IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS JUDGE, AHMEDABAD (RURAL)

PMLA CASE NO.9 OF 2023

Varshaben Vijaybhai Mavani @ Varshaben Mavani
W/o Shri Vijaybhai Jadhav Mavani
Age : 59 years,
Residing at : C-1101, Rajratna Enclave, Pal,
Surat - 395009.

V E R S U S

Directorate of Enforcement (E.D.)
Government of India,
Represented by its Assistant Director, Dilip Kumar
Ahmedabad Zonal Office,
11th Floor, Satya One Building,
Opp. Manav Mandir, Near Helmet Cross Road,
Drive-in-Road, Ahmedabad – 380052.

Appearance:
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Mr.P.S.Gondaliya, Ld. Advocate for the Applicant/accused No.6.
Mr.R.K.Kanani, Learned Special Public Prosecutor for Opponent-ED.
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ORDER BELOW DISCHARGE APPLICATION - EXH.37

1. The applicant – accused no.6 – Varshaben Vijaybhai Mavani @ Varshaben Mavani W/o Shri Vijaybhai Jadhav Mavani has filed the present application under Section 227 of the Criminal Procedure Code, 1973 (hereinafter referred as 'Cr.P.C.') seeking her discharge in connection with PMLA Case No.9 of 2023.

2. Ld. Advocate Mr.P.S.Gondaliya appearing for the applicant – accused no. 6 submits that applicant is not involved in any manner in the alleged offence and there is no prima facie case against her, nor there is any evidence against

her even to frame charge against her or to prosecute applicant for the provisions of PMLA. Applicant is not accused in any offence in her life time. No schedule offence is registered against the applicant. Applicant has not earned any proceeds of crime as she is not involved in any offence. In the complaint Accused No.2 is the son of the applicant and other persons are involved in GPID case arising out of FIR No.6/2018 dated 21/07/2018 registered before CID Crime Surat Zone Police Station for the offence punishable under Section 409, 406, 420, 120(b) of IPC, Section 3 of the GPID Act, Section 4, 5, 6 of The Prize Chit Money Circulation Scheme (Banning) Act.

2.1 It is the allegation of authority that accused no.2 and other persons are involved in the offence registered vide FIR No.6/2018 and from the proceeds of crime, accused persons of the said offence, had purchased two properties in the name of present applicant, but applicant cannot be tried under the provisions of PMLA Act as no schedule offence is registered against the applicant, nor there are any allegations that applicant had derived any proceeds of crime by committing the offences which are made part of schedule in PMLA. The authority has wrongly implicated applicant in the alleged offence. There is no material to proceed against the applicant under the provisions of Money Laundering Act. Section 3 of PMLA is not made out against the applicant. There is no evidence that applicant had used proceeds of crime to purchase those properties. As per the case of the prosecution, the applicant is implicated on the basis that she was involved in dealing with the Proceeds of Crime, however, there is no evidence of knowledge, amount received or as to how the applicant has intentionally dealt with alleged proceeds of crime. Even otherwise, the complaint filed against the applicant is not tenable in the eyes of law, unjust and no prima facie evidence is there to frame charge against the applicant. It is accordingly urged to allow the present application.

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3. *Per contra* Ld. Special Public Prosecutor Mr.R.K.Kanani has vehemently opposed this application. He has filed reply (Exh.41) of Enforcement Directorate. He submits that PMLA was initiated inter-alia on the basis of FIR No.06/2018 dated 21/07/2018 registered by CID Crime Police Station, Surat against Satish Kumbhani, Dhaval Vijaybhai Mavani and others. The said FIR pertains to co-accused persons having collected money from various persons / victims who had invested their money in Bit Coins Cryptocurrency in Bitconnect Coin and the accused persons failed to return amount of Rs.1,14,37,300/-. In the said FIR, CID Crime Police Station has filed three chargesheets for the offence under Section 409, 406, 420, 120(b), 201 of The Indian Penal Code, Section 3 of The Gujarat Protection of Interests of Depositors Act, 2003, Section 4, 5, 6 of The Prize Chit Money Circulation Scheme (Banning) Act, 1978, Section 66(d) of The Information Technology Act against the accused persons. It is stated that the accused persons had floated various investment plans pertaining to crypto currency. By doing so, accused persons successfully got investments worth crores of rupees in Bitconnect Company by gradually increasing the price of Bitconnect Coin virtually. In the month of January 2018, accused persons had all of a sudden closed their website and duped number of persons and approximately amount to the tune of Rs.19,61,02,735/- was obtained through cheating. It is also stated that the amount to the tune of Rs.40 to Rs.50 Crores was also raised by the accused persons through one Ganesh alias Gautam Lathiya from investors in Bitconnect Coin and the said chargesheet would reveal that accused persons had acquired the proceeds of crime to the tune of Rs.69,61,02,735/- approximately.

3.1 One another FIR being No.03/2018 dated 19/05/2018 came to be registered by CID Crime Police Station against Shailesh Babulal Bhatt and others and as per the said FIR accused persons had extorted cryptocurrencies and cash i.e. 2091 Bitcoins, 11,000 Litecoins and INR 14.5 Crores from Dhaval

Mavani (accused in FIR No.06/2018 dated 21/07/2018) and accordingly proceeds of crime amounting to Rs.152,62,84,000/- was acquired by the accused persons.

3.2 As per the investigation by the Enforcement Directorate, property in the nature of immovable property, cash, crypto-currencies to the tune of Rs.2149.60 Crores came to be seized and attached as mentioned in Table A (Page Nos.5 & 6 of reply). In Prosecution Complaint No.9/2023 persons associated with properties attached vide PAO No.06/2021 dated 25/10/2021 were made accused and the details of said properties is mentioned in Table B (Page Nos.6 & 7 of the reply). The applicant is named as Accused No.6 in the prosecution complaint has association with the property mentioned at Serial Nos.7 & 8 of Table B which is in the nature of immovable property i.e. (i) Agricultural Land bearing Revenue Survey No.728/1, Old Block No.732, New Block No.848 situated at Mouje : Vihan, Taluka : Kamrej, District : Surat which amounts to Rs.2,35,85,400/- and (ii) Agricultural Land bearing Revenue Survey No.732, Old Block No.741, New Block No.858 situated at Mouje : Vihan, Taluka : Kamrej, District : Surat which amounts to Rs.24,87,600/-. The statement of Satish Kumbhani (Accused No.1) recorded under Section 50 of the PMLA on 15/02/2021 clearly reveals the involvement of the present applicant in commission of offence of money laundering. As per the provision of Section 3 the very fact that the applicant has purchased the properties in her name out of monies of Accused No.1 – Satish Kumbhani which was obtained from selling Bitconnect Coins would clearly establish that she has committed offence under Section 3 of the PMLA. It is further submitted that it is not necessary that accused in PMLA should always be an accused in the schedule offence, what is statutory required is criminal activity in connection with the schedule offence and if any person is found to be indulged in money laundering and dealing with proceeds of crime, the provisions of offence under Section 3 would clearly gets attracted. Ld. Special Public Prosecutor has placed reliance

on the reply (Exh.41), complaint case papers and has urged the court to reject the discharge application.

4. Heard Ld. Advocate Mr.P.S.Gondaliya appearing for the applicant - accused No.6 - Varshaben Vijaybhai Mavani @ Varshaben Mavani W/o Shri Vijaybhai Jadhav Mavani and Ld. Special Public Prosecutor Mr.R.K.Kanani on behalf of opponent - ED. The Court has gone through the discharge application, reply filed by the opponent - ED (Exh.41) and case papers. It would be relevant to quote Section 227 of Cr.P.C., Section 2(u), 2(y) and Section 3 of PMLA, for the ready reference.

> "***227. Discharge.*** *If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing."*
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> ***Section 2(u) of PMLA****: "proceeds of crime" means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property;*
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> ***Section 2(y) of PMLA:*** *"scheduled offence" means—*
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> *(i) the offences specified under Part A of the Schedule; or*
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> *(ii) the offences specified under Part B of the Schedule if the total value involved in such offences is [one crore rupees] or more; or*
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> *(iii) the offences specified under Part C of the Schedule.*
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> ***Section 3 of PMLA:*** *Whosoever, directly or indirectly attempts to indulge or knowingly assist or knowingly is a part or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property shall be guilty of offence of money laundering."*

5. It would also be relevant to consider the principles laid down by the Hon'ble Apex Court in the matter titled as ***Union of India Vs. Prafulla Kumar Samal & Ors*** 1979 (3) SCC 4 wherein, the Hon'ble Apex Court had elaborately

discussed the scope of Section 227 Cr.PC in para 7 and have summed up the principles while considering discharge application in para 10 as under:

> *"7. Section 227 of the Code runs thus:*
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> *"If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing." The words "not sufficient ground for proceeding against the accused" clearly show that the Judge is not a mere post office to frame the charge at the behest of the prosecution, but has to exercise his judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution. In assessing this fact, it is not necessary for the court to enter into the pros and cons of the matter or into a weighing and balancing of evidence and probabilities which is really his function after the trial starts. At the stage of Section 227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. The sufficiency of ground would take within its fold the nature of the evidence recorded by the police or the documents produced before the court which ex facie disclose that there are suspicious circumstances against the accused so as to frame a charge against him."*
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> *"10. Thus, on a consideration of the authorities mentioned above, the following principles emerge:*
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> *(1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.*
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> *(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeding with the trial.*
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> *(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.*
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> *(4) That in exercising his jurisdiction under Section 227 of the Code the Judge which under the present Code is a senior and experienced court cannot act merely as a Post Office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This*

> *however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial."*

6. As per the prosecution case PMLA Case No.9 of 2023 is based on ECIR being ECIR/AMZO/01/2019 dated 30/09/2019 filed against 6 accused persons. Applicant – accused – Varshaben Vijaybhai Mavani @ Varshaben Mavani W/o Shri Vijaybhai Jadhav Mavani is shown as Accused No.6 in the complaint. As per the prosecution case, the PMLA case is based upon FIR being C.R. No.06/2018 dated 21/07/2018 registered by CID Crime Police Station, Surat against accused persons (1) Satish Kumbhani, (2) Divyesh Darji, (3) Dhaval Mavani, (4) Suresh Gorasiya and other unknown persons. The prosecution's case is centered on a criminal conspiracy involving accused persons Satish Kumbhani, Divyesh Darji, Dhaval Mavani, Suresh Gorasiya, Rakesh Savani, and Gautam @ Ganesh Lathiya. The accused persons are alleged to have established several entities, including Bitconnect Limited, Bitconnect International P.L.C., and Bitconnect Trading Limited, and created the website Bitconnect.co on 09/02/2016. Without obtaining approval from the Reserve Bank of India, they allegedly collected money in cash and Bitcoin from the public. They promised high daily returns of 0.5% to 2% and referral commissions to lure investors through widespread advertising on their website, YouTube, and other social media platforms. Through this scheme, they dishonestly induced people to invest crores of rupees, causing the price of Bitconnect Coin to increase. In January 2018, accused persons suddenly shut down their website, causing the value of Bitconnect Coin to drop to almost zero, resulting in a significant financial loss to investors. This led to the registration of FIR being I C.R. No. 06/2018 on 21/07/2018, by the CID Crime Police Station, Surat, on the complaint of Ashwinbhai Valjibhai Limbasiya, and the subsequent filing of three chargesheets against the aforementioned accused persons for offenses under Section 409, 406, 420, 120(b), 201 of the Indian Penal Code, Section 3 of the Gujarat Protection of Interests of Depositors

(G.P.I.D) Act, 2003, Section 4, 5 & 6 of The Prize Chit Money Circulation Scheme (Banning) Act, 1978, and Section 66(d) The Information Technology Act, 2008. The chargesheets detail how the accused persons orchestrated this well-managed conspiracy to defraud investors of their money and Bitcoins, including an initial loss of Rs.1,14,37,300/-, and failed to return the promised investments and interest. According to Chargesheet No.4/2020 dated 13/11/2010 in FIR No.6/2018 dated 21/07/2018, accused persons are alleged to have fraudulently obtained approximately Rs.19,61,02,735/- as investment for Bitconnect Coin scheme by dishonestly deceiving and inducing investors. Additionally, further Rs.40 to Rs.50 Crores in cash was allegedly raised from investors through Ganesh @ Gautam Lathiya bringing the total proceeds of crime to approximately Rs.69,61,02,735/-.

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7. The role attributed to the applicant – accused is to the effect that applicant – accused purchased immovable properties in her name using the proceeds of crime and thereby, has acquired and possessed proceeds of crime. Applicant – accused acquired the said proceeds of crime in the form of immovable properties by showing to have availed loans which depicts her willful and active assistance with knowledge and concealed the proceeds of crime and projected proceeds of crime as untainted property. Investigation carried out by the Enforcement Directorate and statements of various witnesses and present applicant – accused under Section 50 of the PMLA Act, would prima facie reveals the involvement of the applicant – accused in the offence. The complaint filed by the Enforcement Directorate after investigation (Page No.20 of the Complaint) would reveal the manner in which the proceeds of crime has been utilized or diverted. The complaint states about the details of property purchased by the accused persons which is the specific say of the prosecution that these properties (i.e. properties mentioned in Table at Para 4.1 at Page Nos.10 to 12 of the complaint and mentioned in Table B at Para 4.2 (F)

at Page Nos.6 & 7 of the reply (Exh.41) filed by the ED) have been purchased from the proceeds of crime. The applicant being Accused No.6 in the prosecution complaint, is associated with immovable properties listed at Serial Nos.7 & 8 in Table (Page No.12 of complaint). Both the said properties are located at Mouje: Vihan, Taluka: Kamrej, District : Surat and identified as (i) Agricultural Land bearing Revenue Survey No.728/1, Old Block No.732, New Block No.848 registered vide Sale Deed No.22110/2017 at Sub-registrar Office, Kamrej which amounts to Rs.2,35,85,400/- and (ii) Agricultural Land bearing Revenue Survey No.732, Old Block No.741, New Block No.858 registered vide Sale Deed No.22105/2017 at Sub-registrar Office, Kamrej which amounts to Rs.24,87,600/-. Investigation done by ED also reveals that property in the nature of immovable property, cash, crypto-currencies to the tune of Rs.2149.60 Crores came to be seized and attached as mentioned in Table A (Page Nos.5 & 6 of reply). It reveals that applicant – accused knowingly assisted in activities connected with acquisition, possession and use and projection of the proceeds of crime.

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8. Ld. Advocate for the applicant - accused has raised contention to the effect that the applicant - accused is not an accused in schedule offence and therefore, she is not involved in proceeds of crime. The contention that the applicant is not an accused in any schedule offence and therefore, she cannot be prosecuted for money laundering case, is already dealt by the Hon'ble Apex Court in the case of **"Vijay Madanlal Choudhary Vs. Union of India 2022 SCC OnLine SC 929"** wherein, it is clarified that even the person who is not named in the FIR can be prosecuted in money laundering. Further the Honble Apex Court in the case of **Pavana Dibbur vs Directorate of Enforcement, [2024] 0 AIR (SC) 117** in para **18** has very specifically held that if an accused in PMLA Case comes into picture after the schedule offence is committed by assisting in the concealment of proceeds of crime need not be an accused in

schedule offence and such an accused can still be prosecuted under PMLA so long as the schedule offence exist and thereafter the contentions with regard to appellant of the said case not shown an accused in the chargesheet filed in the schedule offence was rejected. In view of the decision held by the Hon'ble Apex Court in **Vijay Madanlal Chaudhary (Supra) and Pavana Dibbur (Supra)** the contentions raised by the applicant - accused do not find merits and the same is rejected.

9. The next contention with regard to no knowledge or having not dealt with Proceeds of Crime intentionally if considered in context with the nature of evidence which is brought on record by the ED, this Court finds that the said aspect can be decided after recording of evidence. It is also required to consider that considering the provisions of Money Laundering Act, object of complexity of financial crimes, the Court must adopt a strict approach concerning economic offences. As held by the Hon'ble Apex Court in the decision in case of ***"Pradeep Nirankarnath Sharma Vs. Directorate of Enforcement & Anr." SLP (Crl.) No.6185 of 2023, judgment dated 17/03/2025*** that, in cases involving serious economic offences judicial intervention at the preliminary stage must be exercised with caution, and proceedings should not be quashed in the absence of compelling legal grounds. It is settled position of law that, while considering the discharge application the Court has not to conduct mini trial and enter into arena of appreciation of evidence, but has only to satisfy that whether the material collected by the prosecution is sufficient to put accused on trial. The Court has taken into consideration the nature of evidence collected by the prosecuting agency i.e. Enforcement Directorate and have also taken into consideration the provisions of Section 3 of the PMLA Act and prima facie finds that there is sufficient evidence collected by the prosecution which is sufficient for trial.

10. In view of facts and circumstances noted hereinabove and having gone through the case papers this Court is of the opinion that there is sufficient prima facie evidence so as to frame charges against the applicant - accused and put her on trial, hence, following final order is passed in the interest of justice:-

-:F I N A L O R D E R :-

- Application below Exh.37 for discharge is **rejected**.
- Matter is posted for framing of charge.

Pronounced and signed in the open court today.

Date :20/08/2025
Place:Ahmedabad

(Kamal M. Sojitra)
Principal District & Sessions Judge &
Designated Special Judge (PMLA)
Ahmedabad (Rural)
U.I.Code No.GJ01494

AVJ

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