

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 46 OF 2025

Mahadev Ramchandra Deshmukh .. Applicant

Versus

The Directorate of Enforcement .. Respondent

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- Mr.Sudeep Pasbola, Senior Advocate a/w Mr. Sandeep Karnik, Mr. Vishwajeet Nimbalkar and Mr. Swaraj Sable, i/b Sandeep Karnik for Applicant.
- Mr. Shreeram Shirsat a/w Mr. Nikhil Daga, for Respondent No.1 – ED.
- Ms. Rajeshree V. Newton, APP for State.

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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 27, 2025

P. C.:

1. Heard Mr. Pasbola, learned Senior Advocate; Mr. Shirsat, learned Special Prosecutor for Respondent No.1 – ED and Ms. Newton, learned APP for State.

2. Applicant - accused has filed the present Application for regular bail in connection with PMLA Special Case No.734 of 2022 arising out of ECIR bearing No. ECIR/MBZO-II-31/2021 registered with Enforcement Directorate for the offence punishable under Sections 3 and 4 of the Prevention of Money Laundering Act, 2002 (for short “**PMLA Act**”). The predicate offence is registered online whereas the date of registration of offence under the PMLA is on 20.10.2021. Date of the alleged incidents is from 2014 to 2016.

Applicant is arrested on 06.05.2022. At the time of arrest Applicant was 66 years old and today he is 69 years old. Record placed before the Court *prima facie* shows that Applicant is admitted in the Jail Hospital of Mumbai Central Prison since 24.02.2024 and thereafter he has been repeatedly referred to substantive medical treatment for various medical ailments to Sir J.J. Group of Hospitals and he is presently on several medications.

3. Application is listed on the Board on the request made by learned Advocate for Applicant by a *praecipe* dated 21.03.2025 placing before the Court the medical condition of the Applicant due to his medical ailments duly certified by Sir J.J. Group of Hospitals on 25.02.2025 recently pursuant to the directions given by the Court previously. Though the Application is heard by me on medical ground for considering the case of the Applicant for bail, Mr. Shirsat, learned Special Prosecutor persuaded the Court to also consider the Application on merits in view of the case of the prosecution indicting the Applicant for laundering a humongous amount for which he has been indicted in the present crime. Briefly he would submit that Applicant is the President of the Society which collected substantial amounts to the tune of more than Rs. 65.7 crores in cash from students under the guise of granting them admission in medical faculty and further the said funds were transferred, part of them were

withdrawn as cash and salary and part of which were replenished to various other accounts under the guise of purchase of medical equipments and services and therefore there is substantial documentary material unearthed by the investigating agency to *prima facie* show complicity of the Applicant and other co-accused in the crime.

4. He would also persuade the Court to consider previous antecedents of Applicant *prima facie* of similar nature to reject his Bail Application. He would fairly submit that co-accused Nos. 2, 3, 4 and 6 out of 7 accused persons have been enlarged on bail and Accused No.5 is the society. Present Applicant before me is the only accused person who is in incarceration.

5. Mr. Pasbola, learned Senior Advocate for Applicant would persuade the Court to consider Applicant's case on medical grounds, details of which are appended to the *praecipe* dated 21.03.2025 which has been filed before the Court placing all annexures on record in consonance therewith and persuade the Court to consider the case of Applicant on the ground of long incarceration for more than 2 years 10 months and 21 days especially in view of the fact that unless and until the predicate offence is tried out the special offence would not be proceeded with and more specifically in view of the stay of the trial in the predicate offence in the present case.

6. Mr. Shirsat, learned Special Prosecutor would persuade the Court to call for a fresh medical examination record of the present medical status of the Applicant in view of the fact that medical condition of the Applicant was duly considered by the learned Sessions Court in its order dated 26.12.2024 while rejecting the Bail Application. He has drawn my attention to page No.238 of the Application where said order has been placed on record to contend that once the trial Court has ascertained the medical condition and directed the Applicant to continue his medication while in jail, this Court should not consider the request for medical bail. Mr. Shirsat would have been right in his contentions in an ideal case, but that is not the case of the Applicant before me. Applicant before me has been certified by the Medical Board and doctors of Sir J.J. Group of Hospitals in February, 2025 that he has been suffering from neurological disease namely Parkinson's disease since 1993 onwards and the after effect of which has worsened his condition on all counts pursuant to his present incarceration in jail. Contributory fact to the same is undoubtedly the Applicant's age.

7. Learned Sessions Court in its order dated 28.02.2025 has equally taken care of and cognizance of Applicant's medical condition when it has allowed an attendant to accompany the Applicant for taking his care while in jail. A detailed medical report is appended to

the *praecipe* pursuant to the examination of the Applicant by Sir J.J. Group of Hospitals on 26.02.2025 when he was hospitalized and was under observation. The Applicant is diagnosed with a large exophytic cyst on the upper portion of his right kidney and has been advised to undergo immediate surgery.

7.1. The provisions of the PMLA Act in this case are invoked by the Applicant. Mr. Pasbola has drawn my attention to the 1st proviso of Section 45(1) of the PMLA Act and would contend that the Applicant would be entitled to the the benefit of first proviso of the said section for seeking bail on the ground of he being sick the infirm due to his old age.

7.2. Medical report having been placed on record appended to *praecipe* has been issued by the Sir J.J. Group of Hospitals is dated 26.02.2025. It is a detailed report and encompasses various medical treatments with respect to the ailments suffered by the Applicant. It is noted therein that Applicant is suffering from a neurological disease namely Parkinson's disease, which has led to various complications including cogwheel rigidity of limbs, facial deviation (paralysis), difficulty to speak, chew and swallow, difficulty to co-ordinate movements, multiple incidents of fall, memory issues etc.

7.3. Mr. Pasbola would submit that in such a situation and state he would require not only regular medical checkup but rather monitoring on day to day basis by a neurosurgeon in the Hospital in view of the fact that he has deranged blood pressure and blood sugar inspite of regular medications. The fact that Applicant is taking regular medications is also taken cognizance of by the learned Sessions Court in its order while referring to the 4 major medical ailments of the Applicant which are depicted in the chart in the order of the learned Sessions Court appended at page No.242 of the Application. The medical report appended to the *praecipe* issued by the Sir J.J. Group of Hospitals *prima facie* speaks for itself and it does not need any further delineation in my order. Applicant is unable to perform his day to day functions without the assistance of a care taker neither he is able to sit on the floor even for a few moments in view of the cyst in his kidney leading to urinary problems, severe constipation with bleeding piles, gastritis problems, Alzheimer and epilepsy which cause his seizures.

8. Apart from the aforesaid issues the learned Special prosecutor has persuaded me not to consider the issue of long incarceration in prison and would persuade me to see the observations of learned Sessions Court at page No.246 of the Application wherein learned Sessions Court has in fact held that delay has occurred on

account of Applicant's own conduct. Though the same has been pointed out to me, *prima facie* it is clear that Applicant even though may be an undertrial accused in the present offence, he is undoubtedly a human being first whose health has deteriorated drastically and even if prosecution case is taken to be true at the highest still nothing prevented the prosecution from expediting the trial from its side.

9. *Prima facie* it is also seen that the predicate offence has been compounded between the complainant and the Accused which is seen from the order dated 12.11.2022 appended at page No.392 of the Application. I am informed that Writ Petition against the said order is pending before this Court in which stay has been granted by the learned Single Judge, copy of which is appended at page No.394 of the Application. In that view of the matter writ petition will take its own turn. I would not like to give any *prima facie* observations on the merits of the matter *qua* the proceeds of crime as alleged by the prosecution in view of the above *prima facie* observations and findings on the grounds of medical ailments suffered by the Applicant. That apart Applicant has already undergone imprisonment for a period of 2 years 10 months and 21 days in the present crime pending trial and in view of the present status of the trial in the predicate offence possibility of the trial being commenced and completed in the near foreseeable future is highly unlikely. All other co-accused persons

having been granted bail also inures to the benefit of Applicant seeking parity. Applicant is entitled to invoke benefit of the first proviso to Section 45 (1) of the PMLA Act in view of his aforesaid medical condition and his age leading to it and as such has made out a case for grant of bail on the ground of his medical condition.

10. Hence, Bail Application is allowed subject to the following terms and conditions:-

(i) Applicant is directed to be released on bail in connection with PMLA Special Case No. 734 of 2022 pending on the file of Special Judge, Mumbai under the PMLA Act arising out of ECIR/MBZO-II/31/2021 on furnishing PR. Bond in the sum of Rs.3,00,000/- (Rupees three Lakhs Only) with one or two sureties in the like amount;

(ii) Applicant is permitted to furnish provisional cash bail of Rs.3,00,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs.3,00,000/- within a period of four weeks after his release which shall be accepted by the Trial Court. Applicant shall provide sureties as directed;

(iii) Applicant shall not directly or indirectly attempt to

contact or communicate with the prosecution witnesses and victims of the scheduled offences in any manner. If it is found that the Applicant directly or indirectly made even an attempt to contact any prosecution witness or victim in the scheduled as well as offences under the PMLA, it will be a ground to cancel the bail granted to the Applicant;

(iv) Applicant shall attend the office of the Deputy Director, the Directorate of Enforcement, Mumbai Zone-II, once in three months between 11:00 am to 02:00 pm and report to the Investigating Officer;

(v) Before the Applicant is enlarged on bail, he shall surrender his passport to the Special Court under the PMLA, Mumbai. If he does not hold a valid passport, he shall file an Affidavit to that effect;

(vi) Applicant shall regularly and punctually remain present before the Trial Court/Special Court, Mumbai and shall cooperate with the Court for early disposal of the case; If he desires to seek exemption from attending the Court he shall make an appropriate Application in that regard to the Court;

(vii) If Applicant seeks adjournment on non-existing or

frivolous grounds or creates hurdles in the early disposal of the case, the bail granted to him shall be liable to be cancelled;

11. It is clarified that the 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 herein above in this order.

12. Bail Application No.46 of 2025 is allowed and disposed.

[MILIND N. JADHAV, J.]