

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3380 OF 2026

Khilji Mohsinahmed Mustakali	Applicant
	.. (Accused No.4)
Versus	
Directorate of Enforcement and Another	.. Respondents

WITH
BAIL APPLICATION NO.3148 OF 2026

Sharifmiya Amirmiya Shaikh	Applicant
	.. (Accused No.5)
Versus	
Directorate of Enforcement and Another	.. Respondents

WITH
BAIL APPLICATION NO.3379 OF 2026

Ritesh Kumar S. Shah	Applicant
	.. (Accused No.6)
Versus	
Directorate of Enforcement and Another	.. Respondents

.....

- Mr. Abad Ponda, learned Senior Advocate a/w. Mr. Viral Babar, Mr. Yasir Khan, Ms. Saakshi Singh, Mr. Nishant Kanse. Mr. Prithviraj Patil in Bail Application No. 3380 of 2026
- Mr. Abad Ponda, learned Senior Advocate a/w. Ms. Neha Ahuja and Mr. Amit Ahuja Advocates for Applicants in Bail Application No.3148 of 2026.
- Mr. Abad Ponda, learned Senior Advocate a/w. Mr. Amit P. Ghag , Mr. Dhavan Shah, Mr. Viral Babar, Mr. Yasir Khan, Ms. Saakshi Singh, Mr. Nishant Kanse and Mr. Prithviraj Patil, Advocates for Applicant in Bail Application No.3379 of 2026.
- Mr. C.K. Pendse a/w. Mr. Atharva S. Jagtap, SPP for Respondent No.1 – ED.
- Mr. Yogesh Nakhwa, APP for Respondent – State in Bail Application No.3380 of 2026.
- Ms. Sangeeta E. Phad, APP for Respondent – State in Bail Application No.3148 of 2026.
- Mr. Amit A. Palkar, APP for Respondent – State in Bail Application No.3379 of 2026.

.....

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 17, 2026

P.C.:

1. Heard Mr. Ponda, learned Senior Advocate for Applicants in Bail Application No.3380 of 2026 and Bail Application No.3148 of 2026; Mr. Ghag, learned Advocate for Applicant in Bail Application No.3379 of 2026; Mr. Pendse, learned SPP for Respondent No.1 – ED; Mr. Nakhwa, learned APP for Respondent – State in Bail Application No.3380 of 2026; Ms. Sangeeta E. Phad, learned APP for Respondent – State in Bail Application No.3148 of 2026; and Mr. Palkar, learned APP for Respondent – State in Bail Application No.3379 of 2026.

2. This is a group of three (3) Bail Applications decided together. All three (3) Applicants are arraigned as accused persons in the same crime and seek regular bail in connection with ECIR bearing No. ECIR/MBZO-II/20/2024 registered by Respondent No.1 – Directorate of Enforcement for offences punishable under Sections 3 and 4 of the Prevention of Money Laundering Act, 2002 (for short “PMLA”). There are total of 6 accused persons. Applicant in Bail Application No.3380 of 2026 is arraigned as Accused No.4. Applicant in Bail Application No.3148 of 2026 is arraigned Accused No.5 whereas Applicant in Bail Application No.3379 of 2026 is arraigned as Accused No.6.

3. Briefly stated, according to prosecution case Applicants and other accused persons are involved in the creation and operation of shell companies / entities and fictitious bank accounts. Charge against accused persons is that they used individuals by promising employment opportunities and obtained their KYC documents for incorporation of shell companies / entities, opened multiple bank accounts and facilitated transactions through the network of shell companies / entities accounts including remittances to foreign entities and companies. Respondent No.1 registered ECIR offence based on the predicate offence namely CR No.8 of 2024 registered with ATS Nashik to investigate the role of Applicants in the money laundering offence. Applicant in Bail Application No.3148 of 2026 is arrested on 02.01.2025. Chargesheet is filed on 09.01.2025 against Accused No.1 and 5 others and Accused No.5 is not named therein neither in the scheduled offence nor chargesheet. Similarly, Applicant in Bail Application No.3380 of 2026 is arrested on 02.01.2025 and Applicant in Bail Application No.3379 of 2026 is arrested on 17.03.2025.

4. Applicants have draw my attention to order dated 20.07.2026 passed by this Court (Coram: Ashwin D. Bhobe, J.) in Bail Application No.2048 of 2026 enlarging Accused No.1 in the same crime on bail. They persuade me to consider parity and long

incarceration of the present Applicants as Applicants have been incarcerated for a period in excess of 18 months in one case and 20 months in remaining two cases and most importantly the ignominy of the trial not even commencing and for that matter not concluding in the near foreseeable future for enlarging the Applicants on bail.

5. Mr. Pendse, learned SPP for Respondent No.1 – ED would vehemently oppose the grant of bail on the ground that Applicants alongwith co-accused persons and more specifically the main accused person called Mehmood Abdul Samad Bhagad who is absconding are / were deeply involved in money laundering amounting to crores of rupees. He would forcefully submit that all accused persons were in tandem and cheated several persons and should not be given bail because the principal accused person is still absconding and has not been arrested till date. He would submit that there is therefore every possibility that all three (3) Applicants will re-offend themselves by getting in touch with the principal accused person and will commit / repeat / continue the offence and shall re-offend themselves. He would submit that there is every likelihood that Applicants will jump bail and therefore he would persuade me to consider the gamut and the extent of the crime unearthed pursuant to investigation which is forming part of the humongous chargesheet of 7000 pages and reject the Bail Applications of Applicants.

5.1. He has drawn my attention to three (3) separate Affidavits-in-reply filed by the Assistant Director, Zonal Office II, Mumbai on behalf of Respondent No.1 and Ministry of Finance, Department of Revenue, Government of India dated 09.09.2026 in the three matters and would vehemently submit that releasing the Applicants on bail would hinder the tracing of proceeds of crime dealt with by the accused persons in the present crime. He has addressed the Court at length on change in circumstances, facts of the case where substantial transactions were engaged, reasons of grant of bail on parity and long incarceration and most importantly on satisfaction of twin conditions contemplated under Section 45 of the PMLA not having been satisfied to persuade the Court to reject the Bail Applications. He would urge the Court passionately to consider the seriousness of the offence, involvement of Applicants, and every possibility of they re-offending themselves.

5.2. He would draw my attention to paragraph no.317 of the decision of Supreme Court in the case of *Vijay Madanlal Choudhary and Ors. Vs. Union of India and Ors.*¹ and on reading, it would contend that in the present case the twin conditions remain fully unsatisfied and the *mens rea* of the offence impacts the financial systems including the sovereignty and integrity of the country and therefore notwithstanding the extent of the total punishment prescribed for the

¹ (2023) 12 SCC 1

offence and the sentence undergone in incarceration till date, the Applicants should still be denied bail.

6. I have heard Mr. Ponda, learned Senior Advocate for Applicants in Bail Application No.3380 of 2026 and Bail Application No.3148 of 2026; Mr. Ghag, learned Advocate for Applicant in Bail Application No.3379 of 2026; Mr. Pendse, learned SPP for Respondent No.1 – ED; Mr. Nakhwa, learned APP for Respondent – State in Bail Application No.3380 of 2026; Ms. Sangeeta E. Phad, learned APP for Respondent – State in Bail Application No.3148 of 2026; and Mr. Palkar, learned APP for Respondent – State in Bail Application No.3379 of 2026 and with their able assistance perused the record of the case. Submissions made by all the Advocates at the bar have received due consideration of the Court.

7. At the outset it is seen that chargesheet of 7000 pages has been filed and prosecution desires to examine 40 witnesses in all. Applicants and more specifically Mr. Ponda have all referred to and relied upon the decision of the Supreme Court in the case of ***Manish Sisodia Vs. Central Bureau of Investigation²***, and the relevant paragraph no.26 therein which reads as under:-

“26. A perusal of the aforesaid would reveal that this Court was concerned about the prolonged period of incarceration suffered by the appellant. After considering various earlier pronouncements, this Court emphasised that the right to speedy trial is a fundamental right within the broad scope of Article 21 of the Constitution. Relying on

2 2024 SCC OnLine SC 1920

Vijay Madanlal Choudhary v. Union of India this Court observed that Section 436-ACrPC should not be construed as a mandate that an accused should not be granted bail under the PMLA till he has suffered incarceration for the specified period. This Court recorded the assurance given by the prosecution that they shall conclude the trial by taking appropriate steps within next 6-8 months. This Court, after recording the said submissions, granted liberty to the appellant to move a fresh application for bail in case of change in circumstances or in case the trial was protracted and proceeded at a snail's pace in next three months. This Court observed that if any application was filed, the same would be considered by the trial court on merits without being influenced by the dismissal of the earlier bail applications including its own judgment. It further observed that the observations made regarding the right to speedy trial will be taken into consideration.”

8. The argument advanced by Mr. Pendse while referring to the decision in the case of *Vijay Madanlal Chaudhary (Supra)* has been squarely answered and dealt with in the aforesaid paragraph by the Supreme Court and I need not elaborate any further on that count. Another decision of Supreme Court delivered earlier in the case of ***Mohd. Muslim Vs. State (NCT of Delhi)***³ wherein relevant paragraph Nos.21 and 22 with regard to special conditions holds as under:-

“21. A plain and literal interpretation of the conditions under Section 37 (i.e. that court should be satisfied that the accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether, resulting in punitive detention and unsanctioned preventive detention as well. Therefore, the only manner in which such special conditions as enacted under Section 37 can be considered within constitutional parameters is where the court is reasonably satisfied on a *prima facie* look at the material on record (whenever the bail application is made) that the accused is not guilty. Any other interpretation would result in complete denial of the bail to a person accused of offences such as those enacted under Section 37 of the NDPS Act.

22. The standard to be considered therefore, is one, where the court would look at the material in a broad manner, and reasonably see whether the accused's guilt may be proved. The judgments of this Court have, therefore, emphasised that the satisfaction which courts are expected to record i.e. that the accused may not be guilty, is only *prima facie*, based on a reasonable reading, which does not call for

3 Criminal Appeal No(s).Of 2023 @ Special Leave Petition (Crl.) No(S). 915 Of 2023.

meticulous examination of the materials collected during investigation (as held in Union of India v. Rattan Mallik [Union of India v. Rattan Mallik, (2009) 2 SCC 624 : (2009) 1 SCC (Cri) 831]). Grant of bail on ground of undue delay in trial, cannot be said to be fettered by Section 37 of the Act, given the imperative of Section 436-A which is applicable to offences under the NDPS Act too (ref. Satender Kumar Antil [Satender Kumar Antil v. CBI, (2022) 10 SCC 51 : (2023) 1 SCC (Cri) 1]). Having regard to these factors the Court is of the opinion that in the facts of this case, the appellant deserves to be enlarged on bail.”

9. This Court (Coram: Ashwin D. Bhobe, J.) while granting bail to Accused No.1 by order dated 20.07.2026 considered the issue of long incarceration while relying on the decision of ***Arvind Dham Vs. Enforcement Directorate***⁴ wherein accused was incarcerated for 16 months 20 days and it considered the maximum sentence which would be of 7 years which is also so for the present Applicants before me. The co-ordinate bench also considered the aspect of prolonged incarceration and pre-trial detention and most importantly right to speedy trial enshrined under Article 21 of the Constitution of India notwithstanding the nature of offence and punishment it entailed.

10. In the present case maximum punishment in PMLA Special case is 7 years and charge-sheet of 7000 pages is filed and 40 witnesses are to be examined by the prosecution and it is bound to take a very long time for trial to commence and for that matter conclude. Hence on parity as well as on the ground of long incarceration and right to speedy trial being considered as grounds for grant of bail. I am inclined to release to all three (3) Applicants on bail.

⁴ 2026 SCC OnLine SC 30

11. Further, the apprehension expressed by Mr. Pendse is taken care of by imposing stringent conditions in addition to the usual conditions including the condition suggested by Mr. Pendse for deposit of their passports forthwith before the trial court even before their release by the Applicants' family members so that the Applicants will not abscond as they are considered to be a flight risk.

12. Hence, in view of my aforesaid *prima facie* observations and findings, Bail Applications are allowed subject to the following conditions:-

- (i) All three (3) Applicants are directed to be released on bail in connection with Crime upon furnishing P.R. Bond in the sum of Rs.5,00,000/- (Rupees Five lakhs only) each with one or two solvent sureties in the like amount; In lieu of this, at the request made by Advocates, that they are residents of Gujarat, provisional cash bail is granted and within 3 weeks of release they shall provide the solvent sureties;
- (ii) All three (3) Applicants shall report to the Investigation Officer, Respondent No. 1-Directorate of Enforcement, on the 2nd and 4th Saturday of each month from 10.00 a.m. to 12.00 p.m., If the 2nd and 4th Saturday of the said month falls on a holiday, Applicants shall mark presence on the next working day till the conclusion of the trial in PMLA Special Case No. 191 of 2025;
- (iii) All three (3) Applicants shall not directly or indirectly make any inducement, threat or promise to any witness

and / or person/s acquainted with the facts of the case to dissuade such person/s from disclosing the facts to the Court or any police officer;

- (iv) All three (3) Applicants shall not tamper with evidence in any manner;
- (v) All three (3) Applicants' family members shall deposit their passports with the Court of the Additional Sessions Judge designated as the Special Court under the PML Act, 2002, at the City Civil & Sessions Court, Mumbai, in Special Case No. 191 of 2025 forthwith before their release from jail;
- (vi) All three (3) Applicants shall, within three (3) days of release from jail, provide to the Investigation Officer, Directorate of Enforcement, Mumbai, with their residential address along with proof, their contact numbers, email and must inform the Investigating Officer of any changes to this information from time to time;
- (vii) All three (3) Applicants shall not travel outside India without obtaining prior written permission from the Additional Sessions Judge designated as the Special Court under the PML Act, 2002, at the City Civil & Sessions Court, Mumbai; and
- (viii) All three (3) Applicants shall appear before the Additional Sessions Judge designated as the Special Court under the PML Act, 2002, at the City Civil & Sessions Court, Mumbai, on each date fixed in Special Case No. 191 of 2025, unless specifically exempted by the Court. If the Applicants abstain from attending the

proceedings without justifiable cause that could also be seen as a breach of the bail condition and the Special Court under the PML Act, 2002, at the City Civil & Sessions Court, Mumbai, will be free to pass appropriate orders.

13. It is clarified that the above observations made in this order are limited for the purpose of granting bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made hereinabove in this order.

14. All three (3) Bail Applications are allowed and disposed of in the above terms.

[MILIND N. JADHAV, J.]

Ajay

AJAY
TRAMBAK
UGALMUGALE
Digitally signed
by AJAY
TRAMBAK
UGALMUGALE
Date:
2026.09.17
13:36:39 +0530