

2026:PHHC:010741

150 (1st case)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-34731-2025

Sukhwinder Singh Kharour

....Petitioner

versus

Directorate of Enforcement

....Respondent

Date of decision: January 27, 2026

Date of Uploading: January 27, 2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vikram Chaudhari, Senior Advocate
(presence marked through video-conferencing) with
Ms. Hargun Sandhu, Advocate for the petitioner.

Mr. Satyapal Jain, Additional Solicitor General of India
(presence marked through video-conferencing) with
Ms. Meghna Mahi, Senior Panel Counsel
for the respondent – ED.

Mr. H.S. Saini, Advocate and
Mr. Dushant Jog, Advocate for the complainant/ victim(s).

SUMEET GOEL, J. (ORAL)

The substantive prayer made in the petition in hand reads thus:

- “i. Call for records and quash and set aside of order dated 24.04.2025 IN COMA-2-2025 (Annexure-P1) whereby, the Ld. Special Judge (ASJ-01) took cognizance of the case in violation of section 223 of BNSS and Article 21 of the Constitution of India and the ratio propounded in Tarsem Lal vs. ED, (Crl. Appeal no. 2608/2024);, Kushal Kumar Aggarwal Vs. ED, SLP CRL. 2766/2025, Rathi Steel And Power Ltd. Vs. ED, SLP CRL. 2876/2025;*
- ii. To quash and set aside the custody remand orders dated 01.03.2025 (Annexure-P23), 10.03.2025 (Annexure-P25) and orders dated 13.03.2025 (Annexure-P29), 27.03.2025 (Annexure-P30), 09.04.2025 (Annexure-P31) and 23.04.2025 (Annexure-P32) being illegal and violative of Article 21/22 of the Constitution of India r/w section 19(2) and 19 (3) of the PMLA and against the ratio propounded in Dilbagh Singh @ Dilbagh Sandhu Vs. Union of India, CRM-M-2191/2024, Rana Ayub Vs. ED, Petition (Crl.)*

12/2023, Vijay Mdan Lal Chaudhary V. Union Of India (2022) SCC online SC 929, v. Senthil Balaji V. the State represented by Deputy Director and Ors. [2023 INSC 677] and Pankaj Bansal V. Union of India & Ors. [2023 INSC 866] as the Ld. Remand Judge had no territorial jurisdiction to grant the remand.

- iii. To declare the proceedings of ED till date against the petitioner as null and void and direct immediate release of the petitioner.*
- iv. To quash the arrest memo 28.02.2025 (Annexure P20) and declare the arrest of petitioner being illegal and violative of Article 21/22 of the Constitution of India.*
- v. To quash and set aside the order dated 24.04.2025 (Annexure-P2) passed by Sh. Nirbhow Singh Gill, Special Judge, PMLA, Jalandhar whereby the prosecution complaint filed by the respondent in ECIR/JLZO/26/2024 was transferred being illegal, nonest and abuse of process of court and violative of Article 21/14 of the Constitution of India*
- vi. To grant interim release of the petitioner during the pendency of the present petition.*
- vii. To pass an interim order to stay the proceedings in prosecution complaint filed by the respondent in ECIR/JLZO/26/2024, in the interest of justice,”*

2. At the outset, learned counsel Senior counsel for the petitioner submits that he is pressing prayer contained in Serial No.(i) for the *nonce*, reserving liberty to make prayer(s) contained in Serial No.(ii) to (vii) in other proceedings, in accordance with law.

3. Learned Senior counsel while pressing for the prayer(s) contained Serial No.(i) has submitted that the Directorate of Enforcement had filed the complaint on 24.04.2025 and cognizance thereof was taken on the same date, i.e., 24.04.2025. Learned Senior counsel has submitted that, in view of the effect of BNSS, 2023 having been come into force w.e.f. 01.07.2024, the proceedings ought to be governed by provision(s) of such enactment.

Learned Senior counsel has further submitted that the impugned order suffers from a fundamental procedural infirmity inasmuch as the learned Special Court proceeded to take cognizance and issue process without granting the petitioner with an opportunity of hearing, as required under the 1st Proviso

to Section 223(1) of the BNSS. On this ground alone, it is urged that the impugned order is rendered unsustainable in law.

4. At this stage, Mr. Satyapal Jain, Additional Solicitor General of India instructed by Ms. Meghna Mahi, Senior Panel Counsel for the respondent – ED has not disputed the factum of complaint being filed on 24.04.2025, cognizance thereof being taken on 24.04.2025 and factum of no opportunity of hearing having been afforded to the petitioner prior to issuance of process.

5. Having heard learned counsel for the parties, and in view of the consensus between them, and without expressing any opinion on the merits of the case, the impugned order dated 24.04.2025 (Annexure P-1) is hereby set aside. The matter is remitted to the learned Special Court (PMLA), Jalandhar, for passing a fresh order in accordance with law, after affording an opportunity of hearing to the petitioner, keeping in view the mandate of 1st Proviso to Section 223 (1) of the BNSS.

6. Needless to say that this Court has not dealt into merits of the case and the same is left open to be adjudicated upon, in accordance with law.

7. Petition stands disposed of, accordingly.

8. Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

January 27, 2026
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No