CORPORATE, TAX AND BUSINESS ADVISORY LAW FIRM

THE CRIME TIMES

NEWSLETTER - MARCH 2026 EDITION

IN THIS ISSUE

FROM THE EDITOR'S DESK

Dear Readers,

Expecting someone to remember pages of oral explanations is unrealistic. By requiring written grounds, the Court has ensured that individuals can consult their lawyers, prepare their defense, and exercise their right to bail meaningfully. It's a small procedural shift, but one that makes a world of difference to personal liberty.

Equally striking are the rulings on PMLA summons and warrants. The message is simple: appearing in court voluntarily is not custody, and non-bailable warrants cannot be issued mechanically. These decisions protect against overreach and reinforce that coercive measures must be the last resort, not the first reflex.

On another front, the courts have clarified that investigative tools like voice samples are about identification, not self-incrimination. It's a reminder that technology and constitutional rights can coexist so long as the boundaries are respected.

Taken together, these judgments are reshaping the contours of criminal law enforcement in India. They don't weaken the fight against money laundering or crime; instead, they strengthen it by ensuring that investigations stand on solid constitutional ground.

As we reflect on these developments, one thing becomes clear: the rule of law thrives when power is exercised with precision, not presumption. And in that balance between enforcement and liberty lies the true resilience of our justice system.

We trust you will find this issue both insightful and valuable. We welcome your feedback and suggestions to help us make this publication even better.

With Regards,

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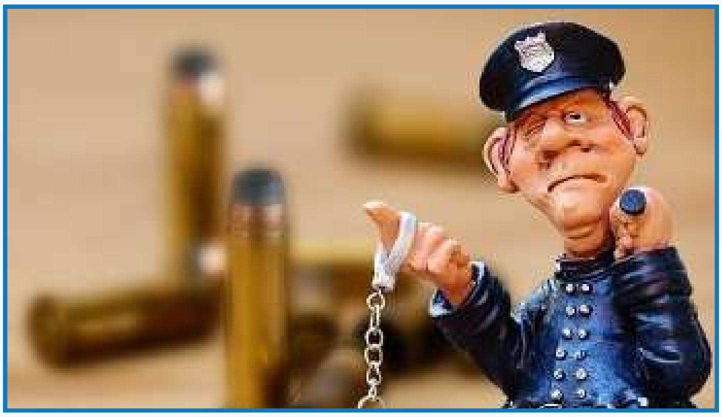
COMMUNICATION AND FURNISHING WRITTEN GROUNDS OF ARREST



The landmark judgment in ***Pankaj Bansal v. Union of India*** (2023INSC866) by the Supreme Court of India firmly establishes that the communication of grounds of arrest to an arrested person is not merely a procedural formality but a substantive constitutional and statutory safeguard that must be meaningfully discharged. The Court held that henceforth, written grounds of arrest must be furnished to the arrested person as a matter of course and without exception.

Article 22(1) of the Constitution provides the foundational protection against arbitrary arrest and detention. It states:

"No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice."

The Supreme Court emphasized that this constitutional provision guarantees a fundamental right to every arrested person. The mode of conveying information of the grounds of arrest must necessarily be meaningful so as to serve the intended purpose.

Reference may also be made to Section 50 Cr.P.C. (now Section 47 BNSS), which provides that every police officer or other person arresting any person without a warrant shall forthwith communicate to him the full particulars of the offence or other grounds for such arrest, as well as Section 50A Cr.P.C. (now Section 48 BNSS), which imposes an obligation on the arresting officer to inform a nominated person about the arrest and mandates that such information must be recorded in a register maintained at the police station.

Section 19(1) of the Prevention of Money Laundering Act, 2002 provides:

"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 (the 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."

The Court noted that Section 19(1) contains two critical components: (i) the requirement of recording in writing the reason to believe that the person is guilty of an offence, and (ii) the obligation to inform the arrested person of the grounds of arrest as soon as may be.

The Supreme Court articulated the higher purpose that the communication of grounds of arrest serves, and held:

"This being the fundamental right guaranteed to the arrested person, the mode of conveying information of the grounds of arrest must necessarily be meaningful so as to serve the intended purpose. It may be noted that Section 45 of the Act of 2002 enables the person arrested under Section 19 thereof to seek release on bail but it postulates that unless the twin conditions prescribed thereunder are satisfied, such a person would not be entitled to grant of bail. It is only if the arrested person has knowledge of these facts that he/she would be in a position to plead and prove before the Special Court that there are grounds to believe that he/she is not guilty of such offence, so as to avail the relief of bail."

The Court thus recognized that communicating grounds of arrest is intrinsically linked to the arrested person's ability to exercise the right to bail, which itself is a facet of personal liberty guaranteed under Article 21.

The Court examined Rule 6 of the Prevention of Money Laundering (The Forms and the Manner of Forwarding a Copy of Order of Arrest) Rules, 2005, which prescribes Form III as the format for the Arrest Order. This format explicitly mentions that the arrested person "has been informed of the grounds for such arrest." The Court found it incongruous that while this written format is followed uniformly across the country, the manner of informing arrestees varies. In some parts, written grounds are furnished, while in others, grounds are merely read out.

The Supreme Court articulated **two primary reasons** why written grounds of arrest should be furnished as a matter of course and without exception:

Evidentiary Certainty and Avoiding Disputes

The Court observed:

"Firstly, in the event such grounds of arrest are orally read out to the arrested person or read by such person with nothing further and this fact is disputed in a given case, it may boil down to the word of the arrested person against the word of the authorized officer as to whether or not there is due and proper compliance in this regard. Non-compliance in this regard would entail the release of the arrested person straightaway, as held in V. Senthil Balaji. Such a precarious situation is easily avoided, and the consequence thereof can be obviated very simply by furnishing the written grounds of arrest, as recorded by the authorized officer in terms of Section 19(1) PMLA, to the arrested person under due acknowledgement, instead of leaving it to the debatable ipse dixit of the authorized officer."

This reasoning recognises the practical reality that disputes about compliance can easily arise when grounds are merely communicated orally or permitted to be read.

Enabling Effective Exercise of Right to Seek Bail

The Court's second and more fundamental reason related to the constitutional objective underlying the communication of grounds:

"The second reason as to why this would be the proper course to adopt is the constitutional objective underlying such information being given to the arrested person. Conveyance of this information is not only to apprise the arrested person of why he/she is being arrested but also to enable such person to seek legal counsel and thereafter, present a case before the court under Section 45 to seek release on bail, if he/ she so chooses. In this regard, the grounds of arrest in V. Senthil Balaji (2024 INSC 739) are placed on record and we find that the same run into as many as six pages... it would be well-nigh impossible for either Pankaj Bansal or Basant Bansal to record and remember all that they had read or heard being read out for future recall so as to avail legal remedies. More so, as a person who has just been arrested would not be in a calm and collected frame of mind and may be utterly incapable of remembering the contents of the grounds of arrest read by or read out to him/her."

Based on the above analysis, the Supreme Court held:

"On the above analysis, to give true meaning and purpose to the constitutional and the statutory mandate of Section 19(1) of the Act of 2002 of informing the arrested person of the grounds of arrest, we hold that it would be necessary, henceforth, that a copy of such written grounds of arrest is furnished to the arrested person as a matter of course and without exception."

The Court explicitly overruled two High Court decisions that had held to the contrary. It declared that the decisions of the Delhi High Court in Moin Akhtar Qureshi v. Union of India (https://indiankanoon.org/doc/190585689/) and the Bombay High Court in Chhagan Chandrakant Bhujbal v. Union of India (https://indiankanoon.org/doc/138917199/) , which held that there was no requirement to furnish written grounds, "do not lay down the correct law".

Prabir Purkayastha v. State (NCT of Delhi)

The principles laid down in Pankaj Bansal were reiterated and reinforced by the Supreme Court in Prabir Purkayastha v. State (NCT of Delhi) (2024 INSC 414) . The Court held:

"The language used in Article 22(1) and Article 22(5) of the Constitution of India regarding the communication of the grounds is exactly the identical. Neither of the constitutional provisions require that the 'grounds' of 'arrest' or 'detention', as the case may be, must be communicated in writing. Thus, interpretation to this important facet of the fundamental right as made by the Constitution Bench while examining the scope of Article 22(5) of the Constitution of India would ipso facto apply to Article 22(1) of the Constitution of India insofar as the requirement to communicate the grounds of arrest is concerned. Hence, we have no hesitation in reiterating that the requirement to communicate the grounds of arrest or the grounds of detention in writing to a person arrested in connection with an offence or a person placed under preventive detention as provided under Articles 22(1) and 22(5) of the Constitution of India is sacrosanct and cannot be breached under any situation. Non-compliance of this constitutional requirement and statutory mandate would lead to the custody or the detention being rendered illegal, as the case may be."

Vihaan Kumar v. State of Haryana

The landmark decision in Vihaan Kumar v. State of Haryana (2025 INSC 162), delivered on February 7, 2025, further elaborated on the requirements of Article 22(1). Justice Abhay S.

Oka, writing for the Bench, laid down comprehensive principles:

"Therefore, as far as Article 22(1) is concerned, compliance can be made by communicating sufficient knowledge of the basic facts constituting the grounds of arrest to the person arrested. The grounds should be effectively and fully communicated to the arrestee in the manner in which he will fully understand the same. Therefore, it follows that the grounds of arrest must be informed in a language which the arrestee understands. That is how, in the case of Pankaj Bansal, this Court held that the mode of conveying the grounds of arrest must necessarily be meaningful so as to serve the intended purpose."

The Court conclusively held that the requirement of informing grounds of arrest is "not a formality but a mandatory constitutional requirement".

Consequences of Non-Compliance

The Supreme Court in Vihaan Kumar articulated the severe consequences of failing to comply with Article 22(1):

"Non-compliance with Article 22(1) will be a violation of the fundamental rights of the accused guaranteed by the said Article. Moreover, it will amount to a violation of the right to personal liberty guaranteed by Article 21 of the Constitution. Therefore, non-compliance with the requirements of Article 22(1) vitiates the arrest of the accused. Hence, further orders passed by a criminal court of remand are also vitiated. Needless to add that it will not vitiate the investigation, charge sheet and trial. But, at the same time, filing of chargesheet will not validate a breach of constitutional mandate under Article 22(1)."

The Court further held that when a violation of Article 22(1) is established, "it is the duty of the court to forthwith order the release of the accused. That will be a ground to grant bail even if statutory restrictions on the grant of bail exist".

Additional Safeguard: Communication to Relatives

Justice Nongmeikapam Kotiswar Singh, in his concurring opinion in Vihaan Kumar, emphasised an additional dimension to the communication requirement under Section 50A of the CrPC:

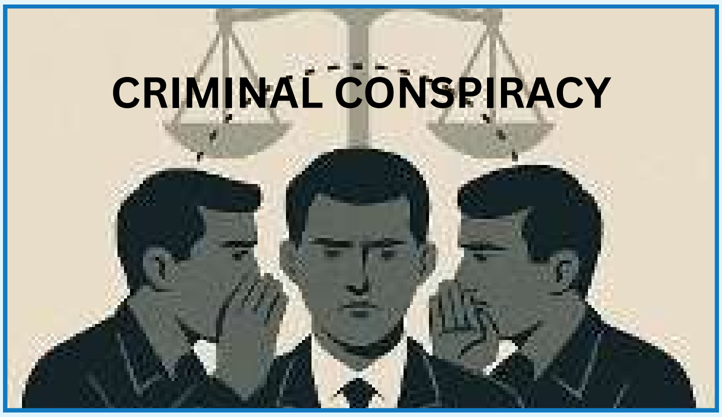
"The purpose of inserting Section 50A of the CrPC, making it obligatory on the person making arrest to inform about the arrest to the friends, relatives or persons nominated by the arrested person, is to ensure that they would be able to take immediate and prompt actions to secure the release of the arrested person as permissible under the law. Hence, the requirement of communicating the grounds of arrest in writing is not only to the arrested person, but also to the friends, relatives or such other person as may be disclosed or nominated by the arrested person, so as to make the mandate of Article 22(1) of the Constitution meaningful and effective failing which, such arrest may be rendered illegal."

Pankaj Bansal v. Union of India recognizes several fundamental truths about the arrest process:

1. An arrested person is in a vulnerable psychological state and cannot be expected to remember voluminous grounds read out orally.
2. The ability to seek bail effectively depends on having written grounds available for reference and consultation with legal counsel.
3. Oral communication creates evidentiary disputes that can be easily avoided through written documentation.
4. The statutory scheme itself mandates a written recording of reasons for arrest, making written communication the logical corollary.

Reference may please also be made to the cases of Mohammed Ajmal Mohammad Amir Kasab @ Abu Mujahid v. State of Maharashtra, (2012) 8 S.C.R. 295 (Paras 484–488).

CAN PMLA BE INVOKED SOLELY BASED ON THE INVOCATION OF SECTION 120B (CRIMINAL CONSPIRACY) OF INDIAN PENAL CODE WHICH IS A SCHEDULED OFFENCE



Under Section 2(u) of the Prevention and Money Laundering Act, 2002 (“PMLA Act”), “proceeds of crime” has been defined as follows:

"proceeds of crime" means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property or where such property is taken or held outside the country, then the property equivalent in value held within the country or abroad.

The term “scheduled offence” has been defined under Section 2(y) of the PMLA Act as under:
"scheduled offence" means:

i. the offences specified under Part A of the Schedule; or
ii. the offences specified under Part B of the Schedule if the total value involved in such offences is one crore rupees or more; or
iii. the offences specified under Part C of the Schedule.

The PMLA Act provides a schedule that contains three Parts, listing various offences. These offences are also referred to as "predicate offences."

Section 3 of the PMLA Act defines the offence of money laundering as any direct or indirect attempt by a person to indulge in, knowingly assist, knowingly be a party to, or be actually involved in the concealment, possession, acquisition, use, projection as untainted property, or claiming as untainted property of the proceeds of crime.

Therefore, if proceeds are generated as a result of a scheduled offence and such proceeds are being laundered or there is an attempt to launder them, the offence of money laundering is being committed.

In Part A of the Schedule of the PMLA Act, an offence of criminal conspiracy under Section 120B of the Indian Penal Code, 1860 ("IPC") is listed.

Section 120B of the IPC

120B Punishment of criminal conspiracy.

(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.

Section 120A of the IPC defines criminal conspiracy as under:

120A. Definition of criminal conspiracy- When two or more persons agree to do, or cause to be done,

an illegal act, or

(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy:

The question raised here is whether the provisions of the PMLA Act can be invoked solely on the basis of invocation of Section 120B (criminal conspiracy) of the IPC, which is a scheduled offence under the PMLA Act. In other words, if criminal conspiracy is alleged in relation to a non-scheduled offence, can the PMLA Act be invoked in such a scenario?

In the case of Pavana Dibbur v. Enforcement Directorate, 2023 SCC Online SC 1586, the Hon'ble Supreme Court of India, while addressing this issue, observed that the offence under Section 120B of the IPC included in Part A of the Schedule will become a scheduled offence only if the criminal conspiracy involves committing an offence that is already included in Parts A, B, or C of the PMLA Act Schedule. The Court held as under:

"The offence punishable under Section 120B of the IPC will become a scheduled offence only if the conspiracy alleged is of committing an offence which is specifically included in the Schedule."

The Directorate of Enforcement filed a review petition against this judgment, which was subsequently rejected by the Hon'ble Supreme Court on 19th March 2024.

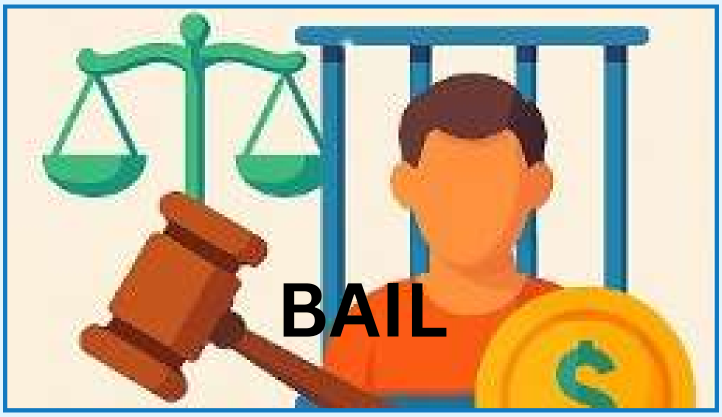
In Anjaneya Hanumanthaiah v. Union of India, Writ Petition (CRL.) No. 281 of 2019, and other connected matters, the Hon'ble Supreme Court, while hearing a special leave petition filed by Karnataka Deputy Chief Minister Mr. DK Shivakumar against an order passed by the Karnataka High Court, upholding the summons issued by the Enforcement Directorate for alleged offences under the provisions of the Income Tax Act, 1961 and Section 120B of the IPC. The Court relied upon the case of Pavana Dibbur (supra), held as under:

An offence punishable under Section 120B IPC will become a scheduled offence only if the conspiracy alleged is of committing an offence which is specifically included in the Schedule and that it is not the legislative intent behind PMLA to make every offence not included in the Schedule a scheduled offence by applying Section 120B IPC."

As the offences under the Income Tax Act are not scheduled offences under the PMLA Act, the Hon'ble Supreme Court quashed the proceedings initiated against the petitioners under the PMLA Act, as they were invoked solely on the basis of Section 120B of the IPC.

Based on the above, it is apparent that the Enforcement Directorate cannot invoke the provisions of the PMLA Act solely on the basis of Section 120B of the IPC if it is the only scheduled offence. The PMLA Act can only be invoked if the criminal conspiracy (Section 120B of the IPC) is alleged to have been committed in relation to any other scheduled offence under the Act.

NO AUTOMATIC BAIL REQUIREMENT ON SUMMONS APPEARANCE UNDER PMLA: SUPREME COURT



In Tarsem Lal v. Directorate of Enforcement (2024 INSC 434), the Supreme Court of India delivered a significant ruling on the procedural framework under the Prevention of Money Laundering Act, 2002 (PMLA), particularly in relation to custody, arrest powers, and the applicability of the stringent bail conditions under Section 45 of PMLA.

The Court held that when a person accused of an offence under the PMLA appears before the Special Court pursuant to summons, such appearance does not amount to "deemed custody." Consequently, the accused is not required to apply for bail merely because he has appeared before the Court. In such circumstances, the rigorous twin conditions prescribed under Section 45 of the PMLA are not attracted.

The judgment further clarifies that once cognizance of the offence punishable under Section 4 of the PMLA is taken on a complaint filed under Section 44(1)(b), the Directorate of Enforcement and its officers cease to have the power to arrest the accused under Section 19 in relation to that complaint. The authority to deal with the custody of the accused thereafter lies with the Special Court.

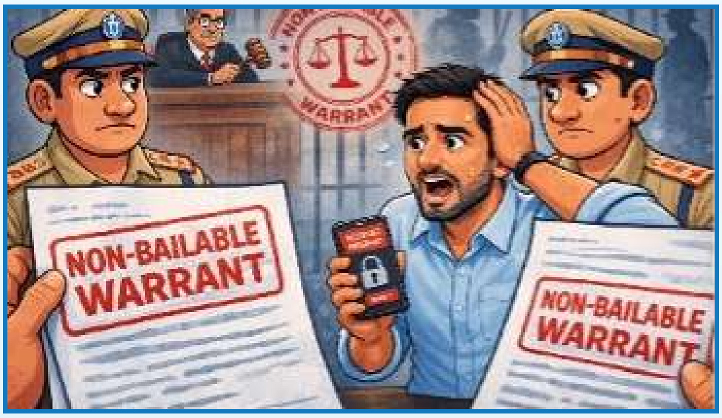
Importantly, the Court observed that if the Enforcement Directorate seeks custodial interrogation of an accused who has appeared pursuant to summons for further investigation in the same offence, it must apply to the Special Court for appropriate orders.

The Court also clarified the procedural position when an accused appears pursuant to summons and is not in custody. In such a case, the Special Court may require the accused to furnish bonds under Section 88 of the Code of

Criminal Procedure, 1973, but cannot treat the person as being in custody so as to compel a bail application.

The ruling brings much needed clarity to the post-cognizance stage under the PMLA and reinforces that procedural safeguards governing personal liberty cannot be diluted by treating voluntary appearance as custody. It delineates the limits of the ED's arrest powers and ensures that the stringent bail regime under Section 45 is not invoked in situations where the accused is not under arrest.

NON-BAILABLE WARRANTS CANNOT BE ISSUED MECHANICALLY FOR NON-COMPLIANCE WITH ED SUMMONS



In ***Sachin Dev Duggal v. Directorate of Enforcement*** (2025:DHC:11624), the Delhi High Court set aside non-bailable warrants (NBWs) issued against UK-based businessman Sachin Dev Duggal in proceedings initiated by the Directorate of Enforcement under the Prevention of Money Laundering Act, 2002 (PMLA).

In the case, the ED had issued summons to the petitioner under Section 50 of the PMLA in connection with an ongoing money laundering investigation. At the relevant stage, the petitioner was summoned in the capacity of a witness. Alleging non-compliance and contending that the petitioner was not cooperating with the investigation and would not appear unless compelled by law, the ED approached the Special Court seeking issuance of non-bailable warrants. The Special Court accordingly issued NBWs against the petitioner.

Notably, no prosecution complaint had been filed against the petitioner before the Special Court. Although the ED described him as a suspect, the application did not state that he was an accused at that stage.

Challenging the warrants, the petitioner argued that he was residing abroad and that the summons had not been duly served in accordance with the prescribed procedure. It was further contended that the issuance of NBWs was a mechanical exercise of power, without satisfaction of the statutory requirements.

The High Court held that the power under Section 73 of the Code of Criminal Procedure, 1973 (CrPC) cannot be exercised mechanically. Before issuing non-bailable warrants under Section 73, the court must record satisfaction that the person against whom the warrants are sought falls within one of the recognised categories namely, a convict, a proclaimed offender, or a person accused of a non-bailable offence who is evading arrest. Mere non-appearance in response to summons does not automatically justify the issuance of NBWs.

The Court also examined the statutory scheme under Section 50 PMLA. It noted that proceedings under Section 50 are deemed judicial proceedings, and the statute itself provides consequences for failure to attend or give evidence. Such non-compliance may attract penal provisions under the Indian Penal Code relating to non-attendance in obedience to summons issued by a public servant.

Importantly, the Court clarified that while non-bailable warrants can, in appropriate circumstances, be issued even against a person not formally arrayed as an accused in a prosecution complaint, such person must be shown to be accused of a non-bailable offence and evading arrest for the purposes of Section 73 CrPC. In the present case, however, the petitioner had been described as a "witness," and there was no material demonstrating that he satisfied the statutory conditions.

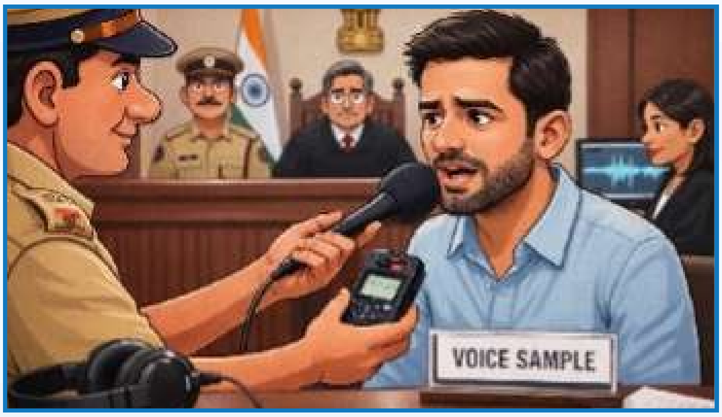
The High Court found that the impugned order did not reflect adequate judicial scrutiny of these requirements. It held that the statutory framework under Section 50 PMLA cannot be bypassed, and coercive custody cannot become the first response to non-appearance.

Accordingly, concluding that the issuance of NBWs was not in accordance with law, the High Court set aside the warrants.

In essence, the judgment clarifies that Section 73 CrPC applies to PMLA proceedings, but warrants cannot be issued mechanically; and non-compliance with summons under Section 50 PMLA carries specific statutory consequences, which must be addressed within the framework of law rather than through immediate recourse to non-bailable warrants.

Judgment can be accessed from the following link:
https://delhihighcourt.nic.in/app/showlogo/1746797968_681e05907114a.pdf/2025

DIRECTION TO PROVIDE VOICE SAMPLE DOES NOT VIOLATE ARTICLE 20(3) OF THE CONSTITUTION OF INDIA OR RIGHT TO PRIVACY



In ***Moin Akhtar Qureshi v. Central Bureau of Investigation*** (2025:DHC:11909), the Delhi High Court has clarified that a direction to furnish a voice sample for the purposes of criminal investigation does not amount to testimonial compulsion under Article 20(3) of the Constitution of India, nor does it violate the fundamental right to privacy. The Court held that providing a voice sample is merely a mode of identification and not a communication of personal knowledge or guilt, and therefore falls outside the constitutional protection against self-incrimination.

The proceedings arose out of surveillance carried out by the Income Tax Department between October 2013 and March 2014, followed by search operations and subsequent action by the Enforcement Directorate and the CBI. During investigation, the CBI sought to compare intercepted telephonic conversations with the petitioner's voice. The courts below permitted this request, which the petitioner challenged before the High Court on the ground that the direction amounted to compelled self-incrimination and was premised on allegedly illegal and stale interceptions.

The Court rejected these arguments. Relying on settled precedent, it reaffirmed that physical and mechanical identification measures including fingerprints, handwriting, or voice samples do not carry any communicative content and therefore do not attract Article 20(3) of the Constitution. The Court clarified that self-incrimination means conveying information based upon the personal knowledge of the person, giving the information and cannot include merely the mechanical process of producing documents in Court, which may throw light on any of the points in controversy and concluded that specimen through mechanical process, cannot be termed as a self-incriminatory attracting the prohibition of Article 20(3) of the Constitution. The Court emphasised that a voice sample is only an identifying feature of an individual and does not, by itself, establish guilt.

While dealing with one of the contentions of the petitioner regarding the absence of specific provision empowering the Magistrate to direct an accused to give voice sample, the Court relied upon the judgment of the Supreme Court in **Ritesh Sinha v. State of U.P., (2019) 8 SCC 1**, wherein the Supreme Court, invoking Article 142, recognised the power of a Magistrate to direct a person to give a voice sample for the purpose of investigation under the Code of Criminal Procedure, 1973. The Court also noted that this power now stands expressly incorporated in Section 349 of the Bhartiya Nagarik Suraksha Sanhita, 2023.

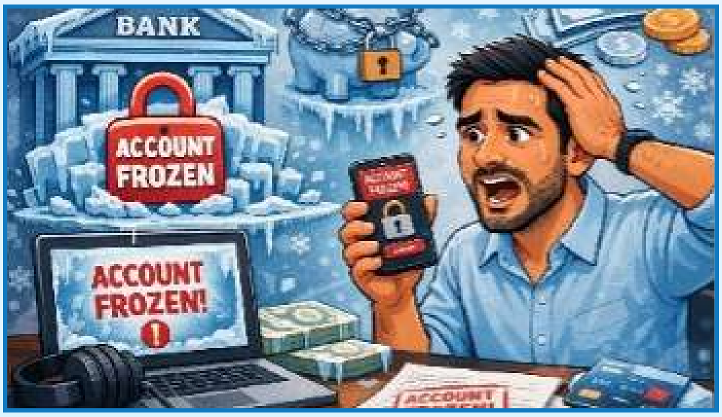
While acknowledging that the right to privacy is a fundamental right, the Court reiterated that it is not absolute and must yield to legitimate State interests, including the prevention and investigation of crime.

The Court further rejected the argument that intercepted calls were inadmissible or obtained contrary to statutory safeguards, holding that such objections pertain to evidentiary admissibility and must be adjudicated at the stage of trial, and cannot derail the investigative process.

Ultimately, the Court found no illegality or perversity in the Special Judge's order directing the petitioner to provide his voice sample, and upheld the same. The judgment reiterates that a voice sample constitutes a physical characteristic used solely for identification and comparison, does not involve disclosure of personal knowledge, and therefore is not hit by Article 20(3) of the Constitution.

Judgment can be accessed from the following link:
https://delhihighcourt.nic.in/app/showFileJudgment/NBK24122025CRLMM28672021_132158.pdf

FREEZING OF BANK ACCOUNT ON MERE SUSPICION CANNOT SUSTAIN — "REASONS TO BELIEVE" UNDER PMLA CANNOT BE A MERE FORMALITY



The Delhi High Court in the case of Directorate of **Enforcement v. Poonam Malik** [2025:DHC:9981-DB] has strongly reprimanded the Enforcement Directorate (ED) for freezing a bank account purely on the basis of suspicion, without complying with the statutory safeguards under the Prevention of Money Laundering Act, 2002 (PMLA). The Court held that both the ED and the Adjudicating Authority (AA) acted mechanically and in disregard of the distinct procedural stages mandated under the Act.

The case involved freezing orders that were subsequently confirmed by the AA. The Appellate Tribunal set aside those orders and directed unfreezing, prompting the ED to approach the High Court. The Division Bench upheld the Tribunal's order and recorded clear disapproval of the ED's manner of proceeding.

The Court observed that the PMLA provides for separate events and acts of seizure, freezing, retention, continuation and confirmation and each event has its own statutory requirements. These terms are not interchangeable. However, in the present case, the ED's application and the AA's order "conflated all these terms and served up what can at best be called a khichdi." The ED sought "confirmation," styled the application as one for "continuation," and ultimately managed to secure an order of "retention."

Importantly, the Court clarified that retention under Section 20 requires fresh satisfaction recorded by the authorised officer and cannot be granted automatically merely because a freezing order exists. Similarly, continuation of a freezing order under Section 17 must be preceded by a properly recorded "reason to believe." These safeguards are integral to the statutory scheme and cannot be bypassed for convenience. The AA therefore cannot, immediately after a seizure or freezing, rubber-stamp retention or continuation without complying with the express mandate of the Act.

The Court also found that the initial freezing orders were cryptic and unsupported by any material. They merely stated that "it is suspected" that the funds in the accounts were linked to alleged laundering activities of the respondent's husband, who was under investigation. Suspicion of this nature, the Court held, falls far short of the mandatory threshold of "reasons to believe" under Section 17. An action freezing a bank account without meeting statutory requirements infringes the constitutional right to property under Article 300A.

The judgment reiterates that a freezing order lacking application of mind, failing to establish a nexus with alleged proceeds of crime, or overlooking the mandatory statutory checks cannot be sustained.

Judgment can be accessed from the following link: https://delhihighcourt.nic.in/app/showFileJudgment/68014112025PMLA42021_171157.pdf

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