

Filed on :
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Duration :

D M Y

**IN THE COURT OF
PRINCIPAL DISTRICT & SESSIONS JUDGE
AHMEDABAD (RURAL) @ AHMEDABAD.**

Criminal Misc. Application No. 588 of 2026

APPLICANT/ACCUSED

Kaashif Makbul Doctor

s/o Makbul Abdul Rehman Doctor

Age: 34 yrs, Male,

Residing at : House No.10/2055,

B No.4. Safiya Manjil,

Soni Faliya, Sindhiwad 8th,

Surat 395003.

(at present in Lajpor Central

Prison, Surat).



V E R S U S

OPPONENT

Directorate of Enforcement

Notice to be served through

Assistant Director,

Surat Sub Zonal Office,

115-116, Hariom Awas Bungalow,

Nr. Valentine Multiplex,

Dumas Road, Surat 394007.

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Application for regular bail u/s 483 of BNSS, 2023.
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APPEARANCE:

Ld. Adv. Mr. C.K. Pandya for the applicant.

Ld. Spl.P.P. Mr. Aniruddh Kambhoj for Ld. Spl. P.P. Mr. S.V.

Thakkar for the Opponent .
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J U D G M E N T

1. The present application is preferred by the applicant u/s. 483 of the BNSS, 2023 for regular bail in connection with ECIR **No: ECIR/STSZO/04/2025 dt. 26/3/2025** recorded by Directorate of Enforcement with **Surat Sub Zonal office** u/s 3 and 4 of Prevention of Money Laundering Act, 2002 and **PMLA Case No.20/2025**.

2. Ld. Advocate Mr. C.K. Pandya appearing on behalf of the applicant/accused submits that applicant is innocent and has not committed any offence as alleged by the prosecuting agency - Enforcement Directorate (in short ED). At the outset it is submitted that the ECIR at annexure "A" was registered on 26/3/2025 on the basis of FIR No.11210005241161/2024 registered with Athwalines Police Station. The ECIR except the said FIR has no reference of any other FIR. The applicant came to be arrested on 3/10/2025 from the Lajpor central prison by way of transfer warrant. The prosecution complaint came to be filed on 27/11/2025. The Enforcement Directorate has included 5 more FIRs by addendum dated 21/11/2025, by pointing out this factual aspect it is argued that whether ED can amend ECIR and whether those 5 FIRs by way of amending the original ECIR, which were not part of ECIR, on the basis of which arrest is effected as per Sec.19 of PML Act can be relied at all at the time of effecting the arrest. The very fact that these 5 FIRs came to be added in ECIR subsequent to the arrest of the accused would render the arrest illegal as those FIRs are relied by the I.O. while

effecting the arrest. As per the decision of *Vijay Madanlal Chaudhary vs Union of India, 2022 SCC Online Sc 929* the ED officer is required to record subjective satisfaction mentioning the grounds of arrest and reasons for arrest before effecting arrest and in the present case, the FIRs which were not part of the ECIR is relied by ED officer for effective arrest itself shows that the ED officer's said satisfaction about ground of arrest and reasons for arrest are without any basis and renders arrest illegal.

- 2.1 It is submitted that the applicant is not resident from where the alleged material pertaining to schedule offence has been recovered as the applicant is residing at Dubai. He was never in possession of any proceed of crime. The applicant is arrested only on the ground that he happens to be son of accused no.1 Makbul Abdul Rehman Doctor. The applicant at no point of time came into possession and/or control or acquisition of proceeds of crime nor he has tried to conceal and project it as untainted property. No proceeds of crime is recovered or discovered from the applicant. The ED officer has not adhered to the provision of Section 19 prior to effecting arrest as the grounds of arrest of applicant's father - accused no.1 Makbul Abdul Rehman Doctor is copied word by word and this shows that the satisfaction prior to effecting his arrest has not been complied, which renders the arrest illegal. Even otherwise, there is no prima-facie material for which the applicant's arrest was warranted.

- 2.2 It is submitted that the say of the prosecution that there was non-cooperation is also without any basis as the applicant

was in custody and therefore, there was no reason for the alleged non-cooperation. The entire case of the prosecution qua the present applicant is based on statement of co-accused which even otherwise do not implicate the present applicant/accused. It is further submitted that the ED officer has not followed the procedure as stated under BNSS 2023 prior to effecting the arrest of the applicant nor the provision u/s 19 of PMLA is followed by ED officer. It is submitted that as per the settled position of law, so far as the arrest under PMLA is considered, it is to be as per the procedure established by law and failure to adhere the same renders the arrest illegal and on this count also the accused is required to be released henceforth.

2.3 Ld. Advocate for the applicant has placed reliance on the decision in the case of *Vijay Madanlal Chaudhary (Supra)* para 322 and 323 to contend that the authorized officer u/s 19 of PMLA must have "**material**" in his possession giving rise to reason to believe that any person has been guilty of an offence punishable under the Act and "**safeguards**" u/s 19 of 2002 Act are stringent and of higher standard with safeguards to ensure that authorized officers do not act arbitrarily.

2.4 Reliance is placed on the above decision to contend that statutory presumption u/s 24 can be invoked only when the prosecution establishes foundational facts of offence having committed by the accused and even otherwise such presumption would apply only when existence of proceeds of crime is established by the prosecution. So far as the case

of applicant is concerned, there is no evidence of existence of proceeds of crime qua the present applicant and in absence of any foundational facts, presumption cannot be raised at bail stage for refusing bail.

2.5 Ld. Advocate has submitted that to attract offence of money laundering, there are 3 stages [1] Placement [2] Layering and [3] Integration. The entire complaint / charge-sheet does not attribute any evidence of placement, layering or integration and therefore, the offence having not been made out qua the applicant/accused, the applicant is required to be enlarged on bail.

2.6 Ld. Advocate for the applicant has referred to number of judgments as mentioned in his bail application to contend that:

- I. There was no material against the applicant to arrest the applicant/accused.
- II. Statutory presumption cannot be raised in absence of any foundational fact of offence of offence u/s 3 and its commission been established.
- III. Twin conditions mentioned in Sec.45 does not create absolute bar in granting bail and the principle " bail is a rule and jail is exception" should not be forgotten.

It is submitted that the investigation is completed and complaint is filed before the Ld. Special Court. Keeping the applicant behind bar for indefinite time would serve no useful purpose, more particularly, when the complaint have reference of FIRs registered in different States. It is further

submitted that applicant is enlarged on bail in the schedule offence by Hon'ble High Court of Gujarat. Applicant will be available for trial and will abide by any conditions that may be imposed. It is accordingly urged to allow present application.

3. Ld. Spl.P.P. Mr. Aniruddh Kambhoj on behalf of Ld. Spl.P.P. Mr. S.V. Thakkar for the opponent has vehemently opposed grant of bail to the applicant. He submits that cause title of the application shows his address of Surat and this falsify say of the applicant that he is not resident of Surat. The ECIR was based on FIR registered with Athwalines Police Station, Surat. Accused persons are indulged in offence of committing cyber fraud and thereby duping general public through various modes. As part of cyber fraud they have adopted various modus operendi for cheating the general public by luring people across the country for making investment for higher returns making internet video / audio calls to attract people in making forex trading, sending fake notices of various law enforcement agencies like Enforcement Directorate / Crime Branch, Bank notices, fake notices of Hon'ble Supreme Court and also keeping people in digital arrest, etc.

- 3.1 It is submitted that at the time of effecting arrest the authorized officer has clearly mentioned all the schedule offences FIRs registered against the accused in his grounds for arrest supplied to the accused and therefore, contentions that as the arrest was effected prior to the addendum of ECIR is without any basis. The accused persons are

indulged in cyber fraud and their network exists across the country. As much as 5 FIRs came to be revealed during the course of investigation of cyber fraud offences having been committed in Maharashtra, Gujarat and Telangana States.

3.2 It is submitted that as per the investigation conducted by predicate agency, the accused persons have generated proceeds of crime to the tune of Rs.101,09,69,971/-. The modus operandi includes money trail in nature that the fraudulent money collected by cyber crime were deposited in various bank accounts, cash money was transferred through Angadia firms in Surat and Ahmedabad and there were online transaction through mobile phone, etc. The money was converted in Cryptocurrency/USDT for evading regulatory scrutiny.

3.3 It is submitted that so far as the applicant is concerned, the applicant was involved in whole criminal conspiracy wherein the accused persons generated POC to the tune of Rs.104 Crores. The present applicant/accused has used third party Bank A/cs for layering the money generated out of criminal activities of cyber fraud. He submits that there are statements of Abrarkhan Nasirkhan Pathan, Danish Murtuza, Nawaz Amin Jandira, Mohammed Zaid Nazir Makda recorded u/s 50 of PMLA which would reveal the entire modus operandi, criminal conspiracy, generation, layering, concealment of POC. Ld. Advocate has placed reliance on the reply filed by ED (Exh.6) and has urged the Court to reject the bail application.

4. Heard Ld. Advocates for respective parties. The Court has

gone through the bail application and annexure attached to it, reply of opponent - Enforcement Directorate (Exh.6), judgments relied on by the respective parties and the record of the case. It is clarified that the observations made by this Court is tentative in nature and is confined for deciding this bail application and it will has no relevance during the trial. Following circumstances are taken into consideration for deciding this bail application:-

- i. The applicant is seeking regular bail in connection with ECIR/STSZO/04/2025 registered by the Enforcement Directorate for the offences under Section 3 and 4 of The Prevention of Money Laundering Act, 2002.
- ii. The ECIR in the present case, as per the prosecution complaint is based on the schedule offence registered with Athwalines Police Station, Surat been FIR No.11210005241161/2024 dated 15/10/2024 for the offences punishable u/s 338, 336(2), 336(3), 340, 318(4), 319(2), 61(@) of Bhartiya Nyay Sanhita, 2023 against the accused persons including the present applicant. As per the predicate FIR all the accused persons as a part of conspiracy for cheating, are indulged in committing various offences pertaining to cyber crime. As per the FIR registered with Athwalines Police Station, Surat, on search at the residence of Makbul Doctor-father of the applicant/accused there were recovery of various Debit cards, 8 savings account passbooks, chequebook of 29 saving bank accounts, chequebook of 2 current accounts, 497 Sim cards, 01 cash counting machine, foreign currency equivalent to INR 90,408/- and Indian currency

worth Rs.16,95,000/-. The ECIR came to be registered on the basis of above FIR wherein as per the case of the prosecuting agency, all the accused persons as part of well-planned criminal conspiracy has cheated the general public through various modes of cyber fraud which includes luring people for high returns on investments and thereby indulging them in forex trading, threatening by making internet video/audio calls, sending fake notices of various law enforcement agencies like Enforcement Directorate / Crime Branch / Bank Notices, fake Notices of Hon'ble Supreme Court, putting them under digital arrest, etc.

- iii. It revealed during investigation that 06 bank accounts were used for collection / layering of proceeds of crime, 11 bank accounts were used for collection of proceeds of crime as per the complaint registered at NCCRP portal across the country by victims. During investigation of the present ECIR, it was found that 5 other FIRs were registered at Cyber Police Station, Mumbai, Cyber Crime-Vadodara, 2 FIRs with Cyber Crime Police Station- Cyberabad, Cyber Crime Police Station (U.P.) and Hyderabad Cyber Crime.
- iv. As per the investigation of the Enforcement Department the proceeds of crime generated by committing illegal activities pertaining to the above referred FIRs, the proceeds of crime comes to Rs.101,09,69,971/-. The proceeds of crime generated out of schedule offences are laundered by converting the same into cryptocurrency / USDT for evading regulatory scrutiny.
- v. It is specific case of the prosecuting agency that the present applicant was involved in the entire conspiracy whereby

all the accused persons have generated proceeds of crime to the tune of Rs.104 Crores.

- vi. The contention with regard to applicant is not residing at Surat and therefore, he is not involved in the offence is not acceptable as the address of the applicant is shown of Surat in the cause title coupled with the fact that investigation has revealed evidence which shows his presence at the place of residence alongwith the co-accused persons.
- vii. One contention is raised on behalf of the applicant/accused that his arrest came to be effected on the basis of ECIR, which came to be registered on the basis of schedule offence registered with Adhwalines Police Station and therefore, the other FIRs which are subsequently added in the ECIR is impermissible and also renders the arrest of the applicant/accused illegal as the same were not part to be treated as material in possession of the ED officer. The said contention is negatived on the ground that the grounds for arrest clearly mentions the other FIRs details also and the grounds for arrest are provided to the applicant/accused.
- viii. The involvement of the applicant/accused is also revealed from the statement of various persons recorded u/s 50 of PMLA. Statement of Abrarkhan Nasirkhan Pathan would prima-facie reveal that the present applicant-Kaasif Doctor had opened his Bank Account in his name with IDFC Bank and the operation and monitoring of the Bank A/c was done by applicant/accused Kaasif Doctor and all the transactions have been carried out by the present applicant. Similarly, statement of Daanish Murtuza would

also prima-facie reveal that his Bank account maintained with HDFC Bank and IDFC Bank was controlled by the present applicant/accused. The statement of Nawaz Amin Jandira recorded u/s 50 of PMLA would reveal that he used to arrange USDT for the present applicant/accused Kaashif Doctor against cash received from him. The Whatsapp data and digital data of mobile of the applicant/accused would reveal chats pertaining to USDT and transactions in third party bank accounts. The statement of Mohammad Zaid Nazir Makda would reveal that he used to purchase USDT from Kaashif Doctor and against the said USDT cash was paid to the present applicant/accused or his employee, Maaz Nada.

- ix. The evidence collected by the prosecution would reveal involvement of the present applicant/accused in generation of proceeds of crime by committing cyber crime, acquisition and possession, concealment and layering and claiming proceeds of crime as untainted property.
 - x. Having considered the evidence collected by the prosecution, reply of the Enforcement Directorate and the prosecution complaint case papers, statement of various persons recorded u/s 50 of PMLA, this Court is of the opinion that the case of the applicant do not satisfy the test of twin conditions as per Sec.45 of PMLA.
5. In view of facts and circumstances noted herein above & considering seriousness and gravity of the offence, quantum of proceeds of crime and twin conditions having not been satisfied, this court is not inclined to exercise discretion in

favour of the applicant/accused. Hence, pass the following order.

ORDER

1. The regular bail application is rejected.
- Copy of this order be communicated to concerned Jail Authority to convey the same to the applicant.

Pronounced in the open Court today, this **24th day of March, 2026.**

(Kamal M. Sojitra)

Principal District & Sessions Judge
& Special Designated Judge (PMLA)
Ahmedabad (Rural).
(Code : GJ01494)

vsb

