IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 478 OF 2026

1. Avinash Bhosale (Age -66)]
Indian Citizen having his address]
at Abeeys Palace, Ivory Estate,]
Baner Road, Pashan, Pune]
MH – 411 008]

2. Samit Realty Pvt. Ltd.]
A company incorporated under the]
provisions of Companies Act, 1956]
having its office at ABIL House, Plot No.2]
Yashwant Ghadge Nagar,]
Ganesh Khind Road, Range Hills Corner]
Pune, MH- 411 007]

3. Gauri Avinash Bhosale (Age 65)]
Indian citizen having her address at]
Abeeys Palace, Ivory Estate, Baner Road]
Pashan, Pune, MH-411008] … Appellants

V/s.

Directorate of Enforcement]
Having its address at]
1st and 2nd Floor, MTNL Building]
Jawaharlal Nehru Marg,]
New Delhi – 110002] … Respondent

WITH
CRIMINAL APPEAL NO. 816 OF 2026

Directorate of Enforcement]
Through Assistant Director, HIU-II]
Parvartan Bhawan, APJ Abdul Kalam Road]
New Delhi, Delhi – 110 011] … Appellant

V/s.

SUMEDH NAMDEO SONAWANE Digitally signed by SUMEDH NAMDEO SONAWANE Date: 2026.10.21 16:07:24 +0530

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1. Avinash Bhosale]
Aged – 66 years]
R/o. Abeeys Palace, N Ivory Estate]
Baner Road, Pashan, Pune,]
MH – 411 008]

2. Samit Realty Pvt. Ltd.]
Through its Authorized Representative]
Registered Address : ABIL House, Plot No.2]
Yashwant Ghadge Nagar,]
Ganesh Khind Road, Range Hills Corner]
Pune, MH- 411 007]

3. Gauri Avinash Bhosale]
Aged – 65 Years]
R/o. Abeeys Palace, Ivory Estate,]
Baner Road, Pashan, Pune, MH-411008]

4. M/s. Abbeys Relacon LLP]
Through Its Authorized Representative]
Registered Address: ABIL House, Plot No.2]
Yashwant Ghadge Nagar,]
Ganesh Khind Road, Range Hills Corner]
Pune, MH – 411 007]

5. State of Maharashtra] … Respondents

Mr. Aabad Ponda, Senior Adv. a/w Mr. Aditya Mehta, Mr. Abinash Pradhan, Ms. Garima Agrawal, Mr. Yash Dedhia i/b Wadia Ghandy & Co. for Appellants in Criminal Appeal No. 478 of 2026 and Respondent Nos. 1 to 4 in Criminal Appeal No. 816 of 2026

Mr. Prashant Mishra (Special Counsel) a/w. Mr. Bharat Jadhav, Ms. Purva Birla, Ms. Shruti Chande, Mr. Krish Kariya, Mr. Akshun Thakur and Mr. Ketan Gavhane for the Appellant in Criminal Appeal No. 816 of 2026 and for the Respondent in Criminal Appeal No. 478 of 2026.

Mr. S. V. Gavand, APP, for the Respondent -State.

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CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.
RESERVED ON : 13th October, 2026
PRONOUNCED ON : 21st October, 2026.

Judgment (Per : Kamal Khata, J) :-

1) We have before us cross-Appeals from Order dated 1st April, 2026, passed by the Appellate Tribunal, New Delhi under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 ('SAFEMA').

2) By the said Order, the Appellate Tribunal has continued the provisional attachment to the extent of Rs. 25 Crores in respect of the following properties, namely:

(i) Land parcel admeasuring 6143.71 Sq. Meters in Pune, attached for the value of Rs. 14.65 Crores under the title of Samit Realty wholly; and

(ii) The remaining part to make good the amount of Rs. 25 Crores, being land admeasuring 20,200 Sq. Meters in Nagpur, valued at Rs. 15,52,87,000/-, in the name of Gauri Bhosale.

3) Criminal Appeal No. 478 of 2026 is filed by Avinash Bhosale and Others, who have been arraigned as accused in the third supplementary chargesheet filed by the Respondent Directorate of Enforcement (ED), in the investigation relating to ECIR No. ECIR/MBZO-I/03/2020. Criminal Appeal No. 816 of 2026 has been filed by the ED itself, challenging the

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release of the attached properties on the ground that the release is devoid of any merits.

4) We have heard Mr. Aabad Ponda, learned Senior Advocate for the Appellants in Criminal Appeal No. 478 of 2026, and Mr. Prashant Mishra, learned Special Counsel for the ED in Criminal Appeal No. 816 of 2026, and have carefully perused the record.

5) According to the original Complaint filed by the ED on 21st October, 2022, proceeds of crime to the tune of Rs. 3,983 Crores originated from YES Bank. The monies were sanctioned and disbursed to Dewan Housing Finance Corporation Limited (DHFL) against investments under:

a) Sub Debt/Private Placement of Bonds in the sum of Rs. 1000 Crores;

b) Masala Bonds in the sum of Rs. 283 Crores; and

c) Public Issue of Non-Convertible Debentures in the sum of Rs. 2700 Crores.

6) The expression 'proceeds of crime' is defined under Section 2 (u) of the Prevention of Money- Laundering Act, 2002 (for short, "PMLA") which is set out hereinunder for ready reference :

> *"Section 2 (u)*
> *proceeds of crime" means any property derived or obtained a scheduled offence or the value of any such property '[or where such directly or indirectly, by any person as a result of criminal activity relating to*

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property is taken or held outside the country, then the property equivalent in value held within the country for abroad]].”

7) The offence of money laundering is defined under Section 3 of the PMLA and reads as under :

“Section 3 - Offence of Money-Laundering .- Whosoever directly or indirectly attempts to indulge or knowingly assists 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 shall be guilty of offence of money-laundering.

[Explanation.—For the removal of doubts, it is hereby clarified that,—

(i) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following processes or activities connected with proceeds of crime, namely:—

(a) concealment; or

(b) possession; or

(c) acquisition; or

(d) use; or

(e) projecting as untainted property; or

(f) claiming as untainted property,

in any manner whatsoever;

(ii) the process or activity connected with proceeds of

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> *crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever;]"*

8) A bare perusal of the definition of proceeds of crime shows that, it covers not only property derived or obtained from the scheduled offence, but also any property derived or obtained, directly or indirectly, as a result of criminal activity relatable to a scheduled offence. The expression 'scheduled offence' is defined in Section 2(1)(y) of the PMLA, which is reproduced hereinunder for ready reference :

> *"Section 2 (1)(y)– "scheduled offence" means—*
> *(i) the offences specified under Part A of the Schedule; or*
> *(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*
> *(iii) the offences specified under Part C of the Schedule;]"*

9) A simple analysis of the above provisions indicates that, a property must have been derived as a result of criminal activity relating to a scheduled offence specified either in Part A or Part B of the Schedule to the PMLA.

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10) We are unable to comprehend, nor has the learned Special Counsel for the ED been able to explain, how official bank transaction(s) between a Bank and a Corporate entity, carried out in the usual course of business, could be construed as proceeds of crime and thereby constitute the offence of money laundering.

11) A perusal of the record indicates that, ED has alleged proceeds of crime to the tune of Rs.164.64 Crores received by Appellant No.1-Avinash Bhosale and/or his entities (i) Nibhodh Realty (Nibodh) (ii) Consultancy and (iii) ABIL Dairy (ABIL) Transactions.

12) The record shows that, between 15th October 2014 to 23rd July 2015, Nibodh invested a total of Rs.237.50 Crores in Sanjay Chhabria's Company under three Debenture Subscription Agreements ('DSA'). As per the terms of DSAs, the monies advanced carried an interest @ of Rs.18% per annum. Apparently, as per Mr. Ponda's calculations, Sanjay Chhabria has repaid a sum of Rs. 499.63 Crores i.e. Rs.163.93 Crores prior to 12th April 2018 and Rs. 335.70 Crores after 12th April 2018, under the aforesaid Agreements.

13) However, as per Mr. Mishra's calculation, Sanjay Chhabria had agreed to repay Rs. 766 Crores against Rs. 237 Crores lent at 18% interest p.a. in 2014-15. According to him, Rs. 431 Crores were repaid and Rs. 267 Crores were transferred in 2018. In our view, by using words 'repaid' and 'transferred' in the explanation tendered do not explain what he implies.

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The proceeds of crime calculation showing Rs. 431.33 Crores repaid, Rs. 237.50 Crores principal, Rs. 122.61 Crores IBFL's Interest and Rs. 3.37 Crores processing fee, totaling to Rs. 794.81 Crores. If Rs. 766 Crores is deducted therefrom, the balance is Rs. 28.81 Crores. Therefore, there is no basis to suggest Rs. 67.85 Crores constitutes proceeds of crime.

14) Under these transactions, we find no basis for the contention that, out of Rs.335.70 Crores received by Nibodh under the DSAs after 12th April 2018, Rs.67.85 Crores are proceeds of crime. The conclusion arrived by ED is entirely baseless because, the monies were repaid by Sanjay Chhabria under the DSAs executed in 2014. Therefore, no link is established between payment made to Nibodh by Sanjay Chhabria under the DSAs, the consultancy fee and the monies disbursed by YES Bank in 2018. There could not have been proceeds of crime even before the disbursement by YES Bank.

15) With regard to the consultancy transaction, ED alleges that, DHFL has entered into a series of consultancy Agreements with entities of Appellant No.1, and that the proceeds of crime is alleged to be Rs.71.82 Crores. An examination of the record indicates that, amount of Rs. 47.52 Crores was disbursed by DHFL prior to YES Bank granting a loan to DHFL on 12th April 2018. Thus, an amount of Rs.47.52 Crores received prior to the date of disbursal of the loan, being 12th April 2018, cannot have any connection with the proceeds of crime.

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16) Thus, the theory of ED for DHFL diverted the monies to Appellant No.1 under consultancy Agreement is entirely erroneous because an amount of Rs.55.62 Crores was disbursed under the consultancy Agreements between 4th July 2017 and 11th May 2018, and an invoice of Rs.16.20 Crores was raised on 6th April 2018 i.e. six days prior to 12th April 2018.

17) In our view therefore, the amounts paid by DHFL and received by Appellant No.1 under the consultancy Agreements prior to the disbursal of the loan on 12th April 2018, therefore cannot be linked to proceeds of crime.

18) With regard to the ABIL, ED alleges that Rs.25 Crores received by ABIL from Sanjay Chhabria on 18th February 2019, constitutes proceeds of crime. It is inconceivable that, a payment made under an Agreement that, sale of a dairy business executed in the year 2016 alongwith first payment of 50% made on 15th January 2016, can be linked to proceeds of crime merely because the balance 50% was paid by Sanjay Chhabria to ABIL Dairy LLP on 28th February 2019 i.e. after 12th April 2018.

In our view, each transaction was an independent transaction with an independent Corporate entity and none of them is, by any stretch of the imagination, illegal. We find there is no nexus between them.

19) As per ED's own case, during April and June 2018, YES Bank 'invested Rs. 2700 Crores in Debentures of DHFL' and further granted loans

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of Rs. 1,283 Crores to DHFL. The receipt of these monies by DHFL, whether as an investment or as a loan from YES Bank, cannot be faulted in law. These are official banking transactions and cannot be construed as proceeds of crime. If the contention is to be accepted it would mean that the money held by the bank was illicit and consequently, the transactions are fraudulent and illegal. This contention is only to be stated to be rejected.

20) In that view of the matter, the subsequent disbursement by DHFL to other legal entities cannot be construed as illegal transactions either, as they too are recognized lawful transactions. The entire basis of the investigation is therefore proceeds on erroneous hypothesis and the transactions cannot be treated as illegal, as alleged by the ED.

21) The ED contends that, in July 2018, DHFL lent Rs. 600 Crores to DOIT Urban Ventures, allegedly the family entity of Rana Kapoor, by way of kickback. This contention is wholly unfounded. A loan transaction cannot, in the first place, be termed as a kickback and there is no basis for such an allegation. A loan transaction may be extended with or without appropriate security, and it is entirely for the lender, in its own commercial wisdom, to decide whether to lend monies to an individual or entity. Except bald statements in the pleadings, there is no cogent material on record to even *prima facie* substantiate the same.

22) We find that, the arguments of Mr. Mishra are entirely without substance. Having perused the impugned Order, we find that, it has

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considered all the submissions of both the parties, analysed the case in its proper perspective, and that the conclusion arrived at, on the material placed before it, is not perverse.

23) However, we find no basis for the continuation of the attachment of the said two properties by the Appellate Tribunal.

24) Having concluded that all the transactions were legal transactions and could not be construed as proceeds of crime, we find no basis for continuing the attachment of the properties. We therefore pass the following Order:

i) Criminal Appeal No. 478 of 2026 is allowed in terms of prayer clause (a).

ii) Criminal Appeal No. 816 of 2026 filed by the ED is accordingly dismissed.

(KAMAL KHATA, J.) **(A.S. GADKARI, J.)**

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