

**IN THE HIGH COURT OF BOMBAY AT GOA****CRIMINAL APPLICATION (MAIN) NO.864 OF 2026 (F)**

The Directorate of Enforcement,  
Government of India, Ministry of Finance,  
Department of Revenue,  
Through: The Assistant Director,  
Panaji Zonal Office, 1<sup>st</sup> & 2<sup>nd</sup> Floor,  
LIC Building, Patto Plaza, Panaji, Goa.

..Applicant.

Versus

Mr. Nihal Vadakkencherry Nazer @ Nihal V. N. @ Nihal RAK,  
Age: 30 years,  
R/o. Hajiya Rice Mill, Vadakkancherry,  
Palakkad, Kerala,  
(Presently: Accused in ECIR/PJZO/02/2025;  
arrested on 21.07.2026; enlarged on bail vide impugned  
order dated 18.08.2026).

..Respondent

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Mr. Pravin Faldessai, Deputy Solicitor General of India with Mr. S. Samant, Special Public Prosecutor with Mr. Anshul Kumar Sarathe, Advocate for Applicant.

Mr. S. S. Kantak, Senior Advocate with Ms. Nehal Kholkar with Mr. Shubham Govekar with Mr. Vasudev Salkar, Advocate for Respondent.

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**CORAM : S. G. CHAPALGAONKAR, J.**

**RESERVED ON : 28<sup>th</sup> AUGUST, 2026.**

**PRONOUNCED ON : 21<sup>st</sup> SEPTEMBER, 2026.**

**JUDGMENT:-**

1. The Directorate of Enforcement through Assistant Director, Panaji Zonal Office impugns order dated 18.08.2026 passed by Sessions Court, North Goa, Merces (Special Court) under Prevention of Money Laundering Act, 2002 (hereafter referred to as 'PMLA'), in Bail Application No.208/2026, whereby respondent/accused arrested under

Section 19 of PMLA in ECIR/PJZO/02/2025 has been enlarged on bail invoking 1<sup>st</sup> Proviso to Section 45(1) of PMLA.

2. In nutshell case of applicant is that FIR No.22/2024 has been registered by Anti-Narcotic Cell (ANC), Police Station, North Goa under Section 20(b)(ii)(A) and Section 22(c) of NDPS Act, 1985 against one Madhupan Suresh Sasikala, upon seizure of narcotic substances valued at approximately Rs.1,01,65,200/-, which is scheduled offence under paragraph II of Part A of Schedule to PMLA. Upon investigation, charge-sheet has been filed by Goa Police. Eventually, on 13.02.2025 ECIR No.ECIR/PJZO/02/2025 has been recorded by applicant-Directorate of Enforcement. On search under Section 17 of PMLA at premises, Madhupan's statement is recorded admitting drug trade, eventually, he has been arrested under Section 19 of PMLA. In his statement under Section 15 of PMLA, he disclosed role of respondent. Eventually, PMLA Case No.4/2026 has been filed before Special Court against seven accused namely Madhupan, Uttam Chand, Anamcharam Pradhan, Prayag Palyekar @ Notco, Gurudas @ Saish Nagvekar, Ayesha Kara and Saiyesh Agarwadekar, quantifying total proceeds of crime at Rs.3.96 crores as per money-trail flow chart.

3. The respondent was summoned under Section 50(2)(iii) of PMLA with direction to produce documents including his I-phone required for investigation. The respondent appeared in response to summons. He

has been arrested on 21.07.2026 under Section 19 of PMLA upon reasons to believe, recorded in writing and grounds of arrests. The respondent was produced before jurisdictional Court with remand application under Section 187(2) BNSS, 2023 r/w Section 19 and 65 of PMLA. On 18.08.2026, respondent's Bail Application No.208/2026 came to be allowed observing that proceeds of crime attributed to respondent individually being less than Rs.1 crore. Proviso to Section 45(1) is attracted and twin test condition for grant of bail would not *per-se* impediment for grant of bail.

4. Mr. Pravin Faldessai, learned Deputy Solicitor General of India submits that respondent's role occupies significance in laundering chain. The respondent supplied mechanism for converting domestic cash receipts into medium capable of settling overseas purchases beyond reach of formal banking system. In statement recorded under Section 50 of PMLA, Mr. Madhupan S. S. disclosed that he had approached for conversion of Indian Rupees into USDT upon which respondent provided him details of four different bank accounts for transfer of funds required for such conversion. Acting upon instructions of respondent, Mr. Madhupan S. S. transferred Rs.5.88 lakhs into account of M/s. Mother Moon Market Pvt. Ltd. and further sum of Rs.2 lakhs into account of Mr. Rahul Rajeev Parupath. Upon receipts of funds in said accounts, respondent arranged transfer of equivalent value in

Dirhams (AED) at Dubai, which was thereafter transferred to contact of Mr. Madhupan for procurement of LSD through Dark Net. The investigation revealed that an aggregate of Rs.12.25 lakhs was transferred by Mr. Madhupan into bank accounts arranged and provided by respondent for conversion into USDT, and that respondent knowingly facilitated concealment, layering and movement of proceeds of crime by arranging banking channels and effecting cross border conversion of illicit fund into cryptocurrency. The respondent, knowing fully well about narcotic drugs and their availability, knowingly assisted Mr. Madhupan in laundering proceeds of crime, as is evident from WhatsApp communications exchanged between them. The respondent during his custody between 21.07.2026 to 28.07.2026 made disclosure statement under Section 50 of PMLA about his role in facilitating laundering proceeds of crime generated from narcotic trafficking.

5. It is accordingly submitted that although respondent received an aggregate of Rs.12.25 lakhs from multiple nodes of laundering network, he was common cross border conversion conduit servicing syndicate and not an isolated accommodation party. The money laundering liability in a syndicate is joint. The entire laundered amount of Rs.3.96 crores which cannot be seen in piecemeal quantum attributed to an individual role. The Special Court erroneously observed that Proviso to Section 45(1) of PMLA would operate in present case on the basis of

amount received by respondent. In support of his submissions he relies upon observations of Supreme Court in case of *Saumya Chaurasia Vs. Directorate of Enforcement*<sup>1</sup>, *Tarun Kumar Vs. Assistant Director, Directorate of Enforcement*<sup>2</sup>, *Babulal Verma and Another Vs. Enforcement Directorate and Another*<sup>3</sup>, *Ranjitsingh Bramhajeetsingh Sharma Vs. State of Maharashtra*<sup>4</sup>.

6. Per contra, Mr. S. S. Kantak, learned Senior Advocate appearing for respondent submits that twin test condition under Section 45(1)(ii) of PMLA cannot be interpreted as absolute bar to grant bail in PMLA offences. Relying upon chart of money flow he submits that role of respondent cannot be linked to syndicate of money laundering. The respondent has not facilitated conversion of Rs.12.88 lakhs into cryptocurrency of Madhupan. His role is limited to conversion of money received from four different accounts in UAE Dirham. Even otherwise, transaction in cryptocurrency is not barred in India. The respondent is not an accused in predicate offence. Even other accused persons in PMLA Case No.4/2026 are not arrested, who have direct role in laundering proceeds of predicate offence. The respondent can be at the most referred as accused of money laundering of Rs.12.88 lakhs, but cannot be linked with entire proceeds of crime for purpose of Section 3 of PMLA. Section 45 speaks of accused of money laundering only. The

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<sup>1</sup> 2024 (6) SCC 401.

<sup>2</sup> 2024 (13) SCC 788.

<sup>3</sup> 2021 SCC OnLine Bom. 392.

<sup>4</sup> (2005) 5 SCC 294.

respondent is entitle for benefit of proviso to Section 45, being accused of money laundering, below threshold of Rs.1 crore. The Special Court has rightly observed that Proviso to sub-cause (ii) of sub-Section (1) of Section 45 of PMLA squarely applies in facts of case and directed release of respondent by putting stringent conditions that would rule out apprehension of prosecution as to possibility of absconding and flight risk.

7. Having considered submissions advanced by learned Advocates appearing for respective parties and after going through material tendered into service, questions that arises for consideration before this Court are as under:-

- “(i) whether at this stage respondent can claim benefit of monetary threshold exemption under Proviso to Section 45 of PMLA;*
- (ii) whether applicant had made out case to cancel bail granted to respondent applying Proviso to Section 45 of PMLA.”*

8. Before entering into evolution of material relied upon by applicant to make out case against respondent, it would be appropriate to refer to definition of money laundering in Section 3 of PMLA, which reads thus:

***“3. Offence of money-laundering.—Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the 1[proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming] it as untainted property shall be guilty of offence of money-laundering.***

<sup>2</sup>*[Explanation.—For the removal of doubts, it is hereby clarified that,—*

*(i) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following processes or activities connected with proceeds of crime, namely:—*

*(a) concealment; or*

*(b) possession; or*

*(c) acquisition; or*

*(d) use; or*

*(e) projecting as untainted property; or*

*(f) claiming as untainted property,*

*in any manner whatsoever;*

*(ii) the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever.]”*

9. Section 23 provides for presumption in inter-connected transactions, which reads thus:

*“Where money-laundering involves two or more inter-connected transactions and one or more such transactions is or are proved to be involved in money-laundering, then for the purposes of adjudication or confiscation 1[under section 8 or for the trial of the money-laundering offence, it shall unless otherwise proved to the satisfaction of the Adjudicating Authority or the Special Court], be presumed that the remaining transactions from part of such inter-connected transactions.”*

10. Section 24 deals with burden of proof and reads thus:

**“24. Burden of proof.**—*In any proceeding relating to proceeds of crime under this Act,—*

*(a) in the case of a person charged with the offence of money-laundering under section 3, the Authority or Court shall, unless the contrary is proved, presume that such proceeds of crime are involved in money-laundering; and*

*(b) in the case of any other person the Authority or Court, may presume that such proceeds of crime are involved in money-laundering.]”*

11. Section 45 prescribes that offences to be cognizable and non-bailable. Sub-cause (1) of Section 45 reads thus:

***“45. Offences to be cognizable and non-bailable.—***

*(1) <sup>1</sup>[Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no person accused of an offence <sup>2</sup>[under this Act] shall be released on bail or on his own bond unless—]*

*(i) the Public Prosecutor has been given a opportunity to oppose the application for such release; and*

*(ii) where the Public Prosecutor opposes the application, 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:*

*Provided that a person, who, is under the age of sixteen years, or is a woman or is sick or infirm, <sup>3</sup>[or is accused either on his own or along with other co-accused of money-laundering a sum of less than one crore rupees] may be released on bail, if the Special Court so directs:”*

12. It is trite that, offence of money laundering must be viewed in context of entire criminal enterprise rather than in isolation with respect to individual roles. The collective nature of operations, financial interlinks between accused persons and fraudulent intent evidenced through sustained unlawful activity and then it is to be found that whether accused was an integral part of broader scheme to launder proceeds of crimes. Proviso to Section 45 of PMLA confers discretion on Court to grant bail where accused falls within conditions of proviso, however, that does not mean that looking to value of transaction of

money laundering in every case, accused shall be released on bail. At this stage, reference can be given to observations of Supreme Court in case of **Saumya Chaurasia** (supra), particularly paragraph no.23, which reads thus:

*“23. The use of the expression "may be" in the first proviso to Section 45 clearly indicates that the benefit of the said proviso to the category of persons mentioned therein may be extended at the discretion of the court considering the facts and circumstances of each case, and could not be construed as mandatory or obligatory on the part of the court to release them. Similar benevolent provision for granting bail to the category of persons below the age of sixteen years, women, sick or infirm has been made in Section 437 CrPC and many other special enactments also, however by no stretch of imagination could such provision be construed as obligatory or mandatory in nature, otherwise all serious offences under such special Acts would be committed involving women and persons of tender age below 16 years. No doubt the courts need to be more sensitive and sympathetic towards the category of persons included in the first proviso to Section 45 and similar provisions in the other Acts, as the persons of tender age and women who are likely to be more vulnerable, may sometimes be misused by the unscrupulous elements and made scapegoats for committing such crimes, nonetheless, the courts also should not be oblivious to the fact that nowadays the educated and well placed women in the society engage themselves in the commercial ventures and enterprises, and advertently or inadvertently engage themselves in illegal activities. In essence, the courts should exercise the discretion judiciously using their prudence, while granting the benefit of the first proviso to Section 45 PMLA to the category of persons mentioned therein. The extent of involvement of the persons falling in such category in the alleged offences, the nature of evidence collected by the investigating agency, etc. would be material considerations.”*

13. Now turning back to role ascribed to respondent, particularly flow chart depicting money trail, it can be observed that Madhupan, who is main accused in predicate crime has transferred amount of Rs.5.88 lakhs

in account of M/s. Mother Moon Market Pvt. Ltd. from his SBI Bank account from where said amount came to account of respondent. Similarly, Madhupan transferred amount of Rs.2 lakhs in account of Rahul Rajeev Parupath, who in turn transferred said amount to respondent. Similarly, Madhupan directly transferred amount of Rs.4.2 lakhs to account of respondent. The respondent converted it to Dirham and transferred to account of Mr. Nishant Pratap in Abu Dhabi Commercial Bank at Dubai, who converted it to crypto wallet. The aforesaid money trail is discernible from account statement, WhatsApp chats between respondent and Madhupan.

14. Perusal of impugned order suggest that Special Court was of view that respondent's role was limited to forwarding amount received from Madhupan to Nishant Pratap holding account in Dubai, which was then converted to US Dollar and cryptocurrency. Further, respondent's role is only to the extent of Rs.12.88 lakhs and, therefore, respondent cannot be linked to proceeds of Rs.3.96 crores generated by illegal narcotic transaction or laundering. Eventually, Special Court applied proviso to Section 45(A) of PMLA in benefit of respondent.

15. The close look to definition of Section 3 would show that any person who directly or indirectly attends to indulge or knowingly assists any process or activity connected with the proceeds of crime including its concealment or use and projecting or claiming it as untainted property

can be said to be guilty of offence of money laundering. The explanation further clarifies the process or activities connected with proceeds of crime. Further, Section 23 provides for presumption in interconnected transactions that those transaction forms part of money laundering offence.

16. In light of aforesaid legal position, *prima facie* in facts of present case, this Court finds that there is sufficient material to presume that respondent is involved in offence of money laundering as defined under Section 3 of the Act. However, question is whether respondent could have been enlarged on bail, particularly without applying twin test prescribed under Section 45. Proviso to Section 45 has been introduced vide amendment w.e.f. 19.04.2018 after judgment of Supreme Court in case of Nikesh Tarchand Shah Vs. Union of India declaring then existing Section 45 was held unconstitutional. The exemption is given from application of twin conditions (i) and (ii) prescribed under sub-clause (1) of Section 45 if person is accused either on his own or alongwith other co-accused of money laundering, a sum less than Rs.1 crore.

17. Apparently proviso uses words “person is accused of money laundering” of threshold sum of Rs.1 crore. It does not refer to proceeds of crime. Therefore, even in cases where proceeds of crime is more than Rs.1 crore, active involvement of accused on his own or

alongwith other co-accused of money laundering needs to be segregated for deciding as to whether benefit of proviso can be enlarged to such accused. In present case, proceeds of crime are said to be Rs.3.96 crores. When prosecution was filed against seven accused persons including Madhupan, they are accused of money laundering of total sum of Rs.3.96 crores. The respondent's role is connected with transfer of money by Madhupan for conversion into Dirham. There is nothing to show that respondent has role directly or indirectly in money laundering of any more amount beyond Rs.12.88 lakhs. *Prima facie*, respondent cannot be individually or vicariously linked to money laundering of total proceeds of crime of Rs.3.96 crores on the basis of money trail flow chart relied by prosecution. Even from investigation so far, nothing is discernible that respondent was any way connected or part of larger activity of money laundering. His role is in narrow compass whereby he dealt with total sum of Rs.12.88 lakhs and facilitated its conversion to Dirham for which he has charged commission. In this backdrop, this Court do not find any fault with view taken by Sessions Court extending benefit of proviso under Section 45 of PMLA to respondent.

18. Once it is held that respondent/accused was entitled to seek exemption of twin conditions under Section 45 of PMLA, it is necessary to examine whether in general parlance he was otherwise entitled for

grant of bail. In such situation, what is to be examined is whether continuation of detention of accused is necessary for investigation, whether his release would hamper investigation and whether he would be available for investigation or trial as and when require. Although it is argued on behalf of applicant that there is flight risk and respondent may not be available for further investigation, Special Court has incorporated necessary conditions to secure interest of prosecution. The respondent's role as per prosecution case is limited to transaction of Rs.12.88 lakhs and investigation made so far in clear terms fixes responsibility of each and every accused for money laundering of particular sum. Therefore, there is nothing to demonstrate that further investigation may reveal involvement of respondent in larger organized activity of money laundering that would disentitle him to seek exemption from twin test.

19. Since present application is filed for cancellation of bail which is already granted by Special Court, unless it is shown that exercise of discretion by Special Court was pervert or fallacious, to such an extent, that it extents undue benefit to accused and causes prejudice to prosecution, order granting bail shall not be interfered. In present case, this Court do not find that exercise of discretion by Special Court was arbitrary or prejudicial to interest of fair investigation. The stringent bail conditions incorporated in impugned order nullifies apprehension of

flight risk. In result, this Court finds no good ground to interfere in order impugned. Hence, Application stands rejected. The order impugned is maintained.

**(S. G. CHAPALGAONKAR)**  
**JUDGE**

Devendra/September-2026