IN THE HIGH COURT AT CALCUTTA

CRIMINAL REVISIONAL JURISDICTION
CIRCUIT BENCH AT PORT BLAIR
****

PRESENT: HON'BLE JUSTICE UDAY KUMAR

CRR/71/2026

DIRECTORATE OF ENFORCEMENT ... PETITIONER

VERSUS

KULDEEP RAI SHARMA ... OPPOSITE PARTY

For the petitioner	: Mr. Soheb Houssain, Sr. Adv. *(through virtual mode)* Mr. V.D.Sivabalan Ms. Kavita Devi
For the Opposite party	: Mr. Mohammed Tabraiz
Heard on	: 25.11.2026
Judgment on	: 25.11.2026

UDAY KUMAR, J.

1. This criminal revision application, has been preferred by the Directorate of Enforcement to challenge a part of order No. 58 dated 10th November 2026 passed by the Learned Special Judge (ED), Andaman and Nicobar Islands, Port Blair in CR Case No. 1 of 2025 arising out of ECIR/KLZO-II/11/2025, whereby the Learned Special Judge declined to grant medical bail to the accused opposite party, Kuldeep Rai Sharma, and ordered his shifting within

five days to SSKM Hospital, Kolkata for cardiac related medical treatment in custody, at his own expense with round-the-clock watch and permission for family members to accompany him, the Court also directed the concerned Bank Manager to defreeze one bank account of the opposite party on his prayer so that he or a family member could withdraw money solely for medical treatment at SSKM Hospital and incidental expenses. The Enforcement Directorate has questioned only the direction to defreeze a bank account, without challenging the permission to shift the opposite party to SSKM Hospital, Kolkata for treatment.

2. To put the dispute in its proper setting, the case arises out of FIR No. 14 of 2025 dated 15th May 2025 registered on a complaint from the cooperative authorities concerning alleged financial irregularities and offences in the Andaman and Nicobar State Cooperative Bank Limited, where the opposite party, a former Member of Parliament and former Vice-Chairman of the bank, is arrayed as Accused No. 1 in the money laundering prosecution following his arrest in July and September 2025, with a supplementary complaint filed on 6th November 2026 after earlier bail pleas were rejected or withdrawn and this Court had recorded timelines in CRM (SB) 4 of 2026. On 31st July 2025, the Enforcement

Directorate froze the bank accounts of the opposite party under Section 17 (1A) of the Prevention of Money Laundering Act, 2002, sought retention through Original Application No. 253 of 2025 under Section 17 (4), and obtained a confirmation order from the Adjudicating Authority on 16th January 2026 under Section 8 (3) of the Act. That confirmation order of 16th January 2026 is presently under challenge in a pending appeal before the Appellate Tribunal under Section 26 of the Prevention of Money Laundering Act, 2002. When the opposite party moved for medical bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 on the strength of the medical board report dated 7th November 2026 from G.B. Pant Hospital, Port Blair, which advised urgent higher-centre cardiac evaluation while noting other conditions as manageable or requiring routine specialist follow-up, the Learned Special Judge refused bail at that stage, ordered shifting to SSKM Hospital, Kolkata within five days, and added the direction to defreeze one bank account to meet treatment and incidental expenses.

3. When this revision was taken up, both sides were found to be in consensus and *ad idem* on the settled legal position regarding the narrow point in dispute, namely that

the direction issued on a medical bail application to defreeze a bank account already frozen under Section 17 (1A) and confirmed under Section 8 (3) of the Prevention of Money Laundering Act, 2002 while an appeal under Section 26 of the Act is pending before the learned Appellate Tribunal cannot be sustained in law and should be set aside. That shared understanding accords squarely with the statutory scheme of the Prevention of Money Laundering Act, 2002 and the Supreme Court's ruling in *M/s Nav Nirman Builders and Developers Pvt. Ltd. v. Union of India* (SLP (Crl.) No. 921 of 2023, decided on 6th February 2026), where the Supreme Court explained that once an order under Section 8 (3) of the Act is challenged before the Appellate Tribunal under Section 26, the doctrine of merger and a deemed embargo operate on proceedings under Section 8 until the appellate challenge attains finality, and a Special Court dealing with a bail plea under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 cannot exercise a general power outside the statutory framework of Section 8 of the Act to direct the defreezing of a confirmed bank account.

4. At the same time, setting aside the direction to defreeze the bank account on the consent and settled position of law does not mean overlooking the medical

condition of the opposite party recorded in the medical board report of 7th November 2026 or the preservation of life and fair treatment to which every person in custody is entitled under Article 21 of the Constitution of India. Since the Enforcement Directorate has expressly not challenged the direction permitting the opposite party to be shifted to SSKM Hospital, Kolkata for necessary medical care and has consented only to the removal of the unlawful direction defreezing the bank account, the proper and lawful course is to set aside the direction for defreezing the bank account while leaving the remaining medical shifting and security arrangements undisturbed and permitting the opposite party to pursue any lawful remedy for release or access to funds strictly before the competent forum in accordance with the Prevention of Money Laundering Act, 2002, as well as to seek appropriate medical directions from the Special Court if his health requires immediate attention.

5. Accordingly, the instant criminal revision application being CRR No. 71 of 2026 is allowed in part, and the direction contained in Order No. 58 dated 10th November 2026 passed by the Learned Special Judge (ED), Andaman and Nicobar Islands, Port Blair in CR Case No. 1 of 2025 directing the concerned bank manager to defreeze one bank

account of the opposite party for withdrawal of funds is hereby set aside, without interfering with the rest of the order dated 10th November 2026 and without prejudice to the opposite party's right to approach the appropriate statutory authority or tribunal under the Prevention of Money Laundering Act, 2002 or the Learned Special Judge for lawful medical and custody arrangements in accordance with law.

6. There shall be no order as to costs.

7. Interim order, if any, stands vacated.

8. Urgent Photostat certified copy of this judgement, if applied for, be given to the parties on payment of requisite fees.

(UDAY KUMAR, J.)