



\$~71

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.REV.P. 373/2025 & CRL.M.A. 28141-28143/2025**

DIRECTORATE OF ENFORCEMENT

.....Petitioner

Through: Mr. Arun Khatri, Ms. Shelly Dixit,
Ms. Poonam Rani and Ms. Priyanka,
Advocates.
Mr. Vivek Gurnani, Panel Counsel,
ED along with Mr. Kanishk Maurya,
Advocate.

versus

ORRIS INFRASTRUCTURE PVT LTD

.....Respondent

Through: Mr. Aman Lekhi, Senior Advocate
along with Ms. Riya Arora,
Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

18.09.2025

%

1. The present petition under Section 438 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (formerly Sections 397 and 482 of the Code of Criminal Procedure, 1973) assails order dated 7th August, 2025, passed by ASJ-02, South East, District Saket, Delhi in relation to prosecution complaint bearing number CT Case No. 09/2025 to the extent it declines to issue pre-summoning notice under proviso to Section 223 of the BNSS to the Respondent.
2. The Directorate of Enforcement filed a prosecution complaint on 30th July, 2025. The said complaint was listed before the Trial Court for



consideration on 07th August, 2025. On that date, even before issuance of any notice, Accused No. 8 (M/s Orris Infrastructure Pvt. Ltd.) moved an application under Section 223 BNSS for rejection of the complaint. The same was adjudicated by way of the impugned order. Although the order records at length the rival submissions, for present purposes it is only the operative part that is relevant:

22. Considering the aforesaid submissions made on behalf of applicant/ accused no. 8 M/s. Orris Infrastructure Pvt Ltd, I am of the considered view that Notice u/sec. 223 BNSS is not required to be served upon the applicant/ accused no. 8 M/s. Orris Infrastructure Pvt Ltd in view of the submissions that summoning order qua the applicant/ accused no. 8 has been stayed vide order dated 01.08.2025 and the same shall be decided upon the outcome of the criminal revision no. 451/2025 pending before the Court of Ld. ASJ-05, South-East District, Saket Courts, New Delhi.

23. Perusal of the ECIR shows that role of accused persons has been specifically mentioned and the manner in which the proceeds of crime have travelled, has also been explained in the transactions details annexed with the ECIR. Therefore, the other accused persons from accused no. 1 to 7 and accused no. 9 to 20, the Notice u/sec. 223 BNSS be served upon all accused persons as prima facie allegations are made out against aforesaid accused persons. Notice u/sec. 223 BNSS be served through IO for the next date of hearing to aforesaid accused with directions to supply copy of the charge-sheet along-with annexures in advance.

3. It emerges that the Trial Court declined to issue notice under Section 223 BNSS to Accused No. 8 on the premise that the summoning order in the predicate offence stood stayed by order dated 1st August, 2025, and that the matter was pending adjudication in Criminal Revision No. 451/2025 before the Court of ASJ-05, South-East District, Saket. The Trial Court viewed the pendency of the said proceedings as a legal impediment to issuing notice under Section 223.

4. On this issue, Mr. Aman Lekhi, Senior Counsel appearing for Accused No. 8, fairly states that he does not dispute the legal position that the stay of a summoning order in the predicate offence, by itself, does not



foreclose issuance of notice under Section 223 BNSS. His submission, however, is that the stay has the effect of suspending or creating a pause in the proceedings in respect of the predicate offence, and when the impugned order came to be passed, there was no “live link” between that offence and the prosecution complaint. He urges that the sustainability of the prosecution complaint, in such circumstances, is a question that can only be determined at the appropriate stage of trial.

5. In light of the above submissions, and having regard to the legal position recently reiterated by the Supreme Court in *Pavana Dibbur v Directorate of Enforcement*,¹ the following directions are issued: -

5.1 Notice under Section 223 BNSS shall be issued to Accused No. 8 (“M/s Orris Infrastructure Pvt. Ltd.”) in the prosecution complaint No. 09/2025. The said accused shall be entitled to respond to the said notice in accordance with law.

5.2 The Trial Court shall proceed to consider the issue of cognizance after hearing affording due hearing to both sides, and shall render its decision uninfluenced by any observations in the impugned order or in this order.

6. With the above directions, the present petition is disposed of along with pending applications. All rights and contentions of the parties are left open.

SANJEEV NARULA, J

SEPTEMBER 18, 2025/MK

¹ 2023 INSC 1029