IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 4779 OF 2025

Anilkumar Khanderao Pawar .. Petitioner

Vs.

Directorate of Enforcement & Anr. .. Respondents

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Mr. Rajiv Shakdher, Senior Advocate a/w Mr. Sudeep Pasbola, Senior Advocate a/w Mr. Ujjwalkumar Chavan, Mr. Karan Khetani, Mr.Chinmay Godse, Mr. Bhushan Yadav, Mr. Aditya Hire, Mr.Harshal Lohakare, Mr. Hitesh Singh, Ms. Sana Shaikh, Mr. Swapnil Balajiwale and Mr. Jayesh Rathod i/by Mr. Ujjwalkumar Chavan, Advocates for the Petitioner.

Mr. Anil C. Singh, Additional Solicitor General a/w Ms. Manisha Jagtap, Mr. Aditya Thakkar, Ms. Yashashree Raut, Mr. Rajdatt Nagre, Ms. Rama Gupta, Mr. Adarsh Vyas & Mr. Krishnakant Deshmukh, Advocates for Respondent No.1 – Enforcement Directorate.

Mrs. G. P. Mulekar, APP for Respondent No.2 – State.

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CORAM : SHREE CHANDRASHEKHAR, CJ &
GAUTAM A. ANKHAD, J.

DATE : 15th OCTOBER 2025.

PER, SHREE CHANDRASHEKHAR, CJ.:

The challenge laid in this writ petition is to the arrest of the petitioner on 13th August 2025 on the ground that it was an illegal and arbitrary exercise of powers by the Arresting Officer, who by arresting the petitioner on 13th August 2025 infringed the petitioner's fundamental rights under Articles 14, 19, 21 and 22(1) and (2) of the Constitution of India. Closely related to this challenge, a further challenge has been made to the remand orders dated 14th August

2025 and 20th August 2025 passed by the Additional Sessions Judge, Designated Special Court under the Prevention of Money-Laundering Act, 2002 (in short, PMLA), City Civil and Sessions Court, Mumbai in ECIR No. ECIR/MBZO-II/10/2025.

2. This is the case of the Enforcement Directorate (in short, ED) that illegal constructions were raised and 41 buildings were constructed during 2008 to 2010 by the accused builders and developers in connivance with the officers of the City and Industrial Development Corporation of Maharashtra (in short, CIDCO) and, in connection therewith, a First Information Report (in short, FIR) was lodged on 26th November 2019 vide FIR No.1348 of 2019 at the instance of the Assistant Commissioner, Ward Committee-D, Achole, Vasai Virar City Municipal Corporation (in short, VVCMC). Then three other FIRs vide FIR No.195 of 2022 on 26th April 2022, FIR No. 196 of 2022 on 27th April 2022 and FIR No. 69 of 2022 on 2nd February 2023 were lodged. Based on these FIRs, the ED registered ECIR No. ECIR/MBZO-II/10/2025 and an investigation thereto commenced. The case set up by the ED is that several incriminating materials including huge cash, ornaments etc. were collected from the premises of Mr. Y. S. Reddy in course of the investigation and such information was shared with the authorities. On the basis of that information, the FIR vide FIR No. 0330 of 2025 was registered at Achole Police Station on 1st August 2025 which has merged into the earlier four FIRs, and now the complicity of the petitioner in the crime has been unearthed. The case pleaded by the petitioner is that the development plan for Vasai Virar was sanctioned by the CIDCO and 41 buildings were constructed during 2008-2010. On 7th July 2010, the VVCMC came into existence and the planning functions of CIDCO were handed over to the VVCMC. The petitioner tendered joining as the Municipal

Commissioner at the VVCMC on 13th January 2022 and, according to him, he played an active role in following up and pursuing the complaints against illegal construction in the VVCMC. In the meantime, Civil Writ Petition No. 15853 of 2022 was filed in the High Court by the land owners and the illegal constructions were razed by virtue of an order passed in the said proceedings. The petitioner had no role to play in granting sanction for the development plans and the said illegal constructions of 41 buildings in 2008-2010, as he was not there at that time. The learned senior counsel for the petitioner submitted that the petitioner was instrumental in issuing notices for vacating illegally constructed 41 buildings, he got 850 complaints filed against illegal constructions, supervised demolition of over 550 lakhs sq.ft. of illegal constructions, registered 206 criminal offences against the developers, builders and others, 1400 notices were issued under the provisions of the Maharashtra Regional and Town Planning Act, 1966 and three Assistant Municipal Commissioners and six Junior Engineers were suspended or terminated from service for not taking prompt action against illegal constructions. The case of the ED against him is based on vague allegations and guesswork and nothing has been recovered from his possession or his family members which can be said to be the proceeds of crime. Even the writ Court did not make any adverse comment against him and, on the contrary, refused to initiate any disciplinary proceedings against the officials of the VVCMC. The paragraph nos.13, 14, 15 and 16 of the order dated 8th July 2024 passed by the High Court read as under:

> *"13. Since the main relief in the Petition was to direct the VVCMC to take action against illegal constructions on the site reserved for the sewage treatment plant and the dumping ground, and since the VVCMC is proceeding with the action, there is no point in keeping this Petition pending.*
>
> *14. The Petitioner's relief for disciplinary proceedings against the officials does not warrant consideration, at least in the facts of the*

> *present case. Ms Sagvekar pointed out that these constructions came up when CIDCO controlled the property. She also pointed out how notices were issued that notices could not be implemented because of court proceedings and interim reliefs. She pointed out how efforts were made to vacate the interim reliefs, and no sooner the interim reliefs were vacated, the VVCMC proceeded with the action of removing the illegal and unauthorised buildings.*
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> *15. As far as the Intervenors are concerned, the relief they seek cannot be claimed by seeking intervention. Secondly, the learned Counsel for the intervenors could not show that the buildings they occupy were constructed with any permission from any authorities. Admittedly, the buildings have been placed on site reserved for setting up a sewage treatment plant and a dumping ground. The sewage treatment plant and a dumping ground are, in fact, essential civic amenities, and such land cannot be used by any party to the detriment of the civic interest of all others in the locality.*
>
> *16. The fact that Intervenors may have agreements or that the Petitioners may also have executed some registered agreements with the developer is not a good ground to protect wholly unauthorised constructions. The Intervenors are free to sue the builder, developer or any other persons for recovering damages. However, based on such registered agreements, if any, there is no question of protecting the wholly illegal and unauthorised structures."*

3. According to the ED, the investigation carried between February 2025 and before 13th August 2025 revealed that the petitioner was involved in the crime and he received huge illegal gratifications. The search and seizure conducted by the ED at the premises of the petitioner and at the premises of Mr. Y. S. Reddy disclosed deep involvement of the petitioner and a conspiracy with the builders and promoters to grant illegal sanction to the development plans. The specific case set up by the ED is that the petitioner was arrested on 13th August 2025 in accordance with law. He was handed over the arrest memo, grounds of arrest and reasons to believe and his wife was given intimation over phone at the time of his arrest. The petitioner was produced before the Special Court on 14th August 2025 and police remand for seven days was given to the ED. He was again produced before the Special Court on 20th August 2025 and remanded to the judicial custody, but at no point of time the petitioner raised

any objection to his judicial custody.

4. In the Brief Note tendered on behalf of the ED, it is stated that there was no illegality in making arrest of the petitioner on 13th August 2025 and there was abundance of materials in possession of the Arresting Officer such as the evidence showing (i) transfer of money from Mr. Y. S. Reddy, (ii) Mr. Y. S. Reddy being charged with predicate offence of corruption and (iii) statement of Mr. Y. S. Reddy recorded under section 50 of the PMLA being corroborated by the statements of the architects and the promoters/developers and, that, there is a clear link of the petitioner being involved in the corrupt practices. In paragraph no. 14 of the Brief Note, the ED has taken the following stand: -

> *"14. Before making the arrest, The ED had substantial material in its possession including various statements WhatsApp chats, particularly Statement of Y. S. Reddy dated 07/08/2025 and 13/08/2025, Amol Patil, who is a relative of the Petitioner dated 11/08/2025, Statement of builders and architects recorded before the arrest. Now the ED/Respondents have also filed a complaint, the relevant part of the complaint is from page 273 till 287, which quantifies proceeds of crime, and also delivery of cash/Jewelry to the petitioner, Page 295 refers to the specific role of the petitioner. There is substantially more material collected drung the course of the investigation including the statement of Manali Shinde, Assistant Municipal commissioner, Confirming the Rate Card and payments made to the petitioner."*

5. Mr. Rajiv Shakdher, the learned senior counsel for the petitioner submits that mere showing that the grounds of arrest and reasons to believe were supplied to the petitioner is not sufficient compliance of section 19 of the PMLA and there must be some tangible material in possession of the Arresting Officer to form an opinion that he had reasons to believe that the petitioner was guilty of an offence punishable under the PMLA. The learned senior counsel submits that the petitioner took steps in pursuing FIRs and ensured the compliance of the order dated 8th July 2024 passed by the High Court

in Writ Petition No. 15853 of 2022. The submission made by the learned senior counsel for the petitioner is that mere suspicion is not sufficient to form an opinion as to reasons to believe as contemplated under section 19 of the PMLA. There is no money trail leading to the petitioner and mere statements of co-accused Mr. Y. S. Reddy and some developers/builders cannot form the basis for reason to believe under section 19 of the PMLA. There is no connecting evidence and details of the projects sanctioned by the petitioner or the company/entity formed in the name of the wife or any relative of the petitioner has been disclosed by the ED. The learned senior counsel for the petitioner referred to the decision in "*Arvind Kejriwal v. Directorate of Enforcement*" (2025) 2 SCC 248 and submitted that the ED has no jurisdiction to register the FIR on the allegation under the Prevention of Corruption Act, 1988. The learned senior counsel for the petitioner referred to the decisions in "*Vijay Madanlal Choudhary v. Union of India*" (2023) 12 SCC 1, "*R. K. M. Powergen (P) Ltd. v. Union of India*" 2025 SCC OnLine Mad 3272, "*Sachin Balasaheb Sawant v. Union of India*" 2024 SCC OnLine Bom 3229, "*Sanjay Jain v. Enforcement Directorate*" 2024 SCC OnLine Del 1656 and Writ Petition No.13833 of 2010 titled "*Rajesh Rajora and Ors. v. Union of India & Ors.*" to submit that the arrest of the petitioner on 13th August 2025 was in violation of the statutory provisions and in teeth of the law laid by the Constitutional Courts in the afore-mentioned cases.

6. On the other hand, Mr. Anil Singh, the learned Additional Solicitor General extensively referred to the grounds of arrest and reasons to believe to support the arrest of the petitioner on 13th August 2025. The learned Additional Solicitor General would submit that the powers of judicial review to interfere with the arrest order dated 13th August 2025 shall be very limited and this is not

such a case in which the powers under Article 226 of the Constitution of India can be exercised by this Court. The learned Additional Solicitor General relied on the decision in "*Radhika Agarwal v. Union of India & Ors.*" (2025) 6 SCC 545 and submitted that when the legality of arrest made under the special Acts like PMLA, UPA, Foreign Exchange, Customs Act, GST Act etc. is challenged, the Court should be extremely loath in exercising its powers of judicial review. The learned Additional Solicitor General has laid emphasis on paragraph nos.90 to 95 of the said reported judgment which read as under: -

> *"**90.** So far as the arrest is made under the Prevention of Money Laundering Act, 2002 is concerned, in Vijay Madanlal Choudhary v. Union of India [Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1 : (2023) 21 ITR-OL 1] , also the three-Judge Bench of this Court has held inter alia that the safeguards provided in the PMLA and the preconditions to be fulfilled by the authorised officer before effecting arrest as contained in Section 19 of the said Act are stringent and of higher standard. Those safeguards ensure that the authorised officers do not act arbitrarily, but make them accountable for their judgment about the necessity to arrest any person as being involved in the commission of offence of money laundering even before filing of the complaint before the Special Court under the Act.*
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> ***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.*
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> ***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."*

7. Before proceeding further, we may usefully have a glance through the "grounds of arrest" and the "reasons to believe". In the grounds of arrest, the ED gave the following reasons for the petitioner's arrest: -

> *"You, Anil Kumar Khanderao Pawar, are hereby informed that during the ongoing inquiry and investigation under PMLA by the Directorate of Enforcement, various incriminating records (including the digital devices), Whatsapp Chats and statements of various persons were taken on record, wherein it has been revealed that:*
>
> *1. You have deliberately and intentionally committed omission to perform your lawful public duty and thereby actually involved in acquisition, possession of several crores of the Proceeds of Crime and thereafter its concealment and utilisation for your personal benefit and enrichment.*
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> *2. You have organized a cartel of VVCMC officers, Junior Engineers, Architects, CAS and Liasoners after joining as Commissioner and involved in an organized action plan to acquire the Proceeds of crime by committing the illegal omission to perform his public duty and thereafter granting development permissions at fixed rate.*
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> *3. You, have grossly misused your position as Commissioner of VVCMC, and was directly responsible for taking no preventive actions so that **illegal construction** occurs over government/private land in the jurisdiction of VVCMC and has taken the substantial amount of bribe money for keeping a blind eye and taking no action over rampant **illegal construction** on government/private land.*
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> *4. You, as a head of Demolition department of VVCMC, despite being legally duty bound and responsible for taking action against **illegal construction** over government/private land in the jurisdiction of VVCMC has taken no action.*
>
> *5. You, have flourished the already existing cartel comprising of senior VVCMC officers, local builders and Liasoners for keeping a blind eye and taking no action over rampant **illegal construction** on government/private land in lieu of fixed the commission/bribe amount at the total rate of Rs 150 per sq ft out of which you keep substantial*

commission/ bribe amount of Rs 50 per sq ft.

*6. You have charged huge commission/ bribe for granting various **development permissions** required from VVCMC for starting different residential/ commercial/ other projects which was fixed at the rate of Rs 20-25 per sq ft of the built area of the project which varies and may increase to Rs 50 per sq ft depending on the complexity of the project and wherewithal of the concerned builder.*

*7. You have established and used an intricate **codeword system** for collection of commission/ bribe amount from builders, Architects and Local Liasoners in order to guise the enforcement agencies and to conceal the movement Proceeds of crime.*

8. You have acquired and possessed the proceeds of crime in cash and the said cash has been collected and delivered through VVCMC officers, distant relatives and local liasoners.

9. You have received huge amount of cash from Sh. Y S Reddy for clearing files giving various development permissions and same was delivered to your distant relative and the said cash so collected by your distant relative was invested in properties situated at various locations in Maharashtra which clearly manifest that you have not only acquired or possessed the Proceeds of crime but also concealed and project the same as untainted and integrated the crime proceeds in the financial main-stream of the economy.

10. You have incorporated various firms in order to channelize and utilize the proceeds of crime and also to integrate the proceeds of crime in the financial main-stream of the economy.

11. You in order to conceal the source of acquisition of the Proceeds of crime have incorporated the firms wherein your wife has been ostensibly shown as the partner however she denies having knowledge of basic facts pertaining to all the projects/ entities incorporated in her name.

12. You have infused huge amount of cash in all your projects/ entities/ investments in the multiple entities floated in the name of your Wife, daughters and distant relatives. These entities were engaged in construction of residential projects wherein huge amount of cash has been suspected to be infused by you.

13. You have destructed and tampered with the crucial evidences and had deleted the call logs and whatsapp data from mobile phone.

14. You hold the office as Commissioner, VVCMC till 25.07.2025 and in view of the authority and influence inherent to such an office you held, there exists a grave and reasonable apprehension that you may exercise undue influence, inducement, or threat and coercion upon Builders, Architects, Liasoners and officials of VVCMC. There is every likelihood that you by utilising his official position will influence, induce and threaten the material witnesses and co-accused persons, thereby impeding the further course of investigation.

On the basis of aforesaid facts and circumstances and material in possession, I have reasons to believe that you have not only acquired, possessed, concealed and utilized the proceeds of crime of several crores of rupees, but also actually involved and knowingly assisted in *layering and laundering of proceeds of crime, and thus you are guilty of the offence of money laundering as defined under section 3 of PML. Act, 2002 punishable under section 4 of PML Act, 2002.*

Accordingly, there exists sufficient reasons to believe that your arrest is necessary for various reasons as already detailed in the reasons to believe' being served along with this 'grounds of arrest'.

In view of the above and based on material in possession, I have reasons to believe that you, Anil Kumar Khanderao Pawar, are guilty of the offence of the money laundering under section 3 of PMLA, 2002, punishable under section 4 of PMLA, 2002 and therefore, your arrest under Section 19(1) of PMLA is warranted.

Sd/-
(Praduman Sharma)
Assistant Director
(Arresting Officer)

I have been intimated about the grounds of arrest at the time of my arrest in adherence to the provisions of Article 22(1) of the Constitution and Section 19(1) of PMLA and have also been made aware of my rights as laid down by the Hon'ble Supreme Court of India in the case of DK Basu Vs. West Bengal with regard to the rights of the arrested person.

(Signature of Anil Kumar Khanderao Pawar)
Arrestee/Arrested person"

8. The aforementioned grounds are reiterated by the ED in the "reasons to believe" with certain descriptions about the commission paid to the petitioner and other officials using a Codeword. The relevant extracts of the " reasons to believe" are reproduced herein below: -

"I. ACTUAL INVOLVEMENT OF SH. ANIL KUMAR KHANDERAO PAWAR IN THE ACQUISITION, POSSESSION AND CONCEALMENT OF PROCEEDS OF CRIME:

1. That Sh. Anil Kumar Khanderao Pawar is an IAS officer of 2014 batch. He joind Vasai Virar City Municipal Corporation as Commissioner on 13.01.2022 and remained there till 25.07.2025. He organized a cartel of VVCMC officers. Junior Engineers. Architects, CAs and Liasoners after joining as Commissioner. That Sh. Anil Kumar Khanderao Pawar was involved in an organized action plan to acquire the Proceeds of crime by committing the illegal omission to perform his public duty and thereafter granting development permissions at fixed rate.

2. That Sh. Anil Kumar Khanderao Pawar, as Commissioner of VVCMC, was directly responsible for taking preventive actions so that no illegal construction occured over government/private land in the jurisdiction of VVCMC.

3. That Sh. Anil Kumar Khanderao Pawar, as a head of Demolition department of VVCMC, was legally duty bound and responsible for taking action against illegal construction over government/private land in the jurisdiction of VVCMC.

4. That Sh. Anil Kumar Khanderao Pawar flourished the already existing cartel comprising of senior VVCMC officers, local builders and Liasoners for keeping a blind eye and taking no action over rampant illegal construction on government/private land and fixed the commission/bribe amount at the total rate of Rs 150 per sq ft out of which: Rs 50 per sq ft for himself and rest for others. This has been revealed on the basis of statement of VVCMC officers. The relevant screenshot of the statement of Sh. Y S Reddy recorded u/s 50 of the PMLA, 2002 dated 07.08.2025 is reproduced as under:

"…….The cash amount is paid at the rate of Rs 150 per sq ft of the area to be constructed. The break up is as follows:

Sl No	*Level*	*Rate per sqft*
01	*Municipal Commissioner*	*50*
02	*Additional Municipal Commissioner*	*30*
03	*Deputy Municipal Commissioner*	*20*
04	*Assistant Municipal Commissioner and other staff*	*50*

*5. That, it has been revealed by **various builders** who constructed the 41 illegal buildings over alleged 60-acre government/private land that the substantial amount of bribe money was given to Senior officers of VVCMC including Commissioner Sh. Anil Kumar Khanderao Pawar for keeping a blind eye and taking no action over rampant **illegal construction** on government/private land.*

*6. That Sh. Anil Kumar Khanderao Pawar, as a head of Demolition department of VVCMC, did not take action against **illegal construction** over government/private land in the jurisdiction of VVCMC even after filing of CWP. That only after the order of Hon'ble Bombay High Court, demolition of **illegal construction** was done.*

*7. That Sh. Anil Kumar Khanderao Pawar has charged huge commission/bribe for granting various **development permissions** required from VVCMC for starting different residential/commercial/other projects which was fixed at the rate of Rs 20-25 per sq.ft of the built area of the project. It may increase to Rs 50 per sq ft depending on the complexity of the project and wherewithal of the concerned builder. This has been revealed on the basis of statement of various Builders, Architects, VVCMC officers. Liasoners.*

Sh. Y S Reddy in his statement which was recorded u/s 50 of the PMLA, 2002 dated 07.08.2025 stated that:

"……On being asked I would like to state that Shri Anil Pawar the Municipal Commissioner, VVCMC use to take Rs 20-25 per sq ft. DDTP was given Rs10 per sqft and Rs 4 per sqft is given to ADTP/Town planner and Rs 1 per sq ft is given to JE. If plot area is more the 2000sqmtrs then the file is handled by ADTP and for proposals with less than 2000sqmtrs, it is handled by Town Planner..."

That statement of certain builder and Architects were also recorded wherein they have stated the details of commission paid. The excerpt of the statement of a builder/Architect recorded u/s 50 of the PMLA, 2002 dated 09.07.2025 is reproduced under:

Sr.No.	***Department Name***	***Commission Paid***
1	*Legal Department*	*Rs 50,000 to Rs1 Lakh per file*
2	*Engineering Department*	*Rs 25,000 per file*
3	*Junior Engineer*	*Rs 1 – Rs 2 per Square Feet*
4	*Municipal Engineer*	*Rs 2 per Square Feet*
5	*Assistant Director of Town Planning*	*Rs 5 per Square Feet*
6	*Deputy Director of Town Planning*	*Rs 10 – Rs 12 per Square Feet*
7	*Commissioner*	*Rs 25 per Square Feet*

Commission is mostly paid directly to the concerned officer. However, sometimes it is also paid through the architect to the concerned officer..."

8. That Sh. Anil Kumar Khanderao Pawar established an intricate ***codeword system*** *for collection of commission/bribe amount from builders, Architects and Local Liasoners. In* ***depth analysis of Whatsapp chats*** *of Sh. Anil Kumar Khanderao Pawar with Sh. Y S Reddy, of Local Liasoners with Sh. V S Reddy, of Architects and Builders with Sh. Y S Reddy and others established that:*

- *Code Word "C" was used for commission/bribe amount pertaining to Sh. Anil Kumar Khanderao Pawar, Commissioner VVCMC.*
- *Code Word "D" was used for commission/bribe amount pertaining to Sh. Y S Reddy, Deputy Director Town Planning. VVCMC.*

This fact is substantiated by the statement of the Architect and Builder recorded u/s 50 of the PMLA, 2002 on 22.07.2025 and 16.07.2025 respectively. The excerpt of the statement of the Architect recorded u/s 50 of the PMLA, 2002 dated 22.07.2025 is reproduced under:

"...In reply I said that I had previous 10 cases and one new case so I meant I had to pay commission for the new case only. Then Mr Redcly asked me how much money do I have to pay him? I gave him the figure of 1. 95,000 square feet which was

the total area of my last case wherein permission was granted by VVCMC. So the total amount was of Rs 48,75,000 at the rate of Rs 25 per square foot which is rounded off to Rs 50 lakhs. This was the amount which was to be given to Shri Reddy as DDTP. "D" in the chat meant DDTP. Then I asked how much money was to be given to the commissioner VVCMC, In the chat "C" is meant to be the Commissioner VVCMC who was Shri Anil Pawar..."

The excerpt of the statement of a builder recorded u/s 50 of the PMLA. 2002 dated 16.07.2025 is reproduced under:

"....I would like to state that code names used by Architect/Developer/Builder who are dealing in VVCMC area for Commissioner VVCMC and Deputy Director Town Planning while doing communication on WhatsApp chats or otherwise are "C" and "D" respectively. So "C" in the above chat refers to Shri Anil Pawar, the commissioner of VVCMC. The above chat is also related to finalisation of bribe amount in some matter...."

9. That during the course of investigation, it is gathered that Mr. Anil Kumar Khanderao Pawar was actively involved in keeping a blind eye and taking no action over rampant illegal construction on government/private land in lieu of fixed commission/bribe amount and subsequently involved in money laundering by way of acquiring, possessing. concealing and utilizing the proceeds of crime and thereby transferring and channelizing the said proceeds of crime through distant relatives and local liasoners.

10. That during inquiry and investigation, it is further gathered that the Proceeds of crime was acquired and possessed by Sh. Anil Kumar Khanderao Pawar in cash and the said cash has been collected and delivered through VVCMC officers, distant relatives and local liasoners. The in-depth analysis of Whatsapp chats of Sh. Anil Kumar Khanderao Pawar with Sh. Y S Reddy, of Local Liasoners with Sh. Y S Reddy and others established that:

- *Sh. Anil Kumar Khanderao Pawar received more than Rs. 17.75 crore from Sh. Y S Reddy for clearing files giving various development permissions and same was delivered to distant relative.*

- *Distant relative collected huge amount of cash for Sh. Anil Kumar Khanderão Pawar from Sh. Reddy on other occasions. The cash so collected by distant relative was invested in properties situated at various locations in Maharashtra. The excerpt of the statement of distant relative recorded u/s 50 of the PMLA, 2002 dated 11.08.2025 is reproduced under:*

  "...I would like to state that I have perused the said chat and state that this contact details belong to me. The said chat is about confirmation of the cash payment of Rs. 3.375 Crore (37.5 Lakh +3 crore) received in cash at my office at Dadar from Angadiya through Mr. Y S Reddy on the instructions of Mr. Anil Pawar…"

- *Sh. Anil Kumar Khanderao Pawar brought luxury expensive*

Sarees, Pearls and Gold & Diamond studded Jewellery through Sh. Reddy and settlement happened in cash.

J. ACTUAL INVOLVEMENT OF SH. ANIL KUMAR KHANDERAO PAWAR IN THE UTILIZATION OF PROCEEDS OF CRIME AND PROJECTION OF THE TAINTED PROPERTIES AS UNTAINTED:

1. Sh. Anil Kumar Khanderao Pawar has incorporated various firms in order to channelize and utilize the proceeds of crime and also to integrate the proceeds of crime in the financial main-stream of the economy. Huge amount of cash has been suspected to be infused in all the projects/entities/investments by Sh. Anil Kumar Khanderao Pawar in the multiple entities floated in the name of Wife, daughters and distant relatives. These entities were engaged in construction of residential projects wherein huge amount of cash has been suspected to be infused by Sh. Anil Kumar Khanderao Pawar.

2. That Sh. Anil Kumar Khanderao Pawar in order to conceal the source of acquisition of the Proceeds of crime Sh. Anil Kumar Khanderao Pawar has incorporated the firms wherein his wife has been ostensibly shown as the partner however she denies having knowledge of basic facts pertaining to all the projects/entities incorporated in her name.

3. That the material in possession as discussed and detailed in the preceding paras, and the reasons to believe enumerated in writing in the present document, clearly substantiated that Sh. Anil Kumar Khanderao Pawar is guilty of offence of money laundering. The material in possession on the basis of which the Investigating Officer has formed the Reasons to Believe includes the evidences in form of the statements of various persons recorded u/s 50 of the PMLA, 2002 and the Whatsapp chats and the other digital evidences as discussed in detail in the preceding paras.

4. Thus, Sh. Anil Kumar Khanderao Pawar has committed and is guilty of offence of Money Laundering defined u/s 3 of PMLA, 2002, punishable u/s 4 of PMLA, 2002 since he has actually involved in acquisition, possession and concealment of crime proceeds and also in utilising the proceeds of crime and projecting the tainted property as untainted."

9. After hearing the learned senior counsel for the petitioner and the learned Additional Solicitor General and on perusing the materials on record, we have formed an opinion that as on 13th August 2025 the Arresting Officer had no such material in his possession which would establish that the petitioner committed offence under the PMLA so as to form reasons to believe under section 19 of the PMLA. When we say that the Arresting Officer had no such material, we mean that "no

tangible material" was available with the Arresting Officer to establish that the petitioner was guilty of the offence under the PMLA and, that, we are not weighing such materials so as to examine the sufficiency of the materials in possession of the Arresting Officer. In "*Radhika Agarwal*", the Hon'ble Supreme Court referred to "*Vijay Madanlal Choudhary v. Union of India*" (2023) 12 SCC 1 and held that the safeguards provided in the PMLA and the pre-conditions to be fulfilled by the Arresting Officer before effecting arrest as contained in section 19 of the PMLA are stringent and of higher standard. Those safeguards ensure that the authorized officer does not act arbitrary but make them accountable for their decision about the necessity to arrest any person as being involved in the commission of offence of money-laundering even before filing of the complaint before the Special Court under the PMLA. The whole case of the ED is based on the statements of Mr. Y. S. Reddy and certain architects and developers/promoters recorded under section 50 of the PMLA and the WhatsApp chats between the petitioner and Mr. Y. S. Reddy, a reference of which has been made by the learned Additional Solicitor General in course of the arguments. As we glance through the WhatsApp chats, it is revealed that the WhatsApp chats between the petitioner and Mr. Y. S. Reddy started on 13th January 2022. That was the day when the petitioner tendered joining as Municipal Commissioner at the VVCMC. In course of the hearing, on a Court's query, the learned Additional Solicitor General confirmed that this is the case of the ED that the WhatsApp chats started between the petitioner and Mr. Y. S. Reddy from 13th January 2022. However, in course of the dictation of this order, the learned Additional Solicitor General makes a statement that the WhatsApp chats were pulled on that day. In our opinion this statement is clearly incorrect because on that day the ED was not in the picture.

10. The WhatsApp chats between the petitioner and Mr. Y. S. Reddy referred to photographs of certain ornaments, their value and a proposal from the petitioner to Mr. Y. S. Reddy to purchase a few ornaments. In the context of the aforesaid materials collected by the ED against the petitioner, this needs to be indicated that the team of the ED officials which conducted search and seizure at one of the premises of the petitioner didn't recover any incriminating material. There is a *Panchanama* drawn on 29th July 2025 at the residential premises of the petitioner which records that on a thorough and systematic search of the said premises, no incriminating documents, unaccounted cash or electronic devices were found or seized from the said premises. This is also not the case pleaded by the ED that any cash, ornament or unaccounted property has been recovered from the possession of the petitioner or his premises which can be said to be the proceeds of crime. The definition of the expression "proceeds of crime" under section 2(1)(u) of the PMLA refers to 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. Furthermore, if this is the case of the ED that the proceeds of crime were seized from the possession of Mr. Y. S. Reddy, there is no indication how the petitioner is involved in money-laundering. In "*Arvind Kejriwal*", the Hon'ble Supreme Court explained the expression "reasons to believe" in section 19 and held that belief is beyond speculation or doubt. The Hon'ble Supreme Court further held that the requirement in law is not satisfied by just providing "written grounds of arrest" and such action of the Arresting Officer does not in

itself satisfy the compliance requirement. The Hon'ble Supreme Court further held that the subjective opinion of the Arresting Officer must be founded and based upon fair and objective consideration of the materials available with him as on the date of arrest and the Court shall be entitled to examine the soundness of the "reasons to believe". In paragraph no. 44 of the reported judgment, the Hon'ble Supreme Court held that the exercise of judicial review is confined to ascertaining whether "reasons to believe" are based upon the materials which establish that the arrestee is guilty of an offence under the PMLA. The Hon'ble Supreme Court further held in paragraph no. 61 as under: -

> *"61. The legality of the "reasons to believe" has to be examined based on what is mentioned and recorded therein and the material on record. However, the officer acting under Section 19(1) of the PML Act cannot ignore or not consider the material which exonerates the arrestee. Any such non-consideration would lead to difficult and unacceptable results. First, it would negate the legislative intent which imposes stringent conditions. As a general rule of interpretation, penal provisions must be interpreted strictly. [See Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1 at para 106 : (2023) 21 ITR-OL 1 (SC) : (SCC pp. 164-65)"106. The "proceeds of crime" being the core of the ingredients constituting the offence of money laundering, that expression needs to be construed strictly. In that, all properties recovered or attached by the investigating agency in connection with the criminal activity relating to a scheduled offence under the general law cannot be regarded as proceeds of crime. There may be cases where the property involved in the commission of scheduled offence attached by the investigating agency dealing with that offence, cannot be wholly or partly regarded as proceeds of crime within the meaning of Section 2(1)(u) of the 2002 Act—so long as the whole or some portion of the property has been derived or obtained by any person "as a result of" criminal activity relating to the stated scheduled offence."Also see M. Ravindran v. Directorate of Revenue Intelligence, (2021) 2 SCC 485 : (2021) 1 SCC (Cri) 876 at para 17.9 : (SCC p. 505)"17. …17.9. Additionally, it is well settled that in case of any ambiguity in the construction of a penal statute, the courts must favour the interpretation which leans towards protecting the rights of the accused, given the ubiquitous power disparity between the individual accused and the State machinery. This is applicable not only in the case of substantive penal statutes but also in the case of procedures providing for the curtailment of the liberty of the accused."] Secondly,*

> *any undue indulgence and latitude to DoE will be deleterious to the constitutional values of rule of law and life and liberty of persons. An officer cannot be allowed to selectively pick and choose material implicating the person to be arrested. They have to equally apply their mind to other material which absolves and exculpates the arrestee. The power to arrest under Section 19(1) of the PML Act cannot be exercised as per the whims and fancies of the officer."*

11. When we examined the materials on record with reference to the aforementioned dictum, we see no *prima-facie* case made out against the petitioner for his arrest on 13th August 2025. We observed that the same and similar facts are reiterated in the "grounds of arrest" and "reasons to believe". The stand taken by the ED is speculative and based on hazy facts. The case built up by the ED based on the statement of Mr. Y. S. Reddy that a Codeword system for collection of commission was devised and huge tainted money was received does not lead anywhere inasmuch as no recovery was effected from the premises of the petitioner or from his possession or in the possession of his family members. The ED referred to illegal constructions of 41 buildings but the petitioner cannot be said to be a party in the illegalities committed at that time. The allegations of keeping a blind eye and taking no action over the rampant illegal constructions on government/private land and the petitioner receiving more than Rs.17.75 crores from Mr. Y. S. Reddy are without any description of such project and no details of the development plan are disclosed by the ED. The ED does not say that any incriminating material such as WhatsApp chats, diary, message etc. are recovered from the possession of the petitioner or his mobile phone. No details of any investment made or the so-called company, partnership etc. formed by the wife of the petitioner or his family members as sought to be projected by the ED are provided. In FIR No.0330 of 2025 lodged on 1st August 2025, the petitioner is not a named accused. This FIR was

lodged on the allegation of commission of the offences under section (13)(1)(b) r/w 13(2) of the Prevention of Corruption Act, 1988 after raids were conducted on 14th May 2025 and 3rd June 2025 at the premises of Mr. Y. S. Reddy who was the Deputy Director of Urban Planning and cash and ornaments were seized during the said raids. It is stated in the said FIR that Mr. Y. S. Reddy amassed wealth more than his known source of income and he committed offences under sections 13(1)(b) and 13(2) of the Prevention of Corruption Act, 1988 as amended in 2018. But there is no reference of the involvement of any probable accused in commission of such crime by Mr. Y. S. Reddy. The learned senior counsel for the petitioner argued that if the ED, in course of investigation, comes across violations of other provisions of law, it has to inform the appropriate agency and it cannot assume the role of investigating those offences. The learned senior counsel elaborating upon the powers of the ED to proceed with the investigation in a case where an allegation of disproportionate assets beyond the known sources of income of the accused is made but the CBI does not file a charge-sheet, submitted that the ED cannot investigate the occurrence. In "*Vijay Madanlal Choudhary*", the Hon'ble Supreme Court held that the expression "proceeds of crime" needs to be construed strictly because this is the core of the ingredients constituting the offence of money-laundering and all properties recovered or attached by the investigating agency in connection with the criminal activity relating to a scheduled offence under the general law cannot be regarded as the proceeds of crime and there may be cases where the property involved in a crime of scheduled offence attached by the investigating agency dealing with that offence may not be wholly or partly regarded as the "proceeds of crime" within the meaning of section 2(1)(u) of the PMLA. In paragraph no. 109 of the said judgment, the Hon'ble Supreme Court held as under: -

> *"109. Tersely put, it is only such property which is derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence that can be regarded as proceeds of crime. The authorities under the 2002 Act cannot resort to action against any person for money laundering on an assumption that the property recovered by them must be proceeds of crime and that a scheduled offence has been committed, unless the same is registered with the jurisdictional police or pending inquiry by way of complaint before the competent forum. For, the expression "derived or obtained" is indicative of criminal activity relating to a scheduled offence already accomplished. Similarly, in the event the person named in the criminal activity relating to a scheduled offence is finally absolved by a court of competent jurisdiction owing to an order of discharge, acquittal or because of quashing of the criminal case (scheduled offence) against him/her, there can be no action for money laundering against such a person or person claiming through him in relation to the property linked to the stated scheduled offence. This interpretation alone can be countenanced on the basis of the provisions of the 2002 Act, in particular Section 2(1)(u) read with Section 3. Taking any other view would be rewriting of these provisions and disregarding the express language of the definition clause "proceeds of crime", as it obtains as of now."*

12. We may further indicate that there is a clear distinction between the provisions under section 19 and the provisions under section 45 of the PMLA and, to that extent, the stringent conditions as incorporated under clause (ii) of sub-section (1) of section 45 that the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail, are not the requirements to test the validity of arrest made on 13th August 2025.The learned Additional Solicitor General submitted that the Prosecution Complaint has now been filed which gives details of the materials collected by the ED post-arrest of the petitioner. However, in our opinion, any material collected by the ED after 12th August 2025 cannot be looked into to examine the legality of the arrest of the petitioner on 13th August 2025 and such materials can be used by the ED to support its case against the petitioner as narrated in the Prosecution Complaint.

13. In the result, this writ petition succeeds to the extent that the arrest of the petitioner on 13th August 2025 is held illegal. All the orders of remand passed by the Additional Sessions Judge, Designated Special Court under the PMLA stand quashed. The petitioner shall be released on production of a copy of this order and filing an affidavit of undertaking that he will not tamper with the evidence or influence or attempt to influence the witnesses. Findings recorded by this Court in the present proceedings are *prima-facie* opinion of the Court recorded only for the purpose of deciding legality of the arrest of the petitioner on 13th August 2025 and such findings shall not affect the case of the ED when the Prosecution Complaint is examined by the Court in any further proceedings against the petitioner.

14. Writ Petition No. 4779 of 2025 is disposed of in the above terms and to the extent indicated hereinabove.

15. At this stage, the learned Additional Solicitor General has made a request for stay of this order which upon considering the findings recorded by this Court is declined.

[GAUTAM A. ANKHAD, J.] **[CHIEF JUSTICE]**

PRAVIN DASHARATH PANDIT Digitally signed by PRAVIN DASHARATH PANDIT Date: 2025.10.16 13:59:29 +0530