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

BAIL APPLICATION NO.1836 OF 2026

Ushik Mahesh Gala

.. Applicant

Versus

Directorate of Enforcement and Anr.

.. Respondents

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- Mr. Rishi Bhuta, Advocate and Mr. Vikram Nankani, Senior Advocate a/w. Mr. Rashmin Khandekar, Mr. Pushkraj Deshpande, Mr. Rohan Marathe and Ms. Bhumika Khandelwal i/b. ALMT Legal, Advocates for Applicant.
 - Mr. Pavan Patil a/w. Mr. Shubham Saraf, Mr. Tanmay Deshmukh and Mr. Soham Badole, Advocates for Respondent No.1
 - Ms. Gauri S. Rao, APP for Respondent No.2 – State.
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CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 24, 2026.

P.C.:

1. Heard Mr. Bhuta, Advocate for Applicant, Mr. Patil, learned Advocate for Directorate of Enforcement and Ms. Rao, learned APP for Respondent No.2 – State.

2. Present Bail Application is filed by Applicant under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking enlargement on medical bail pursuant to his arrest by Respondent No.1 in ECIR/MBZO-I/14/2024.

3. Applicant is arraigned as Accused No.8 in EOW Crime No.08 of 2022 filed by Economic Offences Wing (for short “**EOW**”). Applicant

was arrested on 25.02.2022 by EOW in the predicate offences and subsequently enlarged on bail by 47th Magistrate Court on 14.03.2022. This order was taken / challenged unsuccessfully right upto the Supreme Court. Three years thereafter, in or about 2025, i.e. Respondent No.1 registered ECIR/MBZO-I/14/2024 consisting of offences under Schedule – I of Prevention of Money Laundering Act, 2002 (for short “**PMLA, 2002**”) being Sections 420 and 467 of Indian Penal Code, 1860 at Worli Police Station which was transferred to Economic Offences Wing as Crime No.08 of 2022. Applicant was arrested in respect of scheduled offences on 17.11.2025 and was remanded to custody till 24.11.2025.

4. On 18.12.2025, Applicant filed Bail Application No.1273 of 2025 before Special Judge seeking interim medical bail for gall bladder surgery which was allowed by order dated 24.12.2025. This was in view of the subsisting medical ailment and condition of Applicant. However, Applicant was unable to undertake his surgery and hence he filed Miscellaneous Application No.89.2026 dated 19.01.2026 seeking extension of medical bail. By order dated 23.01.2026 medical bail was extended till 02.03.2026. Applicant underwent gall bladder surgery on 07.02.2026 and sought extension of medical bail for a period of 6 months for rehabilitation which was rejected by order dated 06.04.2026. However on challenge interim relief was continued by this Court. Hence present Bail Application on medical grounds.

5. Mr. Bhuta, has taken me through the Applicant's Medical Reports placed on record and prepared by the State run J.J. Hospital and the Applicant's treating doctor Mr. Borude of "Bariatrics by Borude". With his able assistance I have perused the same. He would submit that since filing of present Bail Application, health of Applicant has progressively worsened. He would submit that post Applicant's gall bladder surgery on 07.02.2026, he experienced severe abdominal cramps which were subsequently diagnosed as hernia and he underwent further hernia surgery on 10.07.2026 and is now under rehabilitation. He would submit that Applicant suffers from morbid obesity which increased his risk of hernia and but undergoing hernia surgery, he is at a high risk of port – site hernia developing at incision locations due to his weight related issue.

5.1. He would submit that on 16.07.2026, Dr. Rahul Borude, Bariatric Surgeon examined the Applicant and advised him complete bedrest until November 2026 as post operative rehabilitation. He would submit that Applicant is medically vulnerable due to his morbid obesity which resulted in his surgeries. He would submit that Applicant's medical condition squarely falls under the provisio to Section 45(1) of PMLA, 2002 and hence urges Court to enlarge the Applicant on Medical bail.

5.2. He would refer to and rely upon the following decisions o in

support of his case:-

- (i) *Pranjil Batra Vs. Directorate of Enforcement*¹
- (ii) *Sameer Mahandru Vs. Directorate of Enforcement*²
- (iii) *Devki Nandan Garg Vs. Directorate of Enforcement*³
- (iv) *Naresh Goyal Vs. Directorate of Enforcement and Anr.*⁴
- (v) *Naresh Goyal Vs. Directorate of Enforcement*⁵
- (vi) *Subodh Kumar Goel Vs. Enforcement Directorate*⁶
- (vii) *Ramesh Chandra Vs. Directorate of Enforcement*⁷
- (viii) *Radhika Kapoor Vs. State and Ors.*⁸
- (ix) *Sandeep Aggarwal Vs. Priyanka Aggarwal*⁹
- (x) *Joni S.K. Vs. Union of India and Ors.*¹⁰
- (xi) *Dr. P.V. Varavara Rao Vs. National Investigating Agency and Anr.*¹¹

6. PER CONTRA, Mr. Patil, learned Advocate appearing for Respondent No.1 – Enforcement Directorate would submit that Applicant has failed to satisfy the mandatory twin conditions under Section 45(1) of PMLA, 2002 and allegations and case against Applicant involves serious economic offenses. He would submit that the twin conditions for grant of bail under Section 45(1) of PMLA, 2002 are to be construed and applied strictly to accused persons who

¹ CRM – M – 23705 of 2022 decided on 04th November 2022

² CrI. MA No.10859 of 2023 decided on 12th June 2023

³ 2022 SCC OnLine Del 3086

⁴ Bail Application No.2494 of 2024 decided on 11th November 2024

⁵ 2024 SCC Online Bom 1259

⁶ 2025 SCC Online Cal 6939

⁷ 2025 SCC OnLine Del 1706

⁸ 2016 SCC OnLine Del 6652

⁹ 2021 SCC OnLine Del 5521

¹⁰ WPA No.27189 of 2024 decided on 21st May 2025

¹¹ 2021 SCC OnLine Bom 230

are sick and infirm and where continuous custody would adversely affect their health. He would submit that medical condition of Applicant is not that serious or life threatening that warrants his release on bail notwithstanding that he is already enlarged on Medical bail since 24.12.2025 and he having undergone two surgeries especially when adequate treatment and follow up can be provided within jail or government facilities to him and hence Applicant's does not fall within the definition of sick and infirm per person as contemplated in the proviso of Section 45(1) of PMLA, 2002.

6.1. He would submit that Applicant had undergone bariatric surgery in 2022 followed by gall bladder removal surgery and is in post – operative care and suffering from post – operative dyspepsia along with sacropenia. He would submit that these medical conditions merely involve digestive discomfort and reduced muscle mass, that they are standard features of post bariatric surgery recovery and do not indicate existence of any acute or life threatening condition which requires emergency intervention, intensive care or continuous hospitalization.

6.2. He would submit that though admittedly Applicant suffers from obesity, it is not pleaded as an independent subsisting illness but only formed the basis for Applicant's bariatric surgery. He would submit that Applicant is confined to post operative management and

recovery which does not disclose any serious life threatening ailments to attract provisio to Section 45 of PMLA, 2002 to his case.

6.3. He would submit that prevention of further infections, continuity of care, monthly follow ups and long term dietary supervision are not conditions that render Applicant incapable of medical assistance by prison hospital while in custody. He would submit that Applicant underwent gall bladder surgery and was discharged in a stable condition with now only routine follow up advised.

6.4. He would submit that Applicant only requires post operative care and no serious or life threatening ailment is made out so as to attract provisio to Section 45 PMLA, 2002. He would submit that interim bail on medical grounds in such a situation cannot be granted only as a matter of routine and must be granted as an exception and Applicant's case does not fall within any such exception so as to warrant consideration. He would refer to and rely upon the following decisions of this Court, various High Courts and the Supreme Court in support of his submissions:- (i) *Kewal Krishan Kumar Vs. Directorate of Enforcement*¹², (ii) *Ramesh Chandra Vs. Directorate of Enforcement*¹³, (iii) *Aditya Avinash Sood Vs. State of Maharashtra*¹⁴ and; (iv) *Asim Malik Vs. State of Odisha*¹⁵

¹² (2023) SCC OnLine Del 1547

¹³ 2024 SCC OnLine Del 1821

¹⁴ 2025 SCC OnLine Bom 5587

¹⁵ Diary No.57403 of 2024 decided on 24.04.2025

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

8. Applicant before this Court seeks enlargement on medical bail and has filed numerous medical reports and discharge summary issued by Dr. Rahul Borude of Bariatrics by Borude, J.J. Group of Hospitals Mumbai, Breach Candy Hospital and Chief Medical Officer Mumbai Central Prison to show that he suffered from several ailments since 2022 which prompted have him to undergo a number of surgeries. Certain reports are alluded to determine the severity of Applicant's medical condition viz:- (i) Medical report dated 18.02.2026 issued by Dr. Rahul Borude of “Bariatrics by Borude” states that Applicant is in post operative rehabilitation however since his immune system may be compromised hence he is at risk of severe infection which may be fatal and life threatening; (ii) Discharge summary dated 13.07.2026 issued by Breach Candy Hospital states that Applicant suffers from Multi Incisional Hernias on his abdomen for which surgery was performed on 10.07.2026 by Dr. Rahul Borude and; (iii) Medical report dated 16.07.2026 issued by Dr. Rahul Borude of “Bariatrics by Borude” states that Applicant is being managed for post - operative gastrectomy performed in 2022, gall bladder removal surgery in February 2026 and abdominal hernia surgery in July 2026 for which

he was advised rehabilitation at home and close clinical observation.

9. The core case of Respondent No.1 - ED is that Applicant's medical condition is not serious or life threatening and can be treated through jail hospital and Government hospitals and that Applicant has failed to fulfill the twin conditions for grant of bail under Section 45(1) of PMLA and that he is in post operative rehabilitation, therefore he cannot invoke the proviso to Section 45(1) of PMLA.

10. Perusal of the material on record and submissions made by both parties would show that prior to 2022, Applicant suffered from morbid obesity and underwent Sleeve Gastrectomy and Cholecystectomy surgery (bariatric surgery) on 18.11.2022. It is seen that due to certain side effects of the said bariatric surgery, he underwent gall bladder removal surgery on 07.02.2026, however due to his consistent obesity he developed abdominal hernia for which he underwent hernia repair surgery on 10.07.2026. Case of Respondent No.1 – ED is that Applicant is in post surgery rehabilitation and therefore facilities provided by government and State run medical institutions / jails will serve as adequate healthcare facilities for Applicant's recuperation in such background. I cannot countenance this submission since as seen above, the material filed on record paint a clear picture of Applicant's medical infirmities and poor health conditions which stem from his morbid obesity. I would like to refer to

and rely upon a decision passed by the Punjab and Haryana High Court in the case of *Pranjil Batra Vs. Directorate of Enforcement*¹⁶ which was relied upon by Mr. Bhuta to enumerate that obesity is a disease that may lead to causation of several other diseases. Relevant paragraph No.21 thereof is reproduced hereinbelow for ease of reference:-

21. Obesity, as in the case of the petitioner, who weighs 153 kilograms is not just a symptom but is itself a disease which becomes root-cause of several other diseases. With such co-morbidities, the response, the resistance, the resilience and the capacity of the body to fight ailments and recuperate efficaciously, decreases substantially. The jail doctor or for that matter, a civil hospital may not be fully equipped to handle a patient having multiple ailments who apart from medical treatment may require a certain level of monitoring, care and attention which ordinarily is not available in jail. Considering the co-morbidities of the petitioner, it can safely be said that he falls in the exception of being "sick" as carved out in Section 45 of the Act, so as to be entitled to be released on bail. The petitioner, otherwise has been behind bars since the last about 8 months. Supplementary complaint already stands presented against him. There is no occasion for his custodial interrogation now at this stage. The co-accused Radhe Shyam and Bansi Lal were released on bail immediately upon their appearance in Court pursuant to issuance of summons for their appearance.

11. The words of the Punjab and Haryana High Court in the case of *Pranjil Batra Vs. Directorate of Enforcement*¹⁷ deserve reiteration in the present case since Applicant suffers from morbid obesity and consequently was compelled to undergo three different surgeries despite which on two occasions i.e. on 22.12.2025 and as recent as on 18.02.2026 his condition was described as life threatening by his treating doctor. Therefore, in my considered opinion it would be wholly erroneous to conclude that Applicant is fully recovered and

¹⁶ Supra

¹⁷ Supra

cured and merely suffers from obesity since as seen from above obesity is not a mere disease or life condition but an underlying cause for further medical complications which can affect overall health and lifestyle, and in the present case have certainly done so, and therefore Applicant deserves appropriate rehabilitation and medical care and attention if he is to stand trial.

12. It is seen that in the case of *Devki Nandan Garg Vs. Directorate of Enforcement*¹⁸, relied upon by Mr. Bhuta, Delhi High Court has rightly held in paragraph No.34 in the said decision that when any person accused of scheduled offences under PMLA, 2002 fall within the ambit of the term “sick and infirm” in the proviso to Section 45(1) of PMLA, 2002, that accused person is not mandatorily required to fulfill the twin conditions for grant of bail as enumerated in Section 45(1) of PMLA, 2002. Contents of paragraph No.34 therefore come to the aid of Applicant in the present case and it is reproduced hereinbelow for ease of reference:-

34. The above position was noted by the Supreme Court in Gautam Kundu v. Enforcement Directorate [Gautam Kundu v. Enforcement Directorate, (2015) 16 SCC 1 : (2016) 3 SCC (Cri) 603] , particularly para 34 which reads as under: (SCC p. 16, para 34)

“34. We note that admittedly the complaint is filed against the appellant on the allegations of committing the offence punishable under Section 4 of the PMLA. The contention raised on behalf of the appellant that no offence under Section 24 of the SEBI Act is made out against the appellant, which is a scheduled offence under the PMLA, needs to be

¹⁸ Supra

considered from the materials collected during the investigation by the respondents. There is no order as yet passed by a competent court of law, holding that no offence is made out against the appellant under Section 24 of the SEBI Act and it would be noteworthy that a criminal revision praying for quashing the proceedings initiated against the appellant under Section 24 of the SEBI Act is still pending for hearing before the High Court. We have noted that Section 45 of the PMLA will have overriding effect on the general provisions of the Code of Criminal Procedure in case of conflict between them. As mentioned earlier, Section 45 of the PMLA imposes two conditions for grant of bail, specified under the said Act. We have not missed the proviso to Section 45 of the said Act which indicates that the legislature has carved out an exception for grant of bail by a Special Court when any person is under the age of 16 years or is a woman or is sick or infirm. Therefore, there is no doubt that the conditions laid down under Section 45-A of the PMLA, would bind the High Court as the provisions of special law having overriding effect on the provisions of Section 439 of the Code of Criminal Procedure for grant of bail to any person accused of committing offence punishable under Section 4 of the PMLA, even when the application for bail is considered under Section 439 of the Code of Criminal Procedure.”

35. Thus, the proviso to Section 45(1) of the PMLA carves out an exception from the rigours of Section 45 for persons who are sick or infirm. Once a person falls within the proviso of Section 45(1), he need not satisfy the twin conditions under Section 45(1) as elucidated in the dicta of *Gautam Kundu* case [*Gautam Kundu v. Enforcement Directorate*, (2015) 16 SCC 1 : (2016) 3 SCC (Cri) 603] .

13. The Court in *Naresh Goyal Vs. Directorate of Enforcement and Anr.*¹⁹ took a lenient approach to the proviso to Section 45(1) of PMLA, 2002 wherein this Court went one step further to hold that once the accused person falls into the meaning of “sick and infirm” as enumerated under the proviso of Section 45(1) of PMLA, 2002 and is released on medical bail, the same would continue to subsist even if

¹⁹ Supra

the accused person subsequently recovers from his medical condition.

The relevant paragraph No.26 is reproduced hereunder for ease of reference:-

26. In my view, the question as to whether the person falls within the ambit of the proviso to Section 45(1) i.e. whether he is sick or infirm has to be determined at the stage of consideration for bail. Once the Court finds that the accused falls within the ambit of the said proviso, then the order of release on bail would enure, even if subsequently the accused recovers from the sickness or infirmity.

14. Therefore, from the above decision it is seen that the long standing practice of “bail is the rule, jail is the exception” is aptly put into practice in such open and shut cases. In the present circumstances, Applicant suffers from various medical conditions for which he has undergone 3 surgeries over the span of less than 4 years which have affected his overall health and perusal of his medical reports *prima facie* show that he requires ample post rehabilitation care and monitoring for side effects and symptoms that may arise. This can only be done if Applicant receives treatment at a hospital of his choice and is well taken care of away from infection related environment. There is a qualitative difference in the treatment received as an undertrial prisoner especially in jail barracks and jail hospital and as a citizen under no restraint. It is seen from the 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 in accordance with provision to Section 45(1) of PMLA, 2002.

15. There is no doubt that discharge summary issued by Breach Candy Hospital dated 13.07.2026 states that Applicant was discharged after his hernia repair surgery however it will have to be appreciated in context of the health condition of Applicant evident from the entire compilation of medical reports appended on record. The discharge summary issued by Breach Candy Hospital dated 13.07.2026 cannot be appreciated in isolation and must be read along with all of Applicant's medical reports placed before this Court since they have accurately charted the course of Applicant's health condition from November 2022 till date which was appreciated by Court while granting Medical bail for his surgeries since December 2025.

16. In my considered opinion, though Applicant was discharged from Breach Candy Hospital on 13.07.2026 after his hernia repair surgery, it can by no stretch of imagination indicate that he is fit to be sent back to prison or the hospital attached to the prison. 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 return to custody or even the prison hospital upon his discharge, is incompatible with his health conditions and that it would run the risk of deterioration of his health to the point of no

return in that case. We are otherwise all aware of the jail conditions and the enormity of congestion in jails.

17. In view of the aforesaid strong circumstances presented by Applicant's medical reports and discharge summary, Applicant has made out a strong case for grant of medical bail.

18. Investigating Officer shall be at the liberty to visit the hospital / home of Applicant for investigation. 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 15 days from today.

19. 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 condition when he is ready to co-operate cannot be the answer. Hence, on both counts but with a direction that Applicant's through their other accused persons shall ensure complete co-operation with the investigation on all counts and make all disclosures,

the present order is passed.

20. 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 before this Court. Hence on medical ground, Applicant deserves enlargement on bail for 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 J.J. Hospital for a checkup and the Dean of the said hospital shall, through a committee, examine the status of Applicant's health parameter 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 custody of the Applicant and for cancellation of his medical bail.

21. In view of the above, Applicant be released on bail on medical grounds on following conditions:-

(i) Applicant – Ushik Mahesh Gala 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 three (3) months from today and thereafter 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. Investigating Officer shall be at liberty to visit the Applicant's home with 2 days advanced notice to enquire about his rehabilitation and keep record of the same 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.

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

23. Bail Application No.1836 of 2026 is allowed and disposed in above terms.

[MILIND N. JADHAV, J.]

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