IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1910 OF 2026

Rajendra Narpatmal Lodha .. Petitioner
Versus
Directorate of Enforcementm Mumbai & Anr. .. Respondents

WITH
WRIT PETITION NO. 3476 OF 2026

Jitendra Pandey S/o. Vidyashankar Pandey .. Petitioner
Versus
Directorate of Enforcement & Anr. .. Respondents

…………………

- Mr. Aabad Ponda, Senior Advocate a/w. Mr. Advait Helekar, Mr. Veertej Patil & Ms. Ananya Tambe, Advocates i/by Mr. Adithya R. Iyer, Advocates for Petitioner in Writ Petition No.1910 of 2026.
- Mr. Shrey Lodha a/w. Mr. Dulraj Jain, Mr. Aryan Kotwal, Ms. Aarti Nishad, Ms. Anjali Joshi & Mr. Hrutik Chavan, Advocates for Petitioner in Writ Petition No.3476 of 2026.
- Mr. Anil Singh, Additional Solicitor General a/w. Mr. C.K. Pendse, Mr. Aditya Thakker, Mr. Sandeep Karnik, Mr. Krishnakant Deshmukh & Mr. Adarsh Vyas, Advocates for Respondent No.1 - ED

…………………

CORAM : MILIND N. JADHAV, J.
DATE : SEPTEMBER 21, 2026.

P.C.:

1. Heard Mr. Ponda, learned Senior Advocate for Petitioner in Writ Petition No.1910 of 2026 and Mr. Singh, learned Additional Solicitor General for Respondent No.1 – ED. Today only Writ Petition No.1910 of 2026 is fully argued before me. Writ Petition No.3476 of 2026 shall be considered for hearing after order is passed in Writ Petition No.1910 of 2026. It is de-tagged and kept separately to be heard on 01.10.2026. Parties are directed to complete the pleadings in the said Petition.

2. Writ Petition No.1910 of 2026 seeks quashing and setting aside of remand order dated 13.02.2026 and subsequent remand orders passed by the Special Court in PMLA remand application No.214 of 2026 in ECIR/MBZO-I/41/2025 registered by Respondent No.1 for commission of offence under Section 3 of the Prevention of Money Laundering Act, 2002 (for short "**PMLA**") and to enlarge the Petitioner on bail. Petition is vehemently contested and opposed by Respondent No.1. Before I advert to the the submissions of both parties it would be appropriate to list the relevant dates and events briefly for consideration.

3. On 30.09.2025, Respondent No.1 registered ECIR based on two First Information Reports viz, CIR 564 of 2025 and CIR No.717 of 2025 registered on 16.09.2025 with N.M. Joshi Marg Police Station and Borivali Police Station. On 17.09.2025 Petitioner was arrested in the predicate offence *qua* the twin FIRs. On 12.11.2025 search is conducted at Petitioner's residence under Section 17 of PMLA by Respondent No.1 and documents are seized and simultaneously his bank accounts frozen. On 12.12.2025 chargesheet is filed in both offences. On 30.12.2025, cognizance is taken of the predicate offence by learned Magistrate. On 28.01.2026, Petitioner filed Application seeking interim bail to visit his ailing mother. On 29.01.2026

Respondent No.1 filed Application before Special Court to record Petitioner's statements under Section 50 of PMLA. On 30.01.2026 Special Court allowed the Application and permitted Respondent No.1's statements to be recorded between 02.02.2026 and 06.02.2026. On 03.02.2026 Respondent No.1 filed application seeking Petitioner's production before Special Court. On 04.02.2026 Special Court issued Production Warrant directing Petitioner to be produced on 06.02.2026. On 05.02.2026 Petitioner filed Application seeking postponement of production and interim bail application to visit his ailing mother. On 05.02.2026 interim bail is granted by Magistrate in the predicate offence till 11.02.2026. On 11.02.2026 Petitioner surrenders on expiry of interim bail. On 12.02.2026 Petitioner is produced before Special Court in lieu of the Production Warrant. On the same day i.e. 12.02.2026 Respondent filed Application before Special Court seeking arrest of petitioner in the scheduled offence. Petitioner contests this application and resists it on the ground of need and necessity of arrest expressed by Respondent No.1. By order dated 12.02.2026, Special Court grants permission to arrest Petitioner. On 12.02.2026 Petitioner is arrested. On 13.02.2026 Remand Application is filed before Special Court which is allowed. Challenge is to this remand order dated 13.02.2026. It is appended at Exhibit "A" page No.73 and at page No.87.

4. Mr. Ponda would argue that in view of the above timeline without any statement having recorded between 30.01.2026 and 12.02.2026, notwithstanding the order dated 30.01.2026 by virtue of which Special Court permitted Respondent No.1 to record Petitioner's statement under Section 50 of PMLA, there was no need and necessity whatsoever to arrest the Petitioner which is in complete violation of the mandate of Section 19 of PMLA. Mr. Singh would however contend to the contrary arguing that the scope and expanse of Section 19 of PMLA is such that if there is compliance effected of the said provision then arrest of the Petitioner is completely justified, notwithstanding the order dated 30.01.2026 not having been complied with Respondent No.1. This is the short point involved for adjudication in the present Petition.

5. Mr. Ponda would make the following submissions:-

5.1. That Petitioner's arrest was in violation of the mandate prescribed under Section 19 of PMLA as there was no fresh incriminating material found between 30.01.2026 when the Special Court permitted and directed recording of Petitioner's statement on Respondent No.1's request and 12.02.2026 i.e. the date of his arrest to justify "reasons to believe" as contemplated under Section 19 of PMLA, hence the prerequisite to exercise power of arrest under Section 19 of PMLA is not fulfilled.

5.2. That there was no necessity to arrest the Petitioner and conduct of Respondent No.1 subsequent to arrest of Petitioner illustrates the illegality of the arrest. That Petitioner is in judicial custody since 2025 and Special Court specifically granted permission to interrogate him vide order dated 30.01.2026 to record his statement under Section 50 of PMLA on the Application of Respondent No.1, however no attempt is made to question the Petitioner before he is arrested by Respondent No.1 on 13.02.2026. That even after arresting Petitioner on 13.02.2026, Respondent No.1 has failed to record the statement of any witness or co – accused and further failed to seize any incriminating document which is the reason cited in the grounds of arrest issued to Petitioner. That Respondent No.1 has failed to demonstrate any supervening circumstances that have occurred between 30.01.2026 and 13.02.2026, and hence no arrest ought to have been effected. That Application filed before Special Court mentions no such supervening circumstances for arrest and that Special Court despite recording objection of Petitioner regarding passing of and non compliance of order dated 30.01.2026, concisously omits reference to its own order while remanding the Petitioner's custody to Respondent No.1 on 13.02.2026.

5.3. That Petitioner was already in custody with regard to the predicate offence since September 2025 and therefore no special circumstances existed to justify invoking arrest of Petitioner. That no incriminating material was recovered post 30.01.2026 when Respondent No.1 sought permission to interrogate the Petitioner in judicial custody while seeking permission to arrest him as well during his remand.

5.4. That no cash or other proceeds of crime were recovered from Petitioner either before or after his arrest. That the entire case of Respondent No.1 is materially similar to that of the predicate offence and is based entirely on the statements recorded under Section 50 PMLA most of which are from employees of the Complainant, hence they were all available with Respondent No.1 prior to Petitioner's arrest.

5.5. That Respondent No.1 intentionally concealed order dated 30.01.2026 passed by the Special Court in its application despite Petitioner drawing reference to that order during arguments but Special Court did not consider it and granted remand and custody.

5.6. That grounds of arrest furnished to Petitioner after his arrest do not fulfill the prerequisite of "reasons to believe" as contemplated under Section 19 of PMLA. That grounds of arrest are verbatim reproductions from the chargesheet filed in the predicate offence and Respondent No.1's earlier applications also do not disclose any incriminating material to satisfy arrest of Petitioner.

5.7. That Respondent No.1 claimed to require arrest of Petitioner to confront him with witnesses or co – accused but no such confrontation took place, therefore arrest of Petitioner was merely a mechanical exercise to harass the Petitioner without exhausting the due process of law.

5.8. That this Court has repeatedly scrutinised arrests made by Respondent No.1 - ED. That arrests were declared illegal and Accused persons have been set at liberty when it was found that Respondent No.1 has exercised its power to arrest arbitrarily and in violation of the mandate of Section 19 of PMLA. While referring to the decision in the case of ***Priyavrat Mandhana v Directorate of Enforcement & Ors*** [1] , he would submit that the Accused therein was granted interim bail on the ground that the material on which the Respondent No.1 - ED arrested him was in their possession well before the date of the arrest and that the same material could not have been used to justify the arrest which was made much after collection of such material. He would submit that a similar view was taken in the case of ***Dr. Prateek Kanakia v Directorate of Enforcement & Another*** [2] where Accused person was released as this Court found that Respondent No.1 - ED exercised its power to arrest in an illegal manner and fault was found in the grounds of arrest supplied to the Accused person and it was held that there was no material to justify the need to exercise the power to

1 WP. St. No. 16175 of 2024
2 WP St. No. 1823 of 2026

arrest.

5.9. That impugned order dated 13.02.2026 remanding the Petitioner to custody of Respondent No.1 and all subsequent orders granting and extending his judicial custody suffer from non-application of mind and are liable to be set aside. He would submit that apart from reproducing the contents of the remand Application, there is no reasoning whatsoever to justify the Petitioner being remanded to custody.

5.10. That despite specific and repeated objections raised by Petitioner regarding conduct of Respondent No.1 in the present matter leading up to his arrest, Special Court failed in its duty to examine the matter in the light of Section 19 of the PMLA.

5.11. That failure of Special Court is particularly relevant in light of the fact that it was the same court and judge which passed the previous order dated 30.01.2026 permitting Respondent No.1's application to question the Petitioner while in judicial custody.

5.12. While relying on the decisions of the Supreme Court in the cases of ***Arvind Kejriwal Vs.Enforcement Directorate***[3], ***Radhika Agarwal Vs. Union Of India***[4]***. V. Senthil Balaji v. State***[5], he would submit that Supreme Court has held that the remanding court has a duty to independently scrutinise compliance with Section 19 before granting

3 (2025) 2 SCC 248
4 (2025) SCC OnLine SC 449
5 (2024) 3 SCC 51

custody. Hence he would submit that the impugned order dated 13.02.2026 and all subsequent remand orders are liable to be quashed.

5.13. That perusal of the Remand Application filed by Respondent No.1 before Special Court reveals that no cash was recovered from the Petitioner. That no questions were ever posed to him prior to his arrest and that the entirety of Respondent No.1's investigation, is based almost exclusively on statements recorded under Section 50 previously and are a reinvestigation of the predicate offence.

5.14. He would further refer to and rely upon the following decisions of the Supreme Court and this Court in support of his aforesaid submissions:-

(i) ***Vijay Madanlal Choudhary Vs. Union of India*** [6]***;***
(ii) ***Priyavrat Mandhana Vs. Directorate of Enforcement*** [7]***;***
(iii) ***Dr. Prateek Kanakia Vs. Directorate of Enforcement*** [8]***;***
(iv) ***Anilkumar Khanderao Pawar Vs. Directorate of Enforcement*** [9]

5.15. He has taken me through these judgments. Hence he would urge the Court to allow the Petition in terms of prayer clauses (a) and (b).

6. ***PER CONTRA***, Mr. Singh, learned Additional Solicitor General appearing for Respondent No.1 has made the following submissions to oppose grant of any relief in the present Petition:-

6 (2023) 12 SCC 1
7 Writ Petition St. No.16175 of 2024
8 Writ Petition St. No.1823 of 2026
9 Writ Petition No.4779 of 2025

6.1. That it is evident from the facts and record that present proceeding is nothing but an abuse of the process of law. That present Petition has not been filed *bonafide* but with a collateral purposes i.e. to seek bail without having to approach the jurisdictional Court and with a view to evade the rigors of satisfying the twin conditions prescribed in the statute.

6.2. He would refer to and rely upon the decision of Supreme Court in the case of ***Y.S. Reddy Vs. Enforcement Directorate***[10] in support his argument with respect to nature and scope of judicial review and decisions of Supreme Court in the cases of ***Anil Deshmukh Vs. Enforcement Directorate***[11] and ***Pradeep Sharma Vs. Enforcement Directorate***[12] on the nature and purpose of applicability of PMLA to Petitioner's conduct / case.

6.3. He would also refer to and rely upon the decisions of Supreme Court in support of his submissions on the investigation which falls within the exclusive domain of the investigating agency and the extent of the power of judicial review to be exercised by the Court in such circumstances:

(i) P. Chidambaram Vs. Directorate of Enforcement[13]
(ii) King Emperor Vs. Khwaja Nazir Ahmad[14]
(iii) Abhinandan Jha Vs. Dinesh Mishra[15]

10 Criminal Writ Petition No.5843 of 2025 decided on 09.03.2026
11 (2021) SCC Online Bom. 3641
12 (2025) SCC Online SC 560
13 (2019) 9 SCC 24
14 (1944) SCC Online PC 29
15 (1967) 3 SCR 668

(iv) State of Bihar Vs. A. Saldanha[16]
(v) Dukhishyam Benupani Vs. Enforcement Directorate[17]
(vi) M. C. Abraham Vs. State of Maharashtra[18]
(vii) Union of India Vs. Kunisetty Satyanarayan[19]
(viii) Shariff Ahmed Vs. State (NCT of Delhi)[20]
(ix) Kirit Shrimankar Vs. Union of India[21]

6.4. He would next refer to and rely upon the decision in the case of ***Re Bellador Silk Ltd.***[22], wherein Court held that Petition which is filed not with the genuine object of obtaining the relief claimed, but with the object of excreting pressure in order to achieve a collateral purpose is an abuse of the process of the Court. Therefore he would submit that present Petition is not only not *bonafide* but an abuse of the process of law and it is bereft of merit and without any substance.

6.5. He would submit that Petitioner was arrested by Respondent No.1 who duly served the arrest order, reasons to believe, grounds of arrest and intimation of arrest upon the Petitioner and his son. He would submit that there is no grievance raised of non-supply of the same. He would submit that on 13.02.2026 after being heard and his objections having been considered, he was remanded to Respondent No.1's custody by the order of the Court.

6.6. He would submit that *ex-facie*, Respondent No.1 duly served the arrest order, reasons to believe, grounds of arrest and intimation of

16 (1980) 1 SCC 554
17 (1998) 1 SCC 52
18 (2003) 2 SCC 649
19 (2006) 12 SCC 28
20 (2009) 14 SCC 184
21 (2018) 12 SCC 651
22 [1965] 1 All ER 667

arrest upon the Petitioner and his son, hence there is no illegality in following the above statutory procedure.

6.7. He would submit that judicial review would be limited in cases where investigation is at nascent stage. He would submit that for purposes of considering present Petition, following aspects need to be considered namely:- (i) nature and purpose of the PMLA; (ii) seriousness and gravity of the offence of money laundering and how the same forms a different and independent class of offence by itself; and (iii) conduct of Petitioner who is seeking equitable reliefs by seeking to circumvent or bypass the statutory mandate of the twin conditions by filing a belated Petition purportedly alleging illegal arrest.

6.8. He has laid particular stress on the decision in the case of ***Radhika Agarwal (supra)*** and more specifically on the concurring judgment passed by Justice Trivedi concurring with the majority judgement authored by Justice Khanna and would particularly refer to paragraph Nos. 91 to 95 therein to contend that exercise of the power of judicial review should be confined only to see whether statutory and constitutional safeguards are properly complied with or not, namely to ascertain statutory compliances and reasons to believe that the person is guilty of the offence under the Act and there is no *malafides* involved. He would vehemently submit that scrutiny by Court on the subjective opinion or satisfaction of the authorized officer to arrest the person cannot be a matter of judicial review if it is shown that all statutory compliances are complied with and exercise of power of judicial review should not lead to judicial overreach undermining the powers of statutory authorities.

7. He would submit that in the present case, there is no manifest arbitrariness in following the statutory procedure and therefore the argument on need and necessity to arrest pales down when juxtaposed with the grounds of arrest. He would vehemently argue that, scope of Section 3(3) of PMLA pertaining to offence of money laundering is very wide and power to arrest under Section 19 depends on all statutory compliances and to the subjective satisfaction of the designated officer and in the present case there is no malice or extraneous exercise of power reflected in the action and conduct of Respondent No.1. He has drawn my attention particularly to paragraph Nos. 7 and 8 of the application filed by Respondent No.1 dated 29.01.2026 for seeking recording of Petitioner's statement and would argue that the overwhelming provisions of Section 19 once complied with would override the provisions of Section 50 of PMLA eventhough the exercise thereunder may be pending.

8. In addition he would refer to the decisions in case of ***Shivanandan Paswan*** (paragraph No.60) and ***Anandrao Vithoba Adsul***

Vs. Enforcement Directorate (paragraph No.15) to contend that Respondent No.1's action in the facts of present case cannot be considered to be vitiated by *malafides*. He would submit that Respondent No.1's bail application before learned Special Court is pending and his reliance on the issue of need and necessity to arrest as contemplated in the case of ***Arvind Kejriwal*** **(supra)** is clearly distinguishable *qua* the present facts and he has solely, with a view to evade the rigors of satisfying the twin conditions, filed the present Petition with an additional prayer to grant bail, which is an abuse of the process of law. Hence, he would submit that the Petition be dismissed.

9. 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.

10. The present issue can be safely decided on the basis of interpretation of the statutory provisions of Section 19 and Section 50 of the PMLA. Both the learned Senior Advocates at the bar have laid substantial stress on the provisions of Section 19 since the Petitioner has been arrested. For ease of reference, Section 19 of the PMLA is reproduced hereunder and reads thus:-

> *"19.* ***Power to arrest.—*** *(1) If the Director, Deputy Director, Assistant Director or any other officer authorised in this behalf by*

> *the Central Government by general or special order, has on the basis of material in his possession, reason to believe (that reason for such belief to be recorded in writing) that any person has been guilty of an offence punishable under this Act, he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest.*
>
> *(2) The Director, Deputy Director, Assistant Director or any other officer shall, immediately after arrest of such person under sub-section (1), forward a copy of the order along with the material in his possession, referred to in that sub-section, to the Adjudicating Authority, in a sealed envelope, in the manner, as may be prescribed and such Adjudicating Authority shall keep such order and material for such period, as may be prescribed.*
>
> *(3) Every person arrested under sub-section (1) shall, within twenty-four hours, be taken to a [2][Special Court or] Judicial Magistrate or a Metropolitan Magistrate, as the case may be, having jurisdiction:*
>
> *Provided that the period of twenty-four hours shall exclude the time necessary for the journey from the place of arrest to the [1][Special Court or] Magistrate's Court."*

11. Sub-section (1) of Section 19 states that "the concerned officer has on the basis of material in his possession, reason to believe that any person has been guilty of an offence punishable under PMLA may arrest such person and shall inform him of the grounds for such arrest." The crucial words occurring in this Sub-section are "***has on the basis of material in his possession***". Thus, it is the satisfaction of the Authorized Officer to arrive at the reason to believe that any person is guilty on the basis of material in his possession (*emphasis supplied*).

12. In the present case, on the basis of the material in possession with the Authorized Officer, he has infact under the provisions of Section 50 filed an Application before the Special Court on 29.01.2026 to record the Petitioner's statements as contemplated by the PMLA. This Application dated 29.01.2026 is appended at page 191 and both the learned Senior Advocates have taken me through the same albeit attempting to interpret it differently.

13. At this juncture, it will be worthwhile to note and reproduce the provisions of Section 50 of the PMLA which concerns powers of authorities regarding summons, production of documents and to give evidence, etc.. Section 50 of PMLA reads thus:-

> *"50. **Powers of authorities regarding summons, production of documents and to give evidence, etc. —** (1) The Director shall, for the purposes of section 12, have the same powers as are vested in a civil Court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely:-*
>
> > *(a) discovery and inspection;*
> >
> > *(b) enforcing the attendance of any person, including any officer of a [reporting entity] and examining him on oath;*
> >
> > *(c) compelling the production of records;*
> >
> > *(d) receiving evidence on affidavits;*
> >
> > *(e) issuing commissions for examination of witnesses and documents; and*
> >
> > *(f) any other matter which may be prescribed.*
>
> *(2) The Director, Additional Director, Joint Director, Deputy Director or Assistant Director shall have power to summon any person whose attendance he considers necessary whether to give evidence or to produce any records during the course of any investigation or proceeding under this Act.*
>
> *(3) All the persons so summoned shall be bound to attend in person or through authorised agents, as such officer may direct, and shall be bound to state the truth upon any subject respecting which they are examined or make statements, and produce such documents as may be required.*
>
> *(4) Every proceeding under sub-sections (2) and (3) shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code (45 of 1860).*
>
> *(5) Subject to any rules made in this behalf by the Central Government, any officer referred to in sub-section (2) may impound and retain in his custody for such period, as he thinks fit, any records produced before him in any proceedings under this Act:*
>
> *Provided that an Assistant Director or a Deputy Director shall not-*

> *(a) impound any records without recording his reasons for so doing; or (b) retain in his custody any such records for a period exceeding three months, without obtaining the previous approval of the [2] [Joint Director]."*

14. Sub-section (2) of Section 50 states that the Authorized Officer shall have power to summon any person whose attendance he considers necessary whether to give evidence or to produce any records during the course of any investigation or proceeding under PMLA. Sub-section (3) further states that all persons so summoned shall be bound to attend in person or through authorized agents as such officer may direct and shall be bound to be examined or make statements and produce such documents as may be required.

15. In view of the above provision, when the Application at page 191 is seen, it specifically reads that it is made under Section 50(2) and (3) of the PMLA *qua* the Petitioner. In paragraph No.5 of the said Application, it is stated that investigation under PMLA has revealed that Petitioner while functioning as Director of the Company abused his fiduciary position and entered into a criminal conspiracy with his associates to defraud the Company and caused Company funds to be diverted through inflated land transactions, benami entities, bogus possession arrangements and undervalued sale of Company assets, thereby generating and laundering proceeds of crime.

16. In paragraph No.6, it is further stated that Petitioner is the principal Architect of the fraudulent transactions and has by virtue of his various acts and conduct routed the proceeds of crime through associates and front entities for personal gain. In paragraph No.7, it is stated that custodial interrogation of Petitioner is necessary to trace the complete money trail, identify beneficiaries and benami assets, confront him with documentary, digital and financial evidence and prevent concealment and laundering of proceeds of crime.

17. As a sequitur of these reasons, in paragraph No.10, Respondent No.1's case is that the Respondent No.1 requires to question the Petitioner and therefore prays for permission to record the statement of the Petitioner. This Application is allowed by the Special Court on the following day vide order dated 30.01.2026.

18. Thus, it is seen that the Application made by Respondent No.1 under the provisions of Section 50 and more specifically for compliance with Sections 50(2) and (3) having been allowed itself shows that the Respondent No.1 has invoked the said provision to confront and question the Petitioner with the material which it has in its possession. It is an admitted fact that from the date of Petitioner's arrest i.e. 25.09.21025 and the ECIR having been filed, Respondent No.1 collected material and recorded various statements which according to them, were required to be confronted with the Petitioner. It is also an admitted position which has been duly and candidly admitted by the learned ASG during his submissions that between

29.01.2026 and 13.02.2026 (when Petitioner was arrested), there was no new, incriminating, or extraneous material or development which was unearthed by Respondent No.1 on the basis of which the Petitioner came to be arrested. He would however justify this issue by arguing that power under Section 19 is such that once there is satisfaction of the Authorized Officer at any stage and he has reason to believe that any person is guilty of an offence, he can arrest such person by following the procedure prescribed therein, notwithstanding the fact that, at the time of arrest any other procedural requirement invoked by the Authorized Officer may have remained pending. I respectfully disagree with the said submission made by the learned ASG for the simple reason that power to arrest is a very drastic action. In fact, sub-section (1) of Section 19 specifically uses the word 'may arrest' which is again discretionary. Further power to investigate, summon and confront exercised under Section 50(2) and (3) is a statutory power which if invoked cannot be simply wished away, since invoking this power, the Authorised Officer is making up his mind to investigate and question the accused person on the basis of the very same material in his possession and custody.

19. However, in the present case, a very valuable statutory power having been invoked by Respondent No.1 under Section 50 and more specifically under Section 50(2) and (3), then it cannot be open to Respondent No.1 to now state that notwithstanding completion of that action, Respondent No.1 can still invoke Section 19 to arrest the Petitioner unless very strong and fresh material incriminating the Petitioner is placed on the record of the Court and the Court feels that arrest is absolutely imminent on the basis of such material. This is primarily because sub-section (4) of Section 50 categorically states that every proceeding under sub-sections (2) and (3) shall be deemed to be a judicial proceeding within the meaning of Section 193 and Section 228 of the Indian Penal Code, 1860 (for short '**IPC**'). Section 193 of the IPC reads thus:-

> ***"193. Punishment for false evidence.—*** *Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;*
>
> *and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.*
>
> *Explanation 1.— A trial before a Court-martial is a judicial proceeding.*
>
> *Explanation 2.— An investigation directed by law preliminary to a proceeding before a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice."*
>
> *Illustration A, in an enquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.*
>
> *Explanation 3.— An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.*
>
> *Illustration A, in any enquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding. A has given false evidence.*

20. Explanation 2 and Explanation 3 to Section 193 *prima facie* apply to the present case. This is so because the Respondent No.1 has chosen to invoke the provisions of Section 50(2) and (3) readwith (3) on the basis of the very same material in its possession to interrogate and record the statement of Petitioner which is the same material for effecting arrest. Therefore, once this satisfaction stands recorded by an Application filed by Respondent No.1 on 29.01.2026 and the said Application having been allowed by the Special Court, unless and until there is *prima facie* fresh incriminatory material or such supervening circumstances which were not there before the Authorised Officer earlier and which has come to the knowledge of Respondent No.1, the Respondent No.1 cannot abandon the said exercise which has been permitted by the Court by order dated 30.01.2026 and invoke the provisions of Section 19 to arrest the Petitioner by furnishing him the ground of arrest on the basis of the very same material which was already in possession of the Respondent No.1.

21. Though Mr. Singh has persuaded me and taken me through the grounds of arrest to argue the gravity of the offence concerned, that will not deter me from linking the said gravity of the offence to the issue which I am required to decide in this Petition once it is brought to my notice that the Respondent No.1 had made up its mind and obtained an order from the Court to investigate, confront and record the statement of the Petitioner. It is also *prima facie* evident from the material placed on record that no new material whatsoever has surfaced between 30.01.2026 and 13.02.2026 so as to take the drastic step of arresting the Petitioner without recording his statement. This has been accepted by Respondent No.1 also.

22. In the aforesaid background, this Court is called upon to judicially review the legality of the arrest of the Petitioner. It is seen that power to arrest under Section 19(1) is not for the purpose of investigation as held in paragraph No.34 of the decision in the case of ***Radhika Agarwal (supra)***. Power to arrest can and should wait and the power in terms of Section 19(1) of the PMLA can be exercised only when the material with the designated officer enables him to form an opinion by recording reasons in writing that the arrestee is guilty. In the present case, when the designated officer has himself filed the Application dated 29.01.2026 wherein he himself, in paragraph No.10, calls upon the Court to allow him to examine, confront the Petitioner with the material in his possession and record his statement on the basis of the submissions made in paragraph Nos.7 and 8 of the said Application, then in such a case, by foregoing the exercise of recording the statements, Respondent No.1 cannot arrest the Petitioner. Such exercise of power of arrest shall amount to a colourable exercise of power on the part of Respondent No.1.

23. It is seen that Petitioner was in judicial custody since September 2025 and the Special Court granted permission to interrogate him for 5 days while in such custody by order dated 30.01.2026 to record his statement under Section 50 of PMLA. It is seen that despite receiving such permission, no attempt was made to question the Petitioner before he was arrested on 13.02.2026. In that view of the matter, Petitioner's non-cooperation or evasiveness would never arise, rather there would be a question mark on the conduct of the Respondent No.1 since it has disregarded the permission granted vide order dated 30.01.2026 on its own Application and the opinion it had formed and has now arrested the Petitioner by moving a fresh Application on 12.02.2026 seeking arrest of Petitioner.

24. In this context, there was no need and necessity to arrest the Petitioner at all, especially when Respondent No.1 itself did not take any steps to comply with the directions contained in the order dated 30.01.2026 which was on the basis of its own opinion in writing which was granted by the Court. The Application dated 12.02.2026, copy of which is appended at page 226 of the Petition does not refer to any supervening circumstances and most importantly it virtually omits reference to the order dated 30.01.2026 altogether. This is a very strong circumstance noticed by the Court. The conduct of Respondent No.1 in suppressing the order dated 30.01.2026 is clearly noticed by this Court. The Application dated 12.02.2026 is a detailed Application running into 13 pages, but it conspicuously avoids reference to the previous application dated 29.01.2026 and order dated 30.01.2026 altogether. Such suppression in the facts and circumstances of the present case cannot be countenanced, since the power to arrest is a very drastic power which infringes upon the personal liberty of the arrestee.

25. The order dated 12.02.2026 which is passed is an order purely on merits of the matter. The order also does not record any reasons with regard to the permission granted to ED to record the statements of the Petitioner on 30.01.2026, despite the learned advocate for the Petitioner categorically pointing out the aforesaid fact, which is duly recorded by the learned Special Court in paragraph No.11 of the order, but not been dealt with at all in the said order. Special Court has recorded the objections in paragraph No.11, which reads thus:-

> *"11. Ld. Advocate for the respondent/accused objected the prayer by filing reply Exh.4A and submitted that there are no reasons as to why the steps were not taken by the ED to interrogate with the accused during his judicial custody when this Court has granted permission to the ED to record the statement of the accused. It is further submitted that the application is devoid of any reason to believe' that the accused is guilty of the offence in compliance of section 19 of the PMLA. Therefore, Ld. Advocate for the accuser prayed to reject the prayer."*

26. What is stated hereinabove in paragraph No.11 ought to have been dealt with in the subsequent reasons which were given. The reasons are given in paragraph Nos.12 and 13 without even considering the said objection that there were no reasons stated by Respondent No.1 as to why steps were not taken by Respondent No.1 to interrogate the Petitioner during his judicial custody when the very same Court specifically granted permission to Respondent No.1 to record the statement of the Petitioner and whether any supervening circumstances had arisen to justify the arrest of the Petitioner. All that the order dated 12.02.2026 records is that considering the allegations against the Petitioner and the material on record, there appears to be *prima facie* direct involvement of his and the proceeds of crime are yet to be identified and confiscated and the documents and financial records are required to be confronted to the Petitioner. However these were the very same reasons which were considered by the same Court (and the same judge) while passing the order dated 30.01.2026, on the written application under Section 50(2) and 50(3) of the PMLA filed by Respondent No.1 as stated in paragraph No.7 of the Application of Respondent No.1 dated 29.01.2026 and as recorded in paragraph No.3 of the order dated 30.01.2026.

27. The Division Bench of the Karnataka High Court in the case of ***Deepak Singh Vs. Directorate of Enforcement***[23], the Court has held that necessity of arrest is a vital factor before arrest is made and old material already in possession of the investigating agency cannot be used to animate a new arrest, which should be necessitated by fresh

23 2026 SCC OnLine Kar 7332

material. The Court has also held that custodial interrogation cannot be sought merely to facilitate investigation, because power to arrest arises only upon recording satisfaction of guilt of the arrested / accused.

28. The records show that all bank accounts of Respondent No.1 were frozen by the Respondent No.1 in connection with the investigation well prior to the arrest of Petitioner and no investigation has been carried out till date. It is seen that the same Court has passed both the orders, namely order dated 30.01.2026 and order dated 12.02.2026 which cannot be sustained together.

29. In that view of the matter, the submissions advanced by Mr. Singh on reasons to arrest cannot be gone into when the precursor event is itself questioned in view of the order dated 30.01.2026 having been passed by the Special Court at the behest of Respondent No.1 and the said order not having been complied with at all by Respondent No.1.

30. If the submission made by Mr. Singh is countenanced, it would render the proceedings and provisions under Section 50 of the PMLA completely otiose, despite the same having been invoked by Respondent No.1 and the Court after applying its mind having granted permission to Respondent No.1 for conducting the investigation and recording the statement of the Petitioner. Therefore, the entire gamut of submissions advanced by Mr. Singh with regard to the reasons to believe at the time of arrest should be considered by the Court cannot be countenanced in view of the aforesaid situation.

31. Mr. Singh has drawn my attention to the Affidavit-in-Reply filed by Ravinder Dahiya, Assistant Director, Deputy Director of Enforcement dated 21.05.2026, in the present case and persuaded me to consider the predominant reasons for grounds of arrest on the basis of the material which is stated therein. Mr. Singh would have been right had the Respondent No.1 complied with the directions contained in the order dated 30.01.2026 and completed the interrogation of the Petitioner and only thereafter come to the conclusion for furnishing the grounds of arrest and the reasons to believe to the satisfaction of the designated officer. Further had there been justifiable supervening circumstances to arrest, Respondent No.1's case could have been considered. That not having been done by Respondent No.1, especially when Respondent No.1 had formed its opinion to confront the Petitioner and interrogate him on the material which was in its possession and by abandoning the said exercise and there been no fresh incriminating material unearthed by prosecution between 30.01.2026 and 12.02.2026, Respondent No.1 cannot and could not have invoked the provisions of Section 19 merely at the whim and caprice of the officers of Respondent No.1 to arrest the Petitioner.

32. Both the learned Advocates have referred to and relied upon the decision in the case of ***Radhika Agarwal (supra)***. Mr. Singh has referred to and relied upon paragraph Nos.91 to 95 of the said decision which read thus:-

> *" **91.** However, when the legality of such an arrest made under the special Acts like PMLA, UAPA, Foreign Exchange, Customs Act, GST Acts, etc. is challenged, the Court should be extremely loath in exercising its power of judicial review. In such cases, the exercise of the power should be confined only to see whether the statutory and constitutional safeguards are properly complied with or not, namely, to ascertain whether the officer was an authorised officer under the Act, whether the reason to believe that the person was guilty of the offence under the Act, was based on the "material" in possession of the authorised officer or not, and whether the arrestee was informed about the grounds of arrest as soon as may be after the arrest was made. Sufficiency or adequacy of material on the basis of which the belief is formed by the officer, or the correctness of the facts on the basis of which such belief is formed to arrest the person, could not be a matter of judicial review.*
>
> ***92.** It hardly needs to be reiterated that the power of judicial review over the subjective satisfaction or opinion of the statutory authority would have different facets depending on the facts and circumstances of each case. The criteria or parameters of judicial review over the subjective satisfaction applicable in service related cases, cannot be made applicable to the cases of arrest made under the special Acts. The scrutiny on the subjective opinion or satisfaction of the authorised officer to arrest the person could not be a matter of judicial review, inasmuch as when the arrest is made by the authorised officer on he having been satisfied about the alleged commission of the offences under the special Act, the matter would be at a very nascent stage of the investigation or inquiry. The very use of the phrase "reasons to believe" implies that the officer should have formed a prima facie opinion or belief on the basis of the material in his possession that the person is guilty or has committed the offence under the relevant special Act. Sufficiency or adequacy of the material on the basis of which such belief is formed by the authorised officer, would not be a matter of scrutiny by the courts at such a nascent stage of inquiry or investigation.*
>
> ***93.** As held in Adri Dharan Das v. State of W.B. [Adri Dharan Das v. State of W.B., (2005) 4 SCC 303 : 2005 SCC (Cri) 933] , ordinarily arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may*

> *be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance, to maintain law and order in the society, etc. For these or such other reasons, arrest may become an inevitable part of the process of investigation.*
>
> ***94.*** *It is pertinent to note that the special Acts are enacted to achieve specific purposes and objectives. The power of judicial review in cases of arrest under such special Acts should be exercised very cautiously and in rare circumstances to balance individual liberty with the interest of justice and of the society at large. Any liberal approach in construing the stringent provisions of the special Acts may frustrate the very purpose and objective of the Acts. It hardly needs to be stated that the offences under the PMLA or the Customs Act or FERA are the offences of very serious nature affecting the financial systems and in turn the sovereignty and integrity of the nation. The provisions contained in the said Acts therefore must be construed in the manner which would enhance the objectives of the Acts, and not frustrate the same. Frequent or casual interference of the courts in the functioning of the authorised officers who have been specially conferred with the powers to combat the serious crimes, may embolden the unscrupulous elements to commit such crimes and may not do justice to the victims, who in such cases would be the society at large and the nation itself. With the advancement in technology, the very nature of crimes has become more and more intricate and complicated. Hence, minor procedural lapse on the part of authorised officers may not be seen with magnifying glass by the courts in exercise of the powers of judicial review, which may ultimately end up granting undue advantage or benefit to the person accused of very serious offences under the special Acts. Such offences are against the society and against the nation at large, and cannot be compared with the ordinary offences committed against an individual, nor the accused in such cases be compared with the accused of ordinary crimes.*
>
> ***95.*** *Though, the power of judicial review keeps a check and balance on the functioning of the public authorities and is exercised for better and more efficient and informed exercise of their powers, such power has to be exercised very cautiously keeping in mind that such exercise of power of judicial review may not lead to judicial overreach, undermining the powers of the statutory authorities. To sum up, the powers of judicial review may not be exercised unless there is manifest arbitrariness or gross violation or non-compliance of the statutory safeguards provided under the special Acts, required to be followed by the authorised officers when an arrest is made of a person prima facie guilty of or having committed offence under the special Act."*

33. The power of judicial review in cases of arrest under such Special Acts like the PMLA should be exercised very cautiously and in rare circumstances to balance individual liberty with the interest of justice and the society at large. Mr. Singh would argue that minor procedural lapses on the part of the Authorized Officers may not be seen with a magnifying glass by the Courts in exercise of the powers of judicial review which may ultimately end up granting undue advantage or benefit to the person accused of very serious offences under the Special Acts. He would contend that such offences are against the society and against the nation at large and cannot be compared with the ordinary offences committed against an individual nor can the accused in such cases be compared with the accused of ordinary crimes. This observation in paragraph Nos.91 to 95 which is seen from the said judgment is the concurring view of Justice Trivedi, which begins from paragraph No.83 of the said judgement. The majority view is returned by the Honorable Chief Justice in the said judgment (paragraph Nos.1 to 32). In paragraph No.33, it is held as under:-

> ***"33.*** *In Arvind Kejriwal [Arvind Kejriwal v. Enforcement Directorate, (2025) 2 SCC 248 : (2025) 1 SCC (Cri) 695] , a combined reading of Pankaj Bansal v. Union of India [Pankaj Bansal v. Union of India, (2024) 7 SCC 576 : (2024) 3 SCC (Cri) 450], Prabir Purkayastha v. State (NCT of Delhi) [Prabir Purkayastha v. State (NCT of Delhi), (2024) 8 SCC 254 : (2024) 3 SCC (Cri) 573] , and Vijay Madanlal Choudhary v. Union of India [Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1 : (2023) 21 ITR-OL 1] was adopted by this Court. It was held that the power to arrest a person without a warrant and without instituting a criminal case is a drastic and extreme power. Therefore, the legislature had prescribed safeguards in the language of Section 19 itself which act as exacting conditions as to how and when the power is exercisable. These safeguards include the requirement to have "material" in the possession of DoE, and on the basis of such "material", the authorised officer must form an opinion and record in writing their "reasons to believe" that the person arrested was "guilty" of an offence punishable under the*

> *PML Act. The "grounds of arrest" are also required to be informed forthwith to the person arrested."*

34. The aforesaid observation in paragraph No.33 was on the basis of the decisions of the Supreme Court in the case of *Arvind Kejriwal (supra)*, *Prabir Purkayastha (supra)* and *Vijay Madanlal Choudhary (supra)* and the Court held that the safeguards include the requirement to have material in possession of Respondent No.1 and on the basis of such material, the Authorized Officer must form an opinion and record in writing the reasons to believe that the person arrested is guilty of the offense.

35. In the present case, such material was already in possession of Respondent No.1 on the basis of which a previous opinion was already formed by Respondent No.1 and an Application in writing was duly made to the Special Court under Section 50(2) and 50(3) of PMLA for confronting the said material to the Petitioner and to record his statement thereon. Once such an opinion was formed in writing and an order thereon was passed by the Special Court, Respondent No.1 cannot forego the same and abandon the same within a period of 12 days without complying with the order at the discretion of its Authorised Officer and proceed with arresting the Petitioner by supplying him the grounds of arrest invoking Section 19 on the basis of the very same material, which was the basis for forming the earlier opinion. This is only justified if a supervening exigency so arises in the interregnum such that the Petitioner is required to be arrested due to the same. Nothing of this nature has arisen so as to warrant arrest by foregoing the earlier stand of confronting the Petitioner with the material available and to record his statement. If such a stance of the Respondent No.1 is accepted, it will render the definition of investigation under Section 2(na) completely negatory in the facts of the case. Paragraph No.34 of the aforesaid decision is also relevant in this context and reads thus:-

> *“**34.** The contention of the DoE that while “grounds of arrest” were mandatorily required to be supplied to the arrestee, “reasons to believe”, being an internal and confidential document, need not be disclosed, was decisively rejected in Arvind Kejriwal [Arvind Kejriwal v. Enforcement Directorate, (2025) 2 SCC 248 : (2025) 1 SCC (Cri) 695] . It was held that “reasons to believe” are to be furnished to the arrestee such that they can challenge the legality of their arrest. Exceptions are available in one-off cases where appropriate redactions of “reasons to believe” are permissible. The relevant portion reads: (SCC pp. 278-79, paras 41-43)*
>
> > *“41. Once we hold that the accused is entitled to challenge his arrest under Section 19(1) of the PML Act, the court to examine the validity of arrest must catechise both the existence and soundness of the “reasons to believe”, based upon the material available with the authorised officer. It is difficult to accept that the “reasons to believe”, as recorded in writing, are not to be furnished. As observed above, the requirements in Section 19(1) are the jurisdictional conditions to be satisfied for arrest, the validity of which can be challenged by the accused and examined by the court. Consequently, it would be incongruous, if not wrong, to hold that the accused can be denied and not furnished a copy of the “reasons to believe”. In reality, this would effectively prevent the accused from challenging their arrest, questioning the “reasons to believe”. We are concerned with violation of personal liberty, and the exercise of the power to arrest in accordance with law. Scrutiny of the action to arrest, whether in accordance with law, is amenable to judicial review. It follows that the “reasons to believe” should be furnished to the arrestee to enable him to exercise his right to challenge the validity of arrest.*
> >
> > *42. We would accept that in a one-off case, it may not be feasible to reveal all material, including names of witnesses*

and details of documents, when the investigation is in progress. This will not be the position in most cases. DoE may claim redaction and exclusion of specific particulars and details. However, the onus to justify redaction would be on the DoE. The officers of the DoE are the authors of the "reasons to believe" and can use appropriate wordings, with details of the material, as are necessary in a particular case. As there may only be a small number of cases where redaction is justified for good cause, this reason is not a good ground to deny the accused's access to a copy of the "reasons to believe" in most cases. Where the non-disclosure of the "reasons to believe" with redaction is justified and claimed, the court must be informed. The file, including the documents, must be produced before the court. Thereupon, the court should examine the request and if they find justification, a portion of the "reasons to believe" and the document may be withheld. This requires consideration and decision by the court. DoE is not the sole judge.

43. Section 173(6) of the Code, permits the police officer not to furnish statements or make disclosures to the accused when it is inexpedient in public interest. In such an event, the police officer is to indicate the specific part of the statement and append a note requesting the Magistrate to exclude that part from the copy given to the accused. He has to state the reasons for making such request. The same principle will apply."

36. In view of what is held above, Courts can judicially review the legality of arrest, since it is inherent in Section 19 in view of the safeguards to prevent its misuse.

37. In view of the aforesaid observations and findings, I am of the considered opinion that the Petitioner has made out a case for grant of reliefs as prayed for in the present case.

38. The Petition therefore stands allowed in terms of prayer clauses 'a' and 'b'.

39. Hence, in view of above, Petitioner is granted bail in terms of prayer clause 'b' of the Petition. Hence, Petition of the Petitioner is allowed subject to the following terms and conditions:-

(i) Petitioner – Rajendra Narpatmal Lodha is directed to be released from prison on bail in connection with ECIR/MBZO-I/41/2025 registered on 30.09.2025 viz PMLA Special Case No.583 of 2026 pending before 16th Addl. Sessions Judge at Mumbai i.e. Special Court under PMLA for commission of offence under Section 3 of PMLA;

(ii) Petitioner is directed to be released on bail on furnishing P.R. Bond of Rs.5,00,000/- (Rs. Five Lakhs Rupees only) with one or two sureties in the like amount;

(iii) Petitioner shall report to the Authorised Officer in ECIR/MBZO-I/41/2025 twice every month on the first and third Monday of the month between 10:00 a.m. and 04:00 p.m. or as and when called for by the Authorised Officer until commencement of trial and thereafter shall attend all dates of hearing before the Special Court;

(iv) Petitioner shall cooperate with the investigation fully and conduct of the trial and remain present for all hearing dates before the Special Court, unless specifically exempted. Any such conduct of remaining present before the Investigating Officer and or not attending the trial unless specifically exempted by Court shall entitle the prosecution to apply for cancellation of bail;

(v) Petitioner shall not leave India without the prior permission of Trial Court; He shall deposit his passport with the Special Court forthwith before his release from prison as a condition precedent;

(vi) Petitioner shall not influence any of the witnesses or tamper with the evidence in any manner;

(vii) Petitioner shall keep the Investigating Officer informed of his current residential address and mobile telephone number where he shall be residing and shall inform the Investigating Officer of any change in his residential address or mobile telephone number, as and when such change occurs; and

(viii) Any breach or infraction of any of the aforesaid conditions shall entail cancellation of the bail granted to the Petitioner.

40. It is clarified that the observations made in this order are limited for the purpose of granting bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made hereinabove in this order.

41. Writ Petition is allowed and disposed in the above terms.

[MILIND N. JADHAV, J.]

42. After this order is pronounced in open Court today, Mr. Pendse, learned Advocate for Respondent No.1 persuades the Court to stay the effect of this order in order to enable Respondent No.11 to challenge the legality and veracity of this order before the superior Court.

43. I have considered the request made by Mr. Pendse, however, in view of the findings which are recorded by me in the present order, I decline to accept the said request and therefore the request for stay of this order stands rejected.

[MILIND N. JADHAV, J.]

Ajay

AJAY TRAMBAK UGALMUGALE

Digitally signed by AJAY TRAMBAK UGALMUGALE
Date: 2026.09.21 16:58:00 +0530