



Neutral Citation Number: [2026] EWHC 217 (KB)

Case No: KB-2024-001492

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 6 February 2026

Before :

Mr Justice Mansfield

Between :

MEHUL CHOKSI

Claimant

- and -

- (1) THE GOVERNMENT OF INDIA**
(2) GURDIP BATH
(3) BARBARA JARABIK
(4) LESLIE FARROW-GUY
(5) GURMIT SINGH
(6) GURJIT SINGH BHANDAL

Defendants

Gary Summers for the Applicant Second and Fourth Defendants
Susana Ferrin (instructed by Murria Solicitors) for the Applicant Fifth and Sixth Defendants
Edward Fitzgerald KC and Graeme Hall (instructed by Simons Muihead Burton) for the
Respondent Claimant
Jacob Turner (instructed by Farrer & Co LLP) for the First Defendant

Hearing dates: 18 December 2025

Approved Judgment

This judgment was handed down remotely at 11.00am on Friday 6 February 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

Mr Justice Mansfield:

INTRODUCTION

1. This is my judgment in relation to two applications for security for costs in this claim for damages for personal injury: the Second and Fourth Defendants' application dated 6 November 2024, and the Fifth and Sixth Defendant's application dated 2 December 2024.
2. The Claimant was a businessman of Indian nationality who, between at least 2018 and 2021, was living in Antigua. He is wanted by the Government of India to be tried for economic crimes alleged against him, and extradition proceedings were begun against him in Antigua in 2018.
3. The Claimant alleges that on 23 May 2021 he was kidnapped in Antigua and taken by boat to Dominica. He alleges that he was assaulted during the voyage. On arrival in Dominica, he came into the hands of the Dominican authorities and was able to see lawyers who made an application for habeas corpus. He was released on bail and was able to return to Antigua. He subsequently came to be in Belgium, where he is now on remand pending proceedings brought by the Government of India to extradite him to India.
4. The Claimant claims damages for the injuries (both physical and psychiatric) he claims to have suffered as a result of false imprisonment, unlawful detention, assault and battery. He claims against six Defendants, all of whom he alleges conspired to kidnap him with the common design to unlawfully render him to India. The kidnapping is said to have been carried out by the Second to Sixth Defendants, in a conspiracy with the First Defendant, the Government of India.
 - i) The Second Defendant is an Indian national and a diplomat of St Christopher and Nevis. He is alleged to have resided in England at the time of the kidnapping.
 - ii) The Fourth Defendant is a British national, residing in England, and the former driver of the Second Defendant.
 - iii) The Fifth and Sixth Defendants are respectively an Indian national and a British national of Indian origin. Both reside in England.
 - iv) The Third Defendant is a Hungarian national, residing in England at the relevant time.
5. The Claimant alleges that it is to be inferred that the conspiracy was hatched in England and the Second to Sixth Defendants travelled to Antigua together to carry out the kidnapping. The Third Defendant is alleged to have lured the Claimant to an apartment; men arrived at the apartment, beat him and forcibly removed him to a boat. The Fifth and Sixth Defendants are alleged to have travelled with him on the boat to Dominica, and to have threatened and assaulted him during the voyage. The Second Defendant and Fourth Defendant are alleged to have arranged the kidnapping, including in

Antigua, but it does not appear to be alleged that they met the Claimant themselves. The First Defendant is alleged to have orchestrated the kidnap. It is alleged that the governments of Antigua and Dominica participated, connived or acquiesced in the kidnap; though no claim is brought in these proceedings against either government.

THE PROCEDURAL HISTORY

6. The claim was issued on 22 May 2024. The First, Second, Fourth, Fifth and Sixth Defendants all filed Acknowledgments of Service indicating that they would contest the jurisdiction of the Court. No Defences have yet been filed.
7. The First Defendant claims state immunity in respect of the matters raised in the claim. The Second and Fourth to Sixth Defendants also seek to rely on that immunity. The Defendants dispute the jurisdiction of this Court. Although the Second and Fourth to Sixth Defendants were served in England, they argue that England is not the appropriate forum to hear the claim.
8. The Third Defendant has played no part in the proceedings. I was told that there is an issue as to whether she has been properly served with the claim.
9. There was a directions hearing before Freedman J on 16 June 2025. That resulted in Freedman J's order dated 11 July 2025. Freedman J gave directions for the various issues of jurisdiction and state immunity ("**the Jurisdiction Applications**") to be heard together at a five day hearing in Michaelmas term 2026, with a time estimate of five days. Those applications also involve issues as to whether the claims against some of the Defendants (at least) have reasonable prospects of success. Freedman J resolved various issues as to the case management of those applications, which I need not address here. Freedman J also directed that the two security for costs applications be heard together, and it is those applications that come before me.
10. The Second and Fourth Defendants are jointly represented, by Mr Summers, and the Fifth and Sixth Defendants are jointly represented by Ms Ferrin. The Claimant is represented by Mr Fitzgerald KC together with Mr Hall. Counsel for the First Defendant attended the hearing as an observer but did not make submissions on the applications. He made clear that the First Defendant did not waive immunity or submit to the jurisdiction. The Third Defendant did not attend.
11. At the beginning of the hearing Mr Summers raised a preliminary issue objecting to the Claimant raising arguments as to the merits of the claim. He submitted, essentially, that it was unfair to raise issues as to the merits as (1) the Defendants were handicapped in addressing the merits as they did not want to take a step that might be taken as a submission to the jurisdiction; (2) the First Defendant was not represented at the hearing; (3) there was a risk that whatever I say about the merits of the claim would have wider repercussions in future hearings in the claim. He therefore invited me to rule either that merits arguments would not be addressed in these applications, or that there be restrictions on publicity in relation to any judgment I give. Having heard argument from all counsel (including observations from the First Defendant's counsel) I gave an oral ruling during the hearing rejecting Mr Summers' application in relation to these issues. I need not repeat the reasons that I gave orally. During the course of argument

Mr Fitzgerald KC offered an undertaking, on behalf of his client, that the Claimant would not argue that any Defendant had submitted to the jurisdiction by making submissions as to the merits of the claim in the course of these applications. I welcomed that undertaking; an appropriately worded undertaking should be included in the order I make following this judgment.

THE APPLICATIONS

12. Both applications were made prior to the changes to CPR 25 which came into effect in April 2025 and were brought under the then applicable CPR 25.13. The applications have been argued by reference to the new rules in CPR 25.27. Although a number of “gateway” conditions were initially relied on, the sole gateway now relied on is the fact that the Claimant is resident abroad.
13. Both applications, when issued, sought security to cover the whole of the cost of the claim. In due course the Applicants revised their approach and seek security in respect of the costs up to the conclusion of the Jurisdiction Applications. The sums now sought are as follows: Second Defendant - £400,000; Fourth Defendant - £100,000; Fifth and Sixth Defendants - £150,000 each. The total sought is £800,000.

THE LEGAL FRAMEWORK

14. By CPR 25.27 (as amended with effect from 6 April 2025) the Court may make an order for security for costs if (a) it is satisfied, having regard to all the circumstances of the case, that it is just to make such an order; and (b) one or more of the conditions set out in CPR 25.27(b)(i) to (vi) is satisfied.
15. It is common ground in this case that condition (b)(i) is satisfied – the Claimant is resident out of the jurisdiction. The issue therefore is whether the Court is satisfied, having regard to all the circumstances of the case, that it is just to make such an order.
16. The Court has a discretion whether to order security, to be exercised in all the circumstances (per Lord Denning MR in **Sir Lindsay Parkinson & Co. Ltd. v Triplan Ltd.** [1973] 1 QB 609 at 626D, emphasising the importance of the word “may”).
17. There are three particular factors that have been addressed by the parties as relevant to the exercise of discretion:
 - i) The merits of the claim;
 - ii) The risk of non-enforcement of an order for costs against a Claimant resident out of the jurisdiction;
 - iii) The Claimant’s ability to provide security and continue the claim.
18. I will summarise the legal principles relevant to those particular factors.

The merits of the Claim

19. A prominent feature in this particular application has been the merits of the Claimant's claim. The merits have two components: the merits of the preliminary arguments as to jurisdiction and immunity, and the merits of the claim as a whole.
20. It is well established by authority that parties should not attempt to go into the merits of the case unless it can be clearly demonstrated one way or another that there is a high degree of probability of success or failure: **Keary Developments Ltd. v Tarmac Constructions Ltd.** [1995] 3 All ER 534 at para 4 per Peter Gibson LJ and **Danilina v Chernukhin** [2019] 1 WLR 758 at 772 para 69 where Hamblen LJ (as he then was) said the following:

In relation to the appropriateness of considering arguments on the merits, the position is correctly summarised in the notes to the Civil Procedure 2018, vol 1, p 836, para 25.13.1: Parties should not attempt to go into the merits of the case unless it can be clearly demonstrated one way or another that there is a high degree of probability of success or failure. See *Porzelack KG v Porzelack (UK) Ltd* [1987] 1 WLR 420.

21. The Commercial Court Guide Appendix 10 para 4 says as follows:

Investigation of the merits of the case on application for security for costs is strongly discouraged. It is usually only in those cases where it can be shown without detailed investigation of evidence or law that the claim is certain or almost certain to succeed or fail that the merits will be taken into consideration.

22. There was some debate between counsel as to whether this passage of the Guide sets a higher test than that stated in the authorities and, if it does, whether it is correct.
23. Mr Fitzgerald KC relied on **Dena Technology (Thailand) Ltd. v Dena Technology Ltd.** [2014] EWHC 616 (Comm) in which, according to Mr Fitzgerald's submission, Leggatt J (as he then was) disagreed with the Guide's formulation of the test:

I am not sure what standing the Commercial Court guide has, if any, to vary the test established in the case law, but the point is well made that it is a rare case in which investigation of the merits in the context of an application for security will be appropriate.

24. Paragraph 4 remains unmodified in the Guide, some 11 years after **Dena**, and it was expressly said to properly reflect the law by Lesley Anderson QC (sitting as a Deputy High Court Judge) in **Mountain Ash Portfolio Ltd. v Vasilyev** [2022] EWHC 1867 (Comm) as noted in the 2025 edition of the **White Book** at 25.27.3. The relevant paragraph (para 24) of **Mountain Ash** reads as follows:

Although Counsel for the Defendant identified a potential tension here with the comments of Sedley LJ in the *Al-Koronky* decision at [24], I am satisfied that the correct position is that set

out in the passage from *Chernukhin* which I have already identified and that the Commercial Court Guide properly reflects the law.

25. The passage from **Al-Koronky** to which Ms Anderson QC referred was addressed earlier in her judgment at paragraph 20:

I was referred to a number of authorities on the relevance of the merits when determining an application for security for costs. It is well established that the court should not go into the merits of the claim in detail unless it can be demonstrated that there is a high degree of probability of success or failure – see *Porzelack KG v Porzelack (UK) Limited* [1987] 1 All ER 1074 at 1077 and the decision of Peter Gibson LJ in *Keary Developments Ltd v Tarmac Construction Ltd* [1993] All ER 534 at 540DE. Leading Counsel for the Claimant went further and submitted that where a claimant can demonstrate at the time of the application for security that it is “*highly likely to succeed at trial*”, it ought not to be required to lodge security for the defendant’s costs – see per Sedley LJ in the Court of Appeal in *Al-Koronky and another v Time-Lif Entertainment Group Ltd and another* [2007] 1 Costs LR 57 at [24].

26. It appears from these passages that Ms Anderson regarded **Danilina** and para 4 of the Guide as consistent, and **Al-Koronky** as potentially “going further”. She did not appear to see a difference between “*a high degree or probability of success or failure*” and “*certain or almost certain to succeed or fail*” on the other. The extent and nature of the difference between these formulations is not clear, and it was not addressed in any detail by counsel at the hearing before me. I will proceed on this application by applying the test as formulated by Hamblen LJ in **Danilina**. In the event, the exact formulation of the test makes no difference in this case. As I will explain below, the Claimant’s case does not get over the **Danilina** test.
27. As set out in the notes to the **White Book** at 25.27.3, a Claimant resident abroad will not be required to lodge security for costs where it can clearly be demonstrated that there is a high degree of probability of success. However, a high probability of success is a factor to be taken into account in the exercise of discretion – is not a determinative factor. So much is clear from one of the authorities relied on by Mr Fitzgerald KC: in **Dena**, Leggatt J found that the claim had high probability of success, but nonetheless went on to order security.

Residence out of the jurisdiction and enforcement of a costs order

28. Where the threshold condition for an order for security for costs is (b)(i), residence out of the jurisdiction, the following principles are relevant, per Hamblen LJ in **Danilina** at para 51-52.

51. Having regard to the guidance provided by these authorities the position may be summarised as follows:

(1) For jurisdiction under CPR 25.13(2)(a) to be established it is necessary to satisfy two conditions, namely that the claimant is resident (i) out of the jurisdiction and (ii) in a non-Convention state.

(2) Once these jurisdictional conditions are satisfied the court has a discretion to make an order for security for costs under CPR 25.13(1) if "it is satisfied, having regard to all the circumstances of the case, that it is just to make such an order".

(3) In order for the court to be so satisfied the court has to ensure that its discretion is being exercised in a non-discriminatory manner for the purposes of Articles 6 and 14 of the Convention— see the *Bestfort* case [2017] CP Rep 9, paras 50-51.

(4) This requires "objectively justified grounds relating to obstacles to or the burden of enforcement in the context of the particular foreign claimant or country concerned" – see *Nasser's* case [2002] 1 WLR 1868, para 61 and the *Bestfort* case at para 51.

(5) Such grounds exist where there is a real risk of "substantial obstacles to enforcement" or of an additional burden in terms of cost or delay – see the *Bestfort* case at para 77.

(6) The order for security should generally be tailored to cater for the relevant risk – see *Nasser's* case at para 64.

(7) Where the risk is of non-enforcement, security should usually be ordered by reference to the costs of the proceedings see, for example, the orders in *De Beer's* case [2003] 1 WLR 38 and the *Bestfort* case.

(8) Where the risk is limited to additional costs or delay, security should usually be ordered by reference to that extra burden of enforcement – see, for example, the order in *Nasser's* case.

52. I would add the following observations:

(1) The relevant risks are of (i) non-enforcement and/or (ii) additional burdens of enforcement. A real risk of either will suffice to meet the threshold test.

(2) Some of the authorities refer to difficulties of enforcement. Mere difficulty of enforcement in itself is not enough (save in so far as it results in additional costs and therefore an extra burden of enforcement). The relevant risk is non-enforcement, not difficulty in enforcement and this is the risk to which the test of substantial obstacles is directed. The obstacles need to be sufficiently substantial to amount to a real risk of non-

enforcement. Difficulties may, however, be evidence of the substantial obstacles required for there to be a real risk of non-enforcement.

(3) Delay is mentioned as a relevant additional burden of enforcement, but it is difficult to see how this can be quantified in terms of security unless it is likely to result in some additional cost or interest burden.

Stifling a claim

29. If the effect of an order for security would be to prevent a claimant from continuing the claim, then security should not be ordered. However, the burden lies on the claimant to show, on the balance of probabilities, that the effect of an order would be to stifle the claim: **White Book** para 25.27.2 and the cases cited therein.

THE MERITS OF THE CLAIM

The Substantive Merits of the Claim

30. Mr Fitzgerald KC submits that it would be manifestly unjust to order the Claimant to pay security for costs to individuals against whom there is strong evidence that they highly probably formed part of a conspiracy to abduct, torture and render him to India.
31. In support of that submission, he took me to a number of pieces of evidence, summarised both in his Skeleton Argument and in the Fifth Witness Statement of Mr Phillips, the Claimant's solicitor. He relied on an Antiguan Police Report, authored by Inspector Adonis Henry dated 25 June 2021, and upon the evidence gathered together in a witness statement of Oliver Laurence, dated 24 November 2025. Mr Laurence is an investigator instructed by the Claimant's family. Both Inspector Henry's report and Mr Laurence's statement refer to statements made by others, and to documents seen by them.
32. The police investigation in Antigua did not progress, it appears, beyond Inspector Henry's report. Mr Fitzgerald KC's submission was that the reason for that is that the investigation was shut down as a result of collusion between the Defendants and the governments of Antigua and Dominica. The Claimant has brought separate proceedings in Antigua against the Antiguan government alleging a breach of duties to carry out an effective investigation of the treatment of the Claimant. Those proceedings, it is said, have been repeatedly delayed.
33. I have considered carefully the evidence filed on behalf of the Claimant. It is not necessary for the purposes of this judgment to address it in detail. The question on this application is whether there is a strong probability that the claims against these four Defendants will succeed. I am not satisfied that there is a strong probability of success.
34. Much of the evidence relied on for this application is hearsay and/or opinion. Inspector Henry and Mr Laurence produce documents obtained from others and summarise the

evidence offered by others. In some instance they offer their opinions as to what that evidence shows.

35. Further, unsurprisingly, there is no witness evidence as to the kidnapping and assault of the Claimant, other than that of the Claimant himself. As is typical of conspiracy cases, much of the evidence is circumstantial and the existence and detail of the conspiracy is said to arise as a matter of inference. Mr Fitzgerald KC is right in saying that circumstantial evidence can be both powerful and sufficient; but at this early stage of the proceedings, before full consideration of all the available evidence, it is difficult to assess.
36. It is not possible to form a sufficiently firm view of the merits based on this material. At trial, this case will turn on the evidence of witnesses and a detailed assessment of the documents. It is impossible at this stage to form a meaningful assessment of which witnesses will give evidence, what they will say, and how their evidence will stand up to cross-examination. Similarly, without the full documentary and witness picture that will be before the trial judge, it is impossible to assess what the circumstantial evidence amounts to and what inferences properly arise.
37. One example from Mr Fitzgerald KC's submission illustrates the problem with the Claimant's position at this hearing. The Fifth and Sixth Defendants are alleged to have been on the boat with the Claimant between Antigua and Dominica and to have threatened and assaulted him. They accept that they were on the boat in question, but deny that the Claimant was; indeed they deny ever meeting him. Included in the evidence for this application was a transcript of an interview with these two Defendants carried out by a journalist in which they answered questions about their involvement. In the interview they denied any involvement or wrongdoing. It was submitted that their evidence was incredible. I was asked not just to read the transcript, but also to watch the video; it was submitted that the video would show how "shifty" the two Defendants were. I watched the video as asked. It confirmed my view that it is simply impossible to form a view on the merits based on the demeanour and answers of the defendants in a media interview: the evidence of the Defendants needs to be seen in its full context and tested in cross-examination at trial. The evaluation of witness credibility is not an exercise to be encouraged on a security for costs application.
38. In my judgment, this is not at all the kind of case that amounts to one of those rare instances where the Court is satisfied that there is a strong probability of success, so as to take the merits into account in exercising its discretion. Having reached that conclusion, it is neither necessary nor appropriate to set out an analysis of the evidence. Consideration of the detail of the evidence will be a matter for trial.
39. I make clear that I reached this conclusion without attaching any weight to the evidence of Mr Kenneth Rijock, who submitted an unsolicited report into his own investigation into the Claimant's case. There was some argument before me as to Mr Rijock's status and reliability. It was agreed that he has a conviction for money laundering. The Claimant submitted, during the hearing, a witness statement from Mr Michael Polak, a barrister who has assisted the Claimant. He gave some evidence that Mr Rijock has now "switched sides" and has offered to help the Claimant. I do not need to resolve these matters. Whatever the credibility of Mr Rijock, he has no first-hand evidence as to the facts of the claim. I attach no weight to Mr Rijock's own opinion as to what happened.

Any witness or documentary evidence that his investigation has revealed will need to be examined on its own merits at trial.

The Jurisdiction and State Immunity Issues

Jurisdiction – Forum Non Conveniens

40. Mr Fitzgerald KC argued that the forum non-conveniens argument is hopeless, because the Defendants have not identified one forum that is said to be the more convenient place for trial. The Defendants have identified a number of potentially appropriate fora: Antigua, Dominica, or St Vincent, where the relevant vessel was registered. Thus, said Mr Fitzgerald KC, the forum challenge “inevitably fails at the first hurdle”.
41. That submission was made on the basis of the House of Lords decision in **Spiliada v Cansulex** [1987] AC 460. I did not hear extensive argument on this point, which was only raised for the first time in a note on the morning of the hearing. Looking at **Spiliada** itself, it seems to me arguable that it does not stand for so stark a proposition as formulated by Mr Fitzgerald KC. The case itself concerned a choice between England and one other forum. In considering whether there was another forum more appropriate than England, their Lordships did not expressly address the situation where there may be more than one other more suitable forum. As a matter of language, it is possible to demonstrate that there is another forum more appropriate than England by demonstrating that there is more than one such forum. Lord Goff in fact uses a number of expressions in his speech: “some other available forum” at 476C para (a), “another available forum” at 476E para (b), “no other available forum which is clearly more appropriate for the trial of the action” at 478(e). The last formulation, in particular, arguably leaves open the potential for more than one forum which is more appropriate than England.
42. It is arguable that England is not the appropriate forum for the claim. The events which give rise to the claim happened in Antigua, Dominica and on a St Vincent registered boat travelling between the two. The witnesses and the relevant documents are in those locations. There is little, if anything to connect the events to England, other than the Claimant’s inferential case that the conspiracy was forged in England.
43. For current purposes, I need only consider whether the Claimant can show a high probability that the Defendant’s forum challenge will fail. I am not satisfied that the Claimant meets this threshold. These matters will be matters for argument at the hearing of the Jurisdiction Applications.

State Immunity

44. Mr Fitzgerald KC makes two points. First, the individual Defendants cannot rely on a state immunity defence unless they allege that they are officials or agents of the Government of India, which they currently deny. Second, India’s own state immunity argument is hopeless.

45. I am not persuaded that on either point the Claimant can show a high probability of success. The points are arguable either way and will fall to be determined at the hearing of the Jurisdiction Applications.
46. As to the first point, Mr Summers submits that it is open to a defendant to argue (a) I did not act as an agent of the Government of India as I did not do the things you allege against me; but (b) if I did do the things that you allege, then they would attract state immunity so your claim would fail in any event. Both Mr Summers and Mr Fitzgerald KC's position seem arguable. I was taken to no authority addressing the point. I was referred to **Jones v Saudia Arabia** [2007] 1 AC 270, but that case concerned a different point. On any view the relevant individual in that case was a servant of the relevant state. The case does not address the proposition relied on by Mr Fitzgerald KC.
47. Mr Fitzgerald KC's second point is that the First Defendant's own claim for state immunity is hopeless and that therefore there is a high probability that the Claimant will defeat the First Defendant's application. The Claimant relies on the exception to state immunity contained in s.5 State Immunity Act 1978 – where personal injury is caused by an act or omission in the United Kingdom. All that is required is an act which is causative of the requisite damage on a more than de minimis basis (**Al-Masarir v Saudi Arabia** [2023] PIQR P3); it does not matter where the harm was felt, so long as an act or omission took place in the United Kingdom (**Heiser's Estate v Iran** [2021] EWHC 2074 at 152).
48. On the Claimant's case, the kidnapping, assault and threats were all carried out outside the United Kingdom. The Claimant alleges that the conspiracy was "hatched or furthered" in England. There is no direct evidence of that. It is argued that it is plain as a matter of inference, given that the relevant Defendants are resident in England, and flew together to Antigua on two occasions (it is alleged there was a dry run or aborted attempt in April 2021). While evidence indicates that the relevant Defendants did travel on the same flights, it is denied that they did so together and the Second/Fourth Defendants on the one hand and the Fifth/Sixth Defendants on the other deny that they knew each other. Even if they did travel together, there is no evidence one way or the other as to where the plan was "hatched or furthered".
49. In my judgment, it cannot be said that there is a high probability of the Claimant succeeding on these points, which will be a matter for more detailed argument at the hearing of the Jurisdiction Applications.

RISK OF NON-ENFORCEMENT

50. The Claimant argues that there is no real risk that an order for costs would not be enforceable, nor that there are any particular obstacles in seeking to enforce an order in Belgium, India or elsewhere. The Defendants argue that there is self-evidently a real risk, based on the obvious realities of the situation.
51. In my judgment, there are substantial obstacles to enforcement that give rise to a real risk that any order for costs will not be enforceable:

- i) The Claimant is not in the jurisdiction, and there is no evidence that he has assets in this jurisdiction.
 - ii) The Claimant is currently on remand in Belgium pending proceedings to extradite him to India to face charges of economic crimes. It appears to be accepted (by a reference in Mrs Choksi's witness statement) that the Indian Courts have frozen his assets in India, though I have no information as to what those assets are or the extent of any freezing orders.
 - iii) The Claimant has provided no evidence of any assets in Antigua or Belgium.
 - iv) Indeed, the Claimant has provided no evidence of his assets at all, beyond the fact that his wife says that the Indian Court has frozen assets.
52. In those circumstances, any attempt to enforce a costs order will face considerable challenges, in terms of identifying assets in one or more of at least three overseas jurisdictions (Antigua, Belgium and India); in terms of taking enforcement action against a Claimant who may be in custody in either Belgium or India and embroiled in ongoing criminal proceedings; and in terms of establishing assets that are not covered by freezing orders made by other courts. In these circumstances, it is difficult to see how the Claimant could be made to comply with a monetary order against him, and difficult to see how effective orders could be made against proprietary assets in his name.

STIFLING THE CLAIM

53. There is no real evidence that the Claimant's claim would be stifled if an order for security were made. Indeed, Mr Fitzgerald KC, quite properly on the evidence, did not put the matter so high. He submitted that an order for substantial security would lead the Claimant and his wife to rethink whether to pursue the claim. That submission reflects paragraph 4 of Mrs Choksi's witness statement, dated 17 December 2025:

If an order were made to pay £700,000 or a large sum of money in security for costs then, as matters presently stand, we would be put in considerable difficulties and we would need to seriously consider whether we would be able to continue with this litigation against these defendants.

54. In the same statement Mrs Choksi says that there are freezing orders in India relating to all Mr Choksi's assets/property in India. That statement was provided the day before the hearing. There is no detailed evidence as to Mr Choksi's financial position, nor as to his ability to raise money to cover the security. There is no explanation as to how he is meeting his own legal costs.
55. I am not satisfied that Mr Choski would be unable to raise the money required to provide security, and I am not satisfied that an order for security would stifle the claim.

CONCLUSION ON THE PRINCIPLE OF SECURITY

56. Taking all the circumstances into account, in my judgment it would be just to make an order for security for costs. This is not one of those rare cases where it can be seen that there is a high probability of success, either on the preliminary issues or at trial. I do not find that it would be unjust to order security because of the seriousness of the allegations against the Defendants. Given that there is a dispute of fact as to whether the Defendants were involved in kidnapping and assaulting the Claimant, I cannot proceed on the basis that they were. Given the circumstances I have outlined above, there is a real risk that an order for costs against the Claimant would not be capable of enforcement. On the other hand, I am not satisfied that the claim would be stifled if I order security.

QUANTUM

57. I turn next to the amount of security. The Claimant argues that the sums sought are unreasonable.
58. The costs of the Second and Fourth Defendant are explained in the third Witness Statement of Mr Summers at paragraphs 12-13. The total security these Defendants seek is £500,000. Paragraph 13 makes clear that this includes the costs of the hearing before Freedman J, the hearing before me and the five day jurisdiction hearing. Mr Summers has also factored in a contemplated appeal from the decision on the Jurisdiction Applications.
59. Mr Summers explains that he intends to instruct specialist leading counsel for the hearing of the Jurisdiction Applications and that leader will have his own chosen junior, to represent the Second Defendant. Mr Summers will represent the Fourth Defendant. Counsel costs total £350,000 and litigator costs total £150,000 across the two Defendants.
60. Instruction of a specialist leader is not unreasonable. The issues are complex. I do not accept that these Defendants should be expected simply to “play second fiddle” to the First Defendant, as it was put. They have been sued in their own right, and they have interests separate to that of the First Defendant. They are entitled to defend themselves, and to take the points open to them, including for example the question of whether the First Defendant’s immunity (if any) extends to them.
61. However, there does appear to me to be some duplication in junior costs. I have not been told that there is any difference between the positions of the Second and Fourth Defendants. I do not see the need for each to have a separate junior. The two figures for juniors are £100,000 and £50,000. I bear in mind that Mr Summers figure is predicated on the fact that he is also the litigator in the case and is already familiar with it. I propose to include in the figure for security £75,000 for junior fees (i.e. a reduction of £75,000). The litigator fees do not seem unreasonable.
62. Accordingly, in respect of the Second and Fourth Defendants I will make an order for security of £425,000, reduced from the £500,000 sought in the third witness statement of Mr Summers.

63. The treatment of VAT in these figures is not clear to me, and I was not addressed on it. Mr Summers' witness statement explains that the estimates for leading counsel and his junior are exclusive of VAT. It is not clear what the position is regarding Mr Summers' estimated figures. However, I was invited to make an order for security of £500,000, not of that figure plus VAT. I will proceed on the basis of the figure claimed, less the reduction I have made. So, the figure is £425,000 total in respect of the Second and Fourth Defendants.
64. The Fifth and Sixth Defendants seek security of a total of £250,000 exclusive of VAT, total £300,000. The Third Witness Statement of Mr Kang (solicitor for these Defendants) sets out cost estimates at paragraph 6. As with the other Defendants, these individuals have been sued and are entitled to defend themselves. The costs appear reasonable, save that I can see no reason why three counsel are needed (each of the two Defendants has a junior counsel supporting senior counsel). I propose to deduct the cost of one junior counsel from the amount of security I will order.
65. I will order total security of £252,000 (inclusive of VAT) in respect of the Fifth and Sixth Defendants.

POSTSCRIPT

66. Finally, I address two matters which arose after the hearing on 18 December 2025 and, in fact, after I had set out my decision in a draft judgment.
67. At the end of the hearing on 18 December 2025 I reserved judgment. I prepared a draft judgment which was circulated to the parties on an embargoed basis on 14 January 2026.
68. On 29 December 2025, after I had prepared the draft but before it had been circulated, Mr Summers emailed the Court with additional documents upon which he sought to rely. The Claimant objected. I disregarded this additional evidence. By the time it was filed I had drafted a judgment in favour of Mr Summers' clients. The additional evidence would have made no difference to the outcome or reasoning. I explained this to the parties in an email dated 27 January 2026.
69. Following receipt of the draft judgment, the Claimant sought to raise a new point as to the effect on the application of the provisions for Qualified One Way Cost Shifting ("QOCS") under CPR 44.13 to 44.14. The Defendants objected to the new point being raised. I considered the email representations by each party and on 27 January 2026 I made directions for a further hearing to consider both whether the point could be raised now and the merits of the point. However, in an email dated 3 February 2026, the Claimant's solicitors indicated that they no longer sought to make further submissions on the QOCS point. They submitted that the time to consider whether QOCS would preclude the enforcement of a defendant's costs order would be following the hearing in October 2026. Accordingly, I am now handing down judgment in the form of the draft circulated, save for the addition of this Postscript.

70. Given that the Claimant no longer wishes to argue the point at this stage, I have not addressed it. I make no decision as to the effect of QOCS, nor as to the point at which such an argument can or should be raised.