Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 358 OF 2026

Arnav Manish Mandhana and Anr. .. Petitioners

Versus

Directorate of Enforcement and Anr. .. Respondents

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- Mr. Aabad Ponda, Senior Advocate a/w. Mr. Amit A. Patil and Mr. Aaditya Nikam, Advocates i/by APLC for Petitioners.
- Mr. Prashant Mishra, Special Counsel a/w. Ms. Purva Birla, Ms. Shruti Chande, Mr. Krish Kariya, Mr. Akshun Thakur, Ms. Tisha Thakkar, Mr. Ketan Gavhane, Advocates for Respondent No.1 – ED.
- Ms. Rajeshree V. Newton, APP for Respondent – State.

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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 22, 2026.

P.C.:

1. I have heard Mr. Ponda, learned Senior Advocate for Petitioners; Mr. Mishra, Special Counsel for Respondent No.1 – ED and Ms. Newton, learned APP for Respondent – State.

2. By the present Petition, Petitioners have challenged the order dated 30.10.2025 passed below Exhibits 48 and 49 in PMLA case No.101963 of 2024 by the learned Special Court and have sought to unfreeze and remove the attachment on Petitioner's Bank Accounts and Demat Accounts as a consequence thereof.

3. The brief relevant facts necessary for adjudication of the present Petition are as follows:-

3.1. Petitioners are children of Mr. Manish Mandhana who is arrayed as an accused person in PMLA Special Case No.101963 of 2024. Both Petitioners were studying abroad and have now returned back to India. Their Bank / Demat accounts are attached and frozen by Respondent – ED. Prosecution has registered FIR dated 12.09.2023 for offences of cheating and under the PC Act against Mandhana Industries Limited for alleged diversion of funds which were availed by the said Company from various Public Sector Banks during 2014 – 2017. Both Petitioners are not named as accused persons in the FIR. On the basis of FIR ECIR Case is also lodged on 26.09.2023 under the PC Act. Petitioners are not named as accused in the ECIR case as well.

3.2. On 26.06.2024, Respondent No.1 conducted search at Petitioner's residence under Section 17 of PMLA and under panchanama and froze Petitioners' Bank / Demat accounts. On 10.07.2024, Authorised Officer of Respondent No.1 passed order under Section 20(1) of PMLA, declaring retention of the Bank / Demat accounts for a period not exceeding 180 days from the date of seizure. It is seen that these 180 days expired on 23.12.2024. On 24.07.2024, prosecution filed Application before Special Court under Section 17(4) of PMLA praying for retention of properties and records and properties frozen during pendency of proceedings, with regard to only those properties stated in paragraph Nos.5 and 6 of the Application.

3.3. Petitioners' Bank / Demat accounts were not mentioned in paragraph Nos.5 and 6, neither Petitioners were impleaded as parties in the Application. Subsequently on 01.10.2024 charge-sheet in relation to ECIR case was filed before Special Court wherein Petitioners are not arraigned as Accused persons. On 03.12.2024, Adjudicating Authority passed order under Section 8 (3) of PMLA allowing the Application under Section 17(4) of PMLA for retention and freezing of properties stated in paragraph Nos.5 and 6 of the said Application. This order is appended at Exhibit "G" at page No.155 and with the able assistance of both Advocates, I have perused the same.

3.4. On 28.01.2025, both Petitioners filed separate Appeals under Section 26 of PMLA to challenge the order dated 03.12.2024, wherein they preferred Applications below Exhibits 48 and 49 seeking direction to Respondent No.1 to unfreeze and to remove the attachment on their Bank / Demat Accounts. On 27.08.2026, Petitioners withdrew both Appeals since there was no order of continued freezing / retention of their Bank / Demat Accounts operating against them. Curiously, Respondent No.1 resisted Applications below Exhibits 48 and 49 wherein the impugned order dated 30.10.2025 came to be passed.

3.5. In paragraph No.20 the learned Special Court has observed that notwithstanding the averments made in the original Application No.1274 of 2024 filed under Section 17(4) of PMLA, merely because

the said Application is allowed and in respect of retention / freezing of of properties stated in paragraph Nos.5 and 6, it does not mean that the said Application will not apply to retention of Petitioners Bank / Demat Accounts. The learned Special Court has therefore opined and concluded that since freezing and retention of Bank Accounts and seizure under the panchanama has been ordered under the original Application to be retained by the Adjudicating Authority under Sections 23 and 24(b) a presumption would apply to all properties which are frozen / retained wherein money laundering is involved unless it is proved to the contrary, the satisfaction of the Adjudicating Authority or the Special Court.

3.6. On the aforesaid reasoning the Special Court holds that accused No.5 in the principal case namely father of Petitioners has allegedly utilised the Petitioners Bank / Demat Accounts for layering the proceeds of crime and therefore at this juncture they cannot be released from attachment.

4. ***PER CONTRA***, Mr. Mishra, learned Advocate appearing for Respondent No.1 would draw my attention to the Affidavit-in-Reply dated 07.03.2026 filed by Amol Waghmare – Assistant Director, Zonal Office – II, Mumbai, Directorate of Enforcement, Ministry of Finance, Department of Revenue Government of India, copy of which is appended at page No.348 and contend that all frozen properties of

Petitioners are covered within the definition of "proceeds of crime" and in that view of the matter the Petitioners have an alternate statutory and efficacious remedy available to them under Section 26 of the PMLA to filed Appeal before the Appellate Tribunal rather that take recourse to the extraordinary jurisdiction of this Court. Hence he would persuade the Court to dismiss the Petition in *limine* and relegate the Petitioners to statutory proceedings. On merits he would vehemently submit that definition of "proceeds of crime" is exhaustive and includes all frozen properties which are attached under the panchanama and they can be exempted and released only on proving to the contrary to the satisfaction of the Special Court / Adjudicating Authority.

4.1. He would submit that in view of Petitioner No.1 having given his Power of Attorney to his father who is an accused person and MD of Mandhana Industries Limited. Their father used to transfer amounts in his Bank Accounts through banking channels for payment of his fees and expenses because they were studying abroad and this aspect needs investigation to ascertain whether any proceeds of crime were transferred to Petitioner No.1's accounts. He would submit that if Petitioners prove to the contrary they can seek de-freezing of their attached accounts. He would submit that in such a case freezing of Petitioners' accounts they being children of one of the accused person is a common practice in order to unearth if any money laundering has

taken place.

4.2. When a pointed question if asked as to why the Petitioners' accounts were not so stated in paragraph Nos.5 and 6 of the original Application for continued attachment, Mr. Mishra would submit that even if they were not so stated and even if the order is passed by the Adjudicating Authority that only those properties stated in paragraph Nos.5 and 6 are to be considered for continued attachment, the Petitioners bank / demat accounts will still form an integral part of the case of money laundering and if at trial Petitioners are successful in proving to the contrary the same shall be released from attachment. In support of his submissions he has referred to and relied upon the decisions of the Supreme Court in the following cases:-

(i) Teesta Atul Setalvad Vs. State of Gujarat[1]*;*
(ii) PHR Educational Society Vs. UCO Bank and Ors.[2]*;*
(iii) Pavana Dibbur Vs. Directorate of Enforcement[3]*;* and
(iv) Aparajita Kumari and Others Vs. Joint Directorate, Ed[4]*;*

5. I have considered the submissions made across the bar and pleadings placed on record. Submissions made by the learned Advocates have received due consideration of the Court.

6. The basic fallacy in the impugned order is that in the order dated 03.12.2024, passed by the Adjudicating Authority of PMLA

1 Criminal Appeal No.1099 of 2017
2 (2024) 6 SCC 579
3 Criminal Appeal No.2779 of 2023
4 MANU/DE/0106/2018

allowing original Application No.1274 of 2024there is no order passed for continuing the retention and freezing of the Petitioners' Bank / Demat accounts. The Respondent No.1 has accepted the order dated 03.12.2024 as absolute and final. It is Respondent No.1's own case in OA No.1274 of 2024 filed under Section 17(4) of PMLA praying for retention of properties seized and frozen to categorically and specifically leave out the Bank / Demat Accounts of Petitioners from the list of properties which are seized by the Respondent No.1 for continued attachment. Once this becomes crystal clear from the pleadings, the Special Court cannot substitute the same by including properties of Petitioners on the innocuous reason that definition of "proceeds of crime" is exhaustive and it would include all properties which are attached and frozen under the panchanama notwithstanding the case and pleadings of Respondent No.1 not to seek continued retention of Petitioners Bank / Demat Accounts.

7. The impugned order passed by the Special Court is with complete non-application of mind. Without adhering to the basic principle of law that one cannot travel beyond the reliefs which are prayed for and allowed by the Court, the Special Court has failed to consider that Petitioners are not arraigned as accused persons in the predicate offence as well as the ECIR and even according to prosecution complaint and charge-sheet, there is no possibility of trial being conducted against the Petitioners. Petitioners have relied upon

decision of this Court in the case of ***M/s. Coda Payments India Pvt. Ltd. Vs. Dy. Director, Directorate of Enforcement***[5] the ratio of which squarely covers Petitioners' case before me.

8. The continuation of freezing or retention or attachment of Petitioners' Bank / Demat accounts as per the Special Court cannot substitute the statutory finding nor could the defect in the original order be subsequently cured by the Special Court by overstepping its jurisdiction and recording its own findings.

9. Hence, in view of the aforesaid observations and findings, Writ Petition stands allowed in terms of prayer Clauses "a", "b" and "c".

10. Writ Petition is allowed and disposed.

[MILIND N. JADHAV, J.]

Ajay

AJAY TRAMBAK UGALMUGALE

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Date: 2026.10.22 11:07:14 +0530

5 Criminal Appeal (St) No.13953 of 2025 decided on 02.09.2026.