IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

THURSDAY, THE 20TH DAY OF NOVEMBER 2025 / 29TH KARTHIKA, 1947

BAIL APPL. NO. 13987 OF 2025

ECIR NO.KCZO/34/2021 OF ENFORCEMENT DIRECTORATE KOCHI, Ernakulam

AGAINST THE ORDER DATED 27.10.2025 IN Bail Appl. NO.13197 OF 2025 OF HIGH COURT OF KERALA

PETITIONER/ACCUSED:

ANEESH BABU, AGED 34 YEARS
S/O. BABU GEORGE, VAZHAVILA VEEDU, AMBALAKKARA
P.O., VALAKOM VILLAGE, KOLLAM TALUK,, PIN - 691532

BY ADVS. SRI.LIJU.V.STEPHEN
SMT.INDU SUSAN JACOB
SMT.JIJI JOY
SHRI.SANJAY JOHNSON MATHEW

RESPONDENT/COMPLAINANT:

ASSISTANT DIRECTOR
DIRECTORATE OF ENFORCEMENT, MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE, GOVERNMENT OF INDIA, KOCHI,
PIN - 682011

A.R.L.SUNDARESAN-ASGI
SRI.JAISHANKAR V. NAIR,SC,ED
SMT. CRISTY THERASA SURESH

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20.11.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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ORDER

This is an application for pre-arrest bail filed by the accused in ECIR No. KCZO/34/2021 on the files of the Assistant Director, Directorate of Enforcement, Government of India (Respondent), under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, the BNSS).

2. The applicant is alleged to have committed the offence punishable under Section 3 read with Section 4 of the Prevention of Money-Laundering Act, 2002 (for short, the PMLA).

3. The applicant is a cashew dealer. Admittedly, four crimes were registered by the Kottarakkara Police Station, Kollam and one crime was registered by Kollam East Police Station against the applicant and others, for the offences punishable under Sections 120B, 406, 408, 409, 420, 465, 468 and 471 read with Section 34 of the IPC, of which Sections 120 (B), 420 and 471 are scheduled offences under the PMLA.

4. The allegations in the three crimes (Crime Nos. 153/2020, 168/2020 of Kottarakkara Police Station and Crime No. 828/2018 of Kollam East Police Station) are that the applicant,

along with the remaining accused, induced the complainants therein to believe that they would import and deliver cashews from Tanzania and received crores of rupees from them. Thereafter, the applicant and other accused deceived the complainants by not supplying the cashew or returning the amount. It is further alleged that the applicant and the other accused forged documents and falsely represented them as genuine. The allegation in Crime No.415/2019 of Kottarakkara Police Station is that the applicant and the remaining accused imported 50 metric tonnes of cashew nuts worth 1900 Euros from the complainant, but no payment was made, and the cheques issued were dishonoured. The allegation in Crime No.227/2020 of Kottarakkara Police Station is that by promising a job in Tanzania, the applicant and his wife induced the de facto complainant therein to deposit a sum of ₹1,11,500/- into his account. Thereafter, he failed to provide the job as alleged. The investigation in all five crimes is in progress.

5. Based on the above crimes, the respondent registered ECIR No.KCZO/34/2021 dated 23.3.2021 against the applicant for the offences punishable under Section 3 read with Section 4 of the PMLA on the ground that, *prima facie*, a case involving the offence of money laundering has been made out against the applicant and others.

6. The applicant applied for pre-arrest bail before the Additional Sessions Court VII, Ernakulam, in Crl. M.C. No.3115/2025 which was dismissed as per Annexure A9 order. It was thereafter that the applicant approached this Court by filing the above application for pre-arrest bail.

7. I have heard Sri. Liju V. Stephen, the learned counsel for the applicant and Sri. A.R.L Sundhareshan, the learned Additional Solicitor General of India (ASGI), assisted by Sri. Jaishankar V. Nair, the learned Standing Counsel for the Enforcement Directorate.

8. The learned counsel for the applicant submitted that the applicant is absolutely innocent of the offences alleged against him and he has been falsely implicated in the case as a counterblast to a crime registered against the Enforcement Directorate officer by the Vigilance and Anti-Corruption Bureau, Ernakulam, on his complaint. The learned Counsel further submitted that even if the entire prosecution case is believed in toto, no offence under PMLA is made out against the applicant. As far as the rigour of Section 45(1) of PMLA is concerned, the learned Counsel submitted that the twin conditions are not attracted on the facts of the case. The learned ASGI, on the other hand, submitted that there are

sufficient materials on record to show the involvement of the applicant in the crime. The learned ASGI further submitted that the magnitude of the offence is so high, and in the case of an economic offence, the court must account for several factors while granting bail, especially the gravity of the offence involved. The learned ASGI also submitted that, going by Section 45(1) of the PMLA, bail can only be granted in a case where there are reasonable grounds for believing that the accused is not guilty of such an offence and that he is not likely to commit any offence while on bail, and the applicant failed to satisfy the said mandatory conditions.

9. The jurisdiction of this court to grant bail to a person accused of an offence under PMLA is circumscribed by the provisions of Section 45 as amended in 2018. As per the said provision, if the Public Prosecutor opposes the application, the bail can be granted only in a case where there are reasonable grounds for believing that the accused is not guilty of an offence under the Act and that he is not likely to commit any offence while on bail. The Supreme Court in **Vijay Madanlal Choudhary and Others v. Union of India and Others** [(2023) 12 SCC 1] and in **Directorate of Enforcement v. M. Gopal Reddy and Another** [2022 SCC OnLine SC 1862] has made it clear that the twin conditions under Section 45 of PMLA apply to an application for

pre-arrest bail under Section 438 of Cr. P.C.(Section 482 of BNSS) as well.

10. The conditions specified under Section 45 of the PMLA are mandatory and need to be complied with, which is further strengthened by the provisions of Sections 65 and 71 of the PMLA. Section 65 of PMLA requires that the provisions of the Cr.P.C shall apply, insofar as they are not inconsistent with the provisions of this Act, and Section 71 of PMLA provides that the provisions of PMLA shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. PMLA has an overriding effect, and the provisions of the Cr.P.C. would apply only if they are not inconsistent with the provisions of the said Act. Therefore, the conditions enumerated in Section 45 of the PMLA will have to be complied with even in respect of a bail application made under Section 438 or 439 of Cr.P.C (Sections 482 or 483 of BNSS). Sub-section (2) of Section 45 says that the limitation on granting of bail specified in sub-section (1) is in addition to the limitations under the Cr.P.C or any other law for the time being in force on granting of bail. Thus, the power to grant bail to a person accused of having committed an offence under the PMLA is not only subject to the limitations imposed under Section 438 or 439 of Cr. P.C. (Sections 482 or 483

of BNSS), but also subject to the restrictions imposed by the twin conditions of sub-section (1) of Section 45 of PMLA.

11. Money-laundering has two phases or components: (i) the predicate offence and (ii) the surface offence. The predicate offence is the underlying criminal activity that generates proceeds, which, when laundered, results in the offence of money-laundering. The predicate offences in this case are the scheduled offences involved in five crimes registered against the applicant, and money-laundering involved in the above crime is the surface or the larger offence. The allegations in the five predicated crimes against the applicant, in short, are that he, along with the remaining accused, cheated multiple people in the guise of supplying cashews as well as by offering job opportunities and received a total sum of ₹25,52,79,015/-. The definite case of the prosecution herein is that these funds identified as proceeds of crime were utilised by the applicant and other accused for money-laundering. This is the surface offence allegedly committed by them under Section 3 of PMLA.

12. Chapter II of PMLA contains provisions relating to the offence of money-laundering. The definition of the term "money-laundering" given in Section 2(1)(p) says that it has the meaning assigned to it in Section 3. Section 3 stipulates "money-

laundering” to be an offence. The offence under Section 3 of the PMLA is attracted when a person directly or indirectly attempts to indulge or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property. Section 2(u) of the PMLA defines the term 'proceeds of crime' as, “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 or where such property is taken or held outside the country, then the property equivalent in value held within the country or abroad.

13. From the definition, the term “money-laundering” can be said to be any process or activity connected with the proceeds of crime, namely concealment, possession, acquisition, use, projecting or claiming as untainted property. Any of the above multitude of activities constitutes a crime under Section 3 of the PMLA. Thus, involvement in any one of such processes or activities connected with the proceeds of crime would constitute an offence of money laundering. This offence otherwise has nothing to do with the criminal activity relating to a scheduled offence, except the proceeds of crime derived or obtained as a result of that crime. As

stated already, the sum and substance of the prosecution case in the five predicated crimes is that the applicant, along with the remaining accused, cheated the de facto complainants under the guise of supplying cheap cashews and by offering job opportunities and received a total sum of ₹25,52,79,015/-. A major portion of this amount has been transacted through bank transfer. As the predicate offences involve scheduled offences under PMLA, the above-mentioned amount obtained by the applicant and the other accused falls within the definition of "proceeds of crime". Mere possession of the proceeds of crime would attract the offence under Section 3 of the PMLA. It is revealed from the investigation that `2.03 crores were credited to the applicant's bank account by the complainants, which were not transferred overseas for import as claimed by the applicant. Therefore, a *prima facie* case of money laundering has been made out.

14. On a careful analysis of the materials placed on record, the factual discussions made above and the legal submissions advanced, it is not possible for me at this stage to record satisfaction that there are reasonable grounds for believing that the applicant is not guilty of the offences alleged. The reasonable ground mentioned in S.45(1)(ii) of PMLA connotes substantial probable causes for believing that the accused is not guilty of the

offence charged. The investigation is going on and the same is at a crucial stage. Undoubtedly, the investigating agency may require further time to collect all the materials, particularly the alleged nexus of the applicant with the crimes. In the counter affidavit filed by the respondent, it is stated that though the applicant appeared on summons on a few occasions, he is not cooperating with the investigation. The amount involved is huge. The custodial interrogation of the applicant appears to be necessary. As rightly argued by the learned ASGI, if pre-arrest bail is granted, there is every possibility of the applicant influencing the witnesses and interfering with the investigation. Therefore, I see no reason to exercise the jurisdiction vested with this Court under Section 482 of the BNSS.

Accordingly, the bail application is dismissed.

Sd/-

DR. KAUSER EDAPPAGATH

JUDGE

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APPENDIX OF BAIL APPL. 13987/2025

PETITIONER ANNEXURES

Annexure A1	**A TRUE COPY OF THE ORDER DATED 16/12/2024 OF THIS HON'BLE COURT BAIL APPLICATION NO. 9243/2024**
Annexure A2	**A TRUE COPY OF THE ORDER DATED 20/02/2025 OF THIS HON'BLE COURT IN BAIL APPLICATION NO. 402/2025**
Annexure A3	**A TRUE COPY OF THE ORDER DATED 17/03/2025 OF THE HON'BLE SUPREME COURT IN SPECIAL LEAVE TO APPEAL (CRL) NO.3561/2025**
Annexure A4	**A TRUE COPY OF THE INTERIM ORDER DATED 29/05/2025 OF THIS HON'BLE COURT IN B.A NO.7121/2025**
Annexure A5	**A TRUE COPY OF THE JUDGMENT DATED 17/06/2025 OF THIS HON'BLE COURT IN B.A NO.7121/2025**
Annexure A6	**A TRUE COPY OF THE SUMMONS NO. PMLA/SUMMON/KCZO/2025/3419 IN KCZO/34/2021 DATED 03/10/2025 ISSUED BY THE RESPONDENT**
Annexure A7	**A TRUE COPY OF THE ORDER DATED 27/10/2025 IN BA NO. 1319/2025 OF THIS HON'BLE COURT**
Annexure A8	**A TRUE COPY OF THE A TRUE COPY OF THE OBJECTION FILED BY THE RESPONDENT IN CRL. MC NO. 3115/2025 BEFORE SESSION COURT, ERNAKULAM**
Annexure A9	**A CERTIFIED COPY OF THE ORDER DATED 12/11/2025 IN CRL.MC. NO. 3115/2025 PASSED BY THE HON'BLE SESSION COURT, ERNAKULAM**
Annexure A10	**A TRUE COPY OF THE SUMMONS NO. PMLA/SUMMON/KCZO/2025/3520 IN KCZO/34/2021 DATED 12/11/2025 ISSUED BY THE RESPONDENT**