Definition and coding rule
Outcome	From the perspective of the accused: bail granted; bail denied; HC bail upheld or set aside; arrest quashed and release; interim bail and reference; structural ruling
Key reasoning	The fact-sensitive reasons the Court gave for the outcome
Principle laid down	The proposition of law for which the decision is later cited, with notes on its current status