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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 3495 OF 2026

Radha Mohan Mishra

.. Applicant

Versus

State of Maharashtra

.. Respondent

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- Mr. Salman K. Pathan a/w. Ms. Kanika Ahuja and Ms. Kirti Ahuja, learned Advocates for Applicant.
- Ms. Sukanta Karmakar, APP for Respondent – State.
- Dr. Aman Pandey, Chief Medical Officer Mumbai Central Prison.
- Kanchan Jadhav, Police Inspector, Crime Branch Unit – 4, Pune City

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CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 7, 2026.

P.C.:

1. Heard Mr. Pathan, learned Advocate for Applicant and Ms. Karmakar learned APP for Respondent No.– State.

2. Present Application is filed by Applicant under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “**BNSS**”) seeking enlargement on bail in connection with FIR No.210 of 2026 registered with Crime Branch Unit – 4, Pune for offences punishable under Sections 61(2), 115(2), 123, 351(2), 352, 64(2)(m), 68, 74, 75, 77 read with 3(5) of Bharatiya Nyaya Sanhita, 2023 (and Sections 3, 4, 5 of Maharashtra Prevention of Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013.

3. Briefly stated, Applicant and one Rajan Kakkar resided in

separate accommodations on a jointly held land and were in partners in real estate business. Rajan Kakkar was Power of Attorney holder of Applicant's family and managed the finances and properties of Applicant's family. In 2010 Applicant's family and Kakkar family jointly purchased property in Pune upon which Applicant's residence is constructed and is presently the subject of pending civil litigation before jurisdictional Civil Court in Pune. In 2024, disputes arose between Applicant and Kakkar family and Applicant's family revoked Power of Attorney granted in favour of Kakkar family. Between July 2025 and April 2026, Applicant's family addressed three police complaints alleging threats and blackmail by Kakkar family to them. On 17.06.2026 at 1:50 a.m. Applicant was arrested from his residence along with 23 family members and FIR No.210 of 2026 came to be registered against Applicant and 6 other persons. Applicant filed Bail Application No.4114 of 2026 before Additional Sessions Judge, Pune which came to be rejected by order dated 25.08.2026. Trial Court rejected Applicant's Bail on merits as well as medical grounds. Hence, the present Application.

4. Mr. Pathan, learned Advocate for Applicant would submit that Applicant was arrested at 1:50 a.m. however grounds of arrest were furnished to Applicant only at 8:00 a.m therefore Applicant's arrest was gross, brazen and an unconstitutional deprivation of his fundamental rights as Respondent failed to comply with safeguards

enumerated under BNSS. He would submit that around 200 police officers without identification forcefully entered Applicant's house and detained over 23 individuals including women and children.

4.1. He would submit that no grounds for arrest were furnished to Applicant nor any of the individuals detained neither was any FIR filed against them as the FIR was only registered at 4:15 a.m. i.e. over 2 hours after their arrest. He would submit that 17 individuals were detained without any FIR registered against them and they were subsequently released by the Police at 5:00 a.m. and dropped to their homes. He would submit that 6 accused persons, excluding Applicant, filed Writ Petition No.3008 of 2026 before this Court challenging their illegal arrest and sought grant of bail which was allowed by order dated 23.07.2026.

4.2. He would submit that submit that Applicant is 59 years old and suffers from numerous serious medical conditions. He would submit that Applicant underwent Sleeve Gastrectomy surgery in November 2025 wherein 80% of his stomach was removed and he was to then maintain a strictly prescribed liquid / semi liquid diet. He would submit that subsequently in March 2026 Applicant was diagnosed with IgG4 disease, a rare auto immune disorder which affected Applicant's pituitary gland and pancreas functioning and required his mandatory dosage of steroids daily to survive. He would submit that since Applicant also suffers from Liver Cirrhosis and Auto

Immune Pancreas disease which is shown in his discharge summary and medical reports which are appended at page No.196 to 208 of the Petition, bail is pleaded predominantly on medical grounds. He would submit that since Applicant's arrest, he was unable to maintain his strict diet in custody and he has lost 21 kilograms of weight which is dangerous to his health and further suffers from vomiting, giddiness, dehydration and abdomen discomfort due to which he has falled 3 – 4 times in custody. He would submit that in July 2026, Applicant was hospitalized in Sasson General Hospital, Pune however rheumatology and endocrinology specialists were not available, hence in August 2026 Applicant was transferred to KEM Hospital, Mumbai and later to J.J. Government Hospital, Mumbai for treatment for treatment. He would submit that Applicant's medical condition did stabilize but however his prescribed diet was not available at either hospital.

4.3. He would submit that Applicant's repeated hospitalization shows that his medical condition is life threatening and mere classification of his condition as stable cannot be equated to treatable while in custody. He would submit that Applicant suffers from chronic multi organ diseases due to which he has been admitted to hospital on several occasions and suffered drastic loss in body weight while in custody due to non – availability of prescribed diet. He would submit that Applicant requires to follow a strict diet, receive timely medication and constant observation of a rheumatologist, gastroenterologist and

endocrinologist which cannot be provided to him while he is in custody. He would refer to and rely upon the decisions of the Supreme Court, Delhi High Court and this Court in the following cases in support of his submissions:- (i) *Ushik Mahesh Gala Vs. Directorate of Enforcement* ¹; (ii) *Amit Katyal Vs. Directorate of Enforcement* ² (iii) *Mihir Rajesh Shah Vs. State of Maharashtra*³ and (iv) *Ashrafbhai Ibrahimhai Kalavdiya* ⁴. He would urge this Court to consider the medical condition of the Applicant and enlarge Applicant on bail in light of his submissions.

5. *PER CONTRA* Mr. Karmakar, learned APP for Respondent – State would submit that perusal of General Diary at Kharadi Police Station states that cognizable offence and First Information Report were both recorded at 2:03 a.m therefore Applicant was arrested prior to after receiving information of a cognizable offence against him and not later as alleged by Applicant. He would submit that Investigation Officer furnished ground of arrest under Section 47 of BNSS to Applicant at 8:00 a.m. which were explained to Applicant in Hindi, the language he is conversant with, after which he affixed his signature on the same, therefore grounds of arrest were duly communicated to him in accordance with law.

5.1. He would submit that sister of Applicant filed Writ Petition

¹ Bail Application No.1836 of 2026 decided on 24.08.2026

² Bail Application No.2024 of 2024 decided on 26.06.2024

³ MANU/SC/1492/2025

⁴ Criminal Bail Application No.420 of 2025 decided on 18.07.2025

before this Court seeking to hospitalize Applicant due to certain medical issues and a team of doctors from J.J. Hospital examined Applicant and filed their report stating that Applicant was in stable medical condition and thereafter sister of Applicant withdrew her writ Petition. He would submit that there is no document on record to show that Applicant is ailing from any life threatening medical condition and therefore he would urge me to dismiss the present Application for grant of bail. He would refer to and rely upon the following decisions of this Court in support of his submissions:- (i) *Rukmini Prabhunath Mishra Vs. The State of Maharashtra*⁵; (ii) *Sunil Kumar Rameshchandra Garg Vs. State of Maharashtra*⁶; (iii) *Lalit Nagpal Vs. State of Maharashtra*⁷.

6. I have heard both the learned Advocates appearing for the parties and with their able assistance, perused the record of the case. Submissions made by learned Advocates and APP at the bar have received due consideration of the Court.

7. Applicant before this Court seeks enlargement on bail primarily on grounds of illegal arrest and his poor medical condition. At the outset it is seen that there are 7 accused persons including Applicant arraigned in FIR No.210 of 2026 however all accused persons excluding Applicant were granted bail by virtue of order dated

⁵ Writ Petition No.3983 of 2026 decided on 14.08.2026

⁶ Interim Application No.4340 of 2025 in Criminal Bail Application No.3428 of 2025 decided on 05.12.2025

⁷ Criminal Application No.348 of 2006 decided on 12.09.2006

23.07.2026 passed by this Court in Writ Petition No.3008 of 2026. Learned Advocate for Applicant has urged bail to be granted to Applicant on medical grounds to seek appropriate medical attention due to his drastic loss of weight in custody and lack of access to his prescribed medication. Certain reports alluded to determine the severity of Applicant's medical condition have been perused by me with the able assistance of the learned Advocates as well as two Doctors who have presented themselves before Court on behalf of prosecution. These reports are as follows:- viz:- (i) Discharge Summary dated 05.11.2025 issued by Dr. Raman Goel, Bariatrics Department of Wockhardt Perusal of the material on record would show that Applicant underwent Sleeve Gastrectomy Surgery and though Applicant was discharged in stable condition he was to maintain strictly liquid diet and follow with his attending doctor Dr. Madhu Goel; (ii) CT Scan and PET Scan Report dated 18.06.2025 conducted by Dr. Aishvarya Vasishta of Aiva Sonograph Clinic which concludes that Applicant suffers from advanced chronic liver disease; (iii) FAPI Scan Report dated 06.03.2026 conducted by Dr. Uday Phadke of Dr. Solav Spectlab which concludes that Applicant suffers from chronic fibrotic phase of Autoimmune Pancreatitis i.e. (IgG4) which was confirmed by CT Scan Report dated 01.05.2026 issued by Dr. Sushil Panbude Consultant Radiologist at Grant Medical Foundation Ruby Hall Clinic and (iv) Medical documents issued by Department of

General medicine, Grant Government Medical College and Sir JJ Group of Hospitals, Mumbai which confirms the findings in the aforementioned medical reports and states that Applicant is required to consult specialist doctors in Gastroenterology, Endocrinology and Rheumatology. The Doctors present in Court have interacted with me on the veracity of the above reports / papers and *prima facie* do not dispute the same.

8. The core of the prosecution is that Applicant's medical condition is not serious or life threatening and can be treated through Yerwada jail hospital and he can continue his medication prescribed by doctors at J.J. Government Hospital in jail. It is also the case of prosecution that there was no illegality in Applicant's arrest and that ingredients of all offences under BNS and Maharashtra Prevention of Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013 *qua* Applicant are duly complied with and therefore he should not be enlarged on bail.

9. In the present case, after perusal of the material appended on record, I have no doubt that Applicant's medical condition is precarious and the chronology of his medical history while in custody is even more disturbing even to the mind of a normal prudent person. It is seen that Applicant has been admitted to 5 hospitals between Pune and Mumbai within 70 days of incarceration due to his medical

condition. Applicant underwent Sleeve Gastrectomy Surgery in November 2025 where 80% of his stomach was removed and he was strictly directed to remain on liquid / semi liquid diet. Thereafter Applicant was arrested on 17.06.2026, he was diagnosed with Auto Immune Pancreatitis IgG4 disease and was admitted to DY Patil Medical College and Hospital to take Rituximab Injection. Due to severe complications from his surgeries and non – availability of his prescribed diet in the Jail Hospital, Applicant underwent episodes of vomiting, dizziness, fainting, dehydration and fatigue and *prima facie* it is seen that he lost 21 kilograms of body weight in a span of 48 days of incarceration which by itself is alarming and dangerous to health under normal circumstances let alone the dire medical circumstances within which Applicant finds himself in the present case. It is further seen that since Yerwada Jail Hospital and Sasson General Hospital did not have the requisite specialist doctors, Applicant was brought to Mumbai on 31.07.2026 to receive medical attention from KEM Hospital and JJ Hospital. The reports issued by these hospitals are appended to the Application and I have perused the same.

10. Perusal of the material on record bring home the conclusion that sickness, infirmity and health conditions of Applicant are severe and hence directing Applicant to remain in custody or even the prison hospital, is incompatible with his health conditions and that it would run the risk of deterioration of his health further to a point of no return

in that case. We are otherwise all aware of the jail conditions and the enormity of congestion in jails and I need not comment on the same.

11. The long standing practice of “bail is the rule, jail is the exception” ought to be aptly put into practice in such open and shut cases. I am conscious of the fact that Medical Bail is the most misused bail when all doors are shut. There is no doubt in the correctness of this statement by and large. However, the doctors present in Court before me have confirmed about the infirmity of Applicant’s health due to his medical condition and do not dispute the Medical Reports. In the present circumstances, Applicant has undergone Sleeve Gastrectomy Surgery where 80% of his stomach was removed as a consequence of which he is restricted to liquid / semi liquid diet. There is no dispute that Applicant does not have access to this strictly prescribed diet and the consequences of non adherence to the same are seen in his drastic weight loss and frequent admission to numerous hospitals. Applicant is further diagnosed with Type – I Auto Immune Pancreatitis, Liver Hepatitis, Tuberculosis and even Pitutary Gland issue for which Applicant is to take steroids. None of these ailments are disputed by Respondent.

12. In this regard I would like to refer to the decision of the Delhi High Court in the case of *Amit Katyal Vs. Directorate of Enforcement*⁸, wherein it was held that it is vital to meet dietary

⁸ Supra

requirements of undertrials if they are to be physically and medically fit to stand trial which may not be adequately provided in jail. The relevant paragraph No.20 is reproduced hereunder for ease of reference:-

“20. On a conspectus of the report dated 14.06.2024 by the Medical Board of the AIIMS as also the treating Doctors at DDU Hospital as per the prescription dated 21.06.2024, besides the medical history of the applicant, the answer should be in the affirmative. It is but manifest that the dietary requirements of the applicant are such that they cannot be provided in the jail premises. Considering that the petitioner has undergone surgery on 09.04.2024, post Bariatric Surgery, he needs to be given a proper diet in order to attain adequate physical, mental and psychological well-being for at least a period of 3 to 4 months. The level of care, attention, minute to minute monitoring and emergency response which the applicant requires, cannot be provided at the jail presently. There is no gainsaying that providing home cooked food on an every day basis for a long duration is fraught with several technical hurdles at the jail premises.”

13. Perusal of the material on record would show that Applicant's prolonged incarceration eventhough for a few months has significantly affected his overall health and *prima facie* he requires ample rehabilitation, care, monitoring of his diet, precaution from infections and regular uninterrupted appointments with Gastroenterology, Rheumatology and Endocrinology specialists. These requirements can only be met if Applicant receives treatment at a hospital of his choice and / or his home where he is well taken care of away from infection related environment if he is to stand trial. There is a marked qualitative difference in the treatment received as an

undertrial prisoner especially in jail barracks and jail hospital and as a citizen under no restraint. I need not say much on this aspect. Food supplements and medical care form the fulcrum of Applicant's rehabilitation process. It is seen from Applicant's precarious medical condition, degree of care and monitoring of existing / subsisting ailments from which the Applicant suffers along with observations for any untoward complications that may arise altogether clearly justify grant of medical bail to the Applicant before me.

14. Investigating Officer shall be at the liberty to visit the hospital / home of Applicant for investigation after giving him due notice. Applicant's supervising doctors are directed to prepare appropriate reports about the status and medical condition of Applicant and his availability to co-operate with the investigation depending on his recovery and apprise the Investigating Officer about the same within one month from today.

15. Applicant shall cooperate and provide all details for investigation as called upon. The Application of Applicant is primarily considered on medical grounds at this stage and it is subject to revocation if he and / or other accused persons do not co-operate with the investigation. Merely because at this stage unless the entire chain which is linked is to be traced including the absconding Accused or there maybe involvement of other parties, keeping the Applicant in jail in his present precarious condition when he is ready to co-operate

cannot be the answer to deny him bail on medical grounds. Hence, on both above counts but with a direction that Applicant's through their other accused persons shall ensure complete co-operation with the investigation and he shall make all disclosures as required.

16. That apart this Court while passing orders on pervious occasions in so far as the Applicant's medical condition is concerned has clearly applied its mind and the same is certified by the reports placed before this Court. Hence on medical ground, Applicant deserves enlargement on bail for his medical treatment and rehabilitation which cannot be denied to him in view of his precarious medical condition and requirement for post surgery rehabilitation. Needless to state that every 6 months the Applicant will present himself at Sasson General Hospital for a checkup and the Dean of the said hospital shall, through a committee, examine the status of Applicant's health parameters and give opinion in a Report to the prosecution. Prosecution will be at liberty to approach this Court on the basis on that Report for seeking custody of the Applicant and for seeking cancellation of his medical bail.

17. In view of the above order, Applicant is directed to be released on bail on medical grounds on following conditions:-

- (i) Applicant – Radha Mohan Mishra be released on bail, on furnishing a P.R. Bond of Rs.2,00,000/- and one or more sureties in the like amount;

(ii) It is directed that the other accused persons, if any, whose names shall be provided by the Applicant to the Investigating Officer, shall attend investigation before the Investigating Officer on the first and third Monday of every month from 10:00 a.m. to 5:00 p.m. with all disclosures as called for by the Investigating Officer initially for a period of six (6) months from today and thereafter depending upon the Report given by the Sasson General Hospital, the Applicant will also join in the investigation along with all the other accused persons who are directed to be present before the Investigating Officer as directed or as called for by the Investigating Officer thereafter. Every month after his release, Investigating Officer shall be at liberty to visit the Applicant's home with 2 days advanced notice to enquire about his health and rehabilitation and keep a record of the same in writing in the form of a report for Court's information if so required later;

(iii) Applicant shall not leave the country without prior permission of the Court;

(iv) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;

(v) Applicant shall keep the Investigating Officer informed

of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time, as applicable;

(vi) Applicant shall surrender his passport with the Investigating Officer of the concerned police station;

(vii) Applicant shall not indulge in any activity similar to the activities on the basis of which the Applicant stands prosecuted;

(viii) Applicant shall not try to establish communication with any co-accused or any other person involved directly or indirectly in similar activities, through any mode of communication;

(ix) Any infraction of the conditions shall entail cancellation of bail granted to the Applicant.

18. Liberty to apply for cancellation of this order to prosecution in case of any breach of the conditions.

19. Bail Application No. 3495 of 2026 is allowed and disposed in above terms.

[MILIND N. JADHAV, J.]

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