



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1) CRWP No.8667 of 2025 (O&M)

Arvind WaliaPetitioner

Versus

Directorate of Enforcement and anotherRespondents

2) CRWP No.8750 of 2025 (O&M)

Sandeep YadavPetitioner

Versus

Directorate of Enforcement and anotherRespondents

1	The date when the judgment is reserved	23.12.2025
2	The date when the judgment is pronounced	29.01.2026
3	The date when the judgment is uploaded on the website	29.01.2026
4	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not Applicable

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Vikram Chaudhri, Senior Advocate, with
Mr. Sajal Bansal, Advocate,
Ms. Hargun Sandhu, Advocate, and
Mr. Deepanshu Bansal, Advocate,
for the petitioner in CWP-8667-2025.

Mr. Randeep Singh Rai, Senior Advocate, with
Mr. Sumer Singh Boparai, Advocate,
Mr. Mukesh Mehra, Advocate,
Mr. Rehat Mann, Advocate,
Ms. Rubina Virmani, Advocate,

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Mr. Sirhaan Seth, Advocate,
Mr. Abhilash Pathak, Advocate,
Mr. Surya Pratap Singh, Advocate,
Mr. Piyush Kumar, Advocate,
Mr. Ankit Jangra, Advocate, and
Mr. Yogesh Bansal, Advocate,
for the petitioner in CWP-8750-2025.

Mr. Zoheb Hossain, Special Counsel,
(through video conferencing),
Mr. Lokesh Narang, Senior Panel Counsel,
Ms. Shubhleen Dhariwal, Advocate,
Mr. Kaushlendra Vikram, Advocate, for the respondent-ED.

Mr. Aakash Singla, Additional Advocate General, Haryana.

TRIBHUVAN DAHIYA, J.

These two petitions are being decided by this common judgment as both the petitioners are co-accused in the same transactions involving affairs of a company wherein they are promoters and Directors. For brevity, the facts are being noticed from CRWP No.8667 of 2025, which has been filed under Article 226/227 of the Constitution of India, read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, ‘the BNSS’), *inter alia* for quashing the petitioner’s arrest order dated 21.07.2025, Annexure P-26, as well as the arrest memo dated 21.07.2025, Annexure P-28, and the subsequent remand orders dated 21.07.2025, 25.07.2025 and 28.07.2025, Annexures P-33, P-35 and P-38, respectively; prayer has also been made to quash the order dated 31.07.2025, Annexure P-40, passed by the Sessions Judge-cum-Special Judge, Gurugram, under the Prevention of Money Laundering Act, 2002 (for short, ‘the PMLA’), whereby the petitioner’s application to review the remand orders and direct his immediate release from custody has been dismissed.

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2. Facts of the case in brief are, the petitioner is a promoter and Director of M/s Ramprastha Promoters & Developers Pvt. Ltd. (for short, ‘the RPDPL/Company’), which is a part of Ramprastha Group of Companies having fifty-eight companies at present, as the remaining seven have been closed. Other promoter-directors of the Company include the co-accused Sandeep Yadav, who has filed the second criminal writ petition, CRWP No.8750 of 2025. The Company was incorporated on 22.06.2007, having its registered office at Gurugram. It is a real estate company involved in acquisition of land, construction and sale of properties, and has statedly delivered several residential projects in Gurugram. It is accused of collecting funds to the tune of hundreds of crores from home buyers, and failing to give possession to a large number of them even after more than fifteen years of launching the projects. It has been alleged by the respondent Directorate of Enforcement (ED) that the Company has diverted a major part of its funds to other group companies as well as the companies outside the group, and has also given advances to its directors. The petitioner is a key managerial person and authorised signatory of the Company’s bank accounts, along with the co-accused Sandeep Yadav. He has also signed the balance sheet for many years. Sandeep Yadav is also accused of playing active role in the Company affairs and has been involved in sale of plots to the home buyers who have not been given the possession. These facts have been mentioned in the written statement filed on behalf of the ED, which is to the following effect:

35. Investigation revealed that M/s Ramprastha Promoters and Developers Private Limited is main company of Ramprastha Group of Companies, Gurugram. It was also

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revealed that there are around 65 companies in Ramprastha Group of Companies, Gurugram and group companies other than M/s Ramprastha Promoters and Developers Private Limited are land holding companies, as there was a land cap of 20-25 acres that can be purchased by a single company in Gurugram. Accordingly, to purchase large tracts of land for development of projects, multiple group companies were created by Ramprastha Group of Companies, Gurugram to acquire lands in Gurugram. The main purpose of these Group Companies was to buy lands in Gurugram and there is no other business being carried out by these companies. Further the appointment of Directors in Ramprastha Group companies, was decided by Mr. Balwant Singh Chaudhary, Mr. Arvind Walia and Mr. Sandeep Yadav and the decision regarding the affairs of these group companies were taken by Mr. Balwant Singh Chaudhary, Mr. Arvind Walia and Mr. Sandeep Yadav.

36. The promoter shareholders of M/s RPDPL are Balwant Singh Chaudhary, Sandeep Yadav and Arvind Walia.

37. M/s Ramprastha Promoters & Developers Pvt. Ltd. (RPDPL) launched a residential project by the name of “Skyz” and “Rise” at Sector 37D, Gurugram, Haryana and a plotted township by the name of “Ramprastha City” consisting of residential plots situated at Sector 37D, 92, 93 and 95, Gurugram. The accused company advertised these projects, and the complainants/homebuyers were induced to invest in these projects. One of the complainants paid almost 70% of the total consideration and the complainant was not given possession of the flat till the registration of FIR. Whenever, the complainant tried to approach the company for the possession of the flat, the complainant was only given evasive replies and thereby cheating the complainant.

38. Some of the complainants were induced to book residential plots in “Ramprastha City”, Sector 37D, 92, 93 and 95, Gurugram by the accused company and its Directors

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Promoters and yet neither the project was developed and neither they were given possession till the date of registration of FIR. This clearly demonstrates the intention of the accused company and persons to cheat innocent homebuyers.

39. xxx xxx

40. The accused persons/entity engaged in collection of public funds from various customers/homebuyers by inducing them to invest in various residential projects launched by them. As seen from the facts above, the customers were not given/offered possession by accused company/persons despite taking a substantial consideration thereby generating proceeds of crime as specified under Section 2(1)(u) of the Prevention of Money Laundering Act, 2002 (PMA).

41. xxx xxx

42. It was gathered during the course of investigation that as on May 2025, M/s RPDPL is yet to give possession of approximately 2600 flats/plots in the various group housing projects and plotted townships launched by them across Gurugram in last 15-17 years. There some projects in which partial possession had been given and there are some projects in which possession has been not given to even a single customer/homebuyer. Investigation revealed that M/s RPDPL collected approximately Rs.1100 crores from such homebuyers to whom the possession is yet to be offered.

43. xxx xxx

44. Investigation revealed that funds that were collected from homebuyers to whom the possession is yet to be given, were diverted into various group companies as well as non-group companies. The funds were diverted in the form of loans and advances for purchase of lands and various other purposes.

45. The purported purpose of these fund transfers were also done as land advance and the same was used by the said entities for purchase of land. Due to these diversions, the projects were never completed timely and the possession was not handed over

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to the customers. These funds were used for the benefit of M/s RPDPL and other accused persons/entities and thus, the accused persons and entities played a very specific role in the commission of the offence of money laundering as defined u/s 3 of PMLA, 2002.

2.1. The Economic Offences Wing (EOW) and the Haryana Police have registered eleven FIRs against the petitioner and other accused, including Sandeep Yadav, regarding criminal conspiracy and cheating under Sections 120-B and 420 of the Indian Penal Code, 1860 (for short, ‘the IPC’). The details of the FIRs as mentioned in the reply are as under:

Sr. No.	FIR No.	Police Station	Complainant	Accused	Status of Chargesheet
1	54 Dated 27.03.2024	Vasant Vihar	Dr. Anand Bansal	Ramprastha Developers Pvt. Ltd.	Not available
2	84 Dated 30.06.2025	EOW-Delhi	Mahender Kumar Malhotra	1.M/s Ramprastha Promoters Pvt. Ltd. 2.Sandeep Yadav 3.Balwant Singh Chaudhary 4. Arvind Walia 5.Amit Yadav	Not available
3	99 Dated 16.04.2025	Sushant Lok	Rahul Aggarwal	1.Sandeep Yadav 2.Saurabh Rana 3.Amit Yadav 4.Balwant Singh 5.Arvind Walia	Not available
4	489 Dated 28.07.2025	Sushant Lok	Deepak Chillar	1.Sandeep Yadav 2.Balwant Chaudhary 3.Amit Yadav 4.Risabh Gulati	Not available
5	107 Dated 21.03.2024	Sushant Lok	Babu Ram Gahlaut	1.Amit Yadav 2.Sandeep Yadav 3.Balwant Chaudhary 4.M/s Ramprastha Developers Pvt. Ltd.	Filed on 12.08.2024
6	307 Dated 12.11.2024	Sushant Lok	Dr. Veena Kalra	1.Sandeep Yadav 2.Balwant Chaudhary	Not available
7	167 Dated 06.11.2021	EOW-Delhi	Vivek Arora	1.Saurabh Rana 2.Sudhir Bharat, broker 3.M/s Ramprashta Developers Pvt. Ltd. 4.Amit Yadav 5.Balwant Singh Chaudhary 6.Sandeep Yadav 7.Arvind Walia	Chargesheet was filed, but later cancellation report has also been filed, status whereof is still to be ascertained.
8	011 Dated 13.01.2021	EOW-Delhi	Monisha Gururani	1.M/s Ramprastha Promoter and Developers Pvt. Ltd. 2.Amit Yadav 3.Sandeep Yadav 4.Balwant Singh 5.Arvind Walia	Filed on 26.06.2024

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9	428 Dated 19.07.2019	Sector-10, Gurugram	Jyotsna Kumar	All directors of M/s RPDPL	Not filed as per Haryana Police website.
10	430 Dated 14.12.2019	Sushant Lok	Kuldeep Kumar Jain	M/s Ramprashta Promoter Developers Pvt. Ltd., Plot No.114, Sector-44, Gurugram.	Filed on 03.10.2020
11	431 Dated 14.12.2019	Sushant Lok	Sumit Jain	M/s Ramprashta Promoter Developers Pvt. Ltd., Plot No.114, Sector-44, Gurugram.	Filed on 04.01.2021

Noticing the commission of offences under the PMLA by the petitioners, the ED registered the Enforcement Case Information Report (ECIR) dated 09.08.2021. And as mentioned in the reply, thereafter FIRs at serial nos.1 to 8 above were identified and taken on record by way of addendum to ECIR, dated 11.09.2025. The prosecution complaint was filed on 18.09.2025.

2.2. After registration of the ECIR on 09.08.2021, the petitioner was issued a letter dated 27.08.2021, Annexure P-12, asking him to submit certain documents as per provisions of Section 50 PMLA and also file reply. After about three years therefrom, the ED issued notice to the petitioner under Section 50 PMLA dated 03.05.2024, Annexure P-13, asking him to appear in person and give evidence on 14.05.2024. As directed by the ED, the petitioner appeared before it on various dates, including 31.05.2024, 29.04.2025, 06.05.2025, 13.05.2025 and 15.05.2025. The ED, thereafter, passed a provisional attachment order no.22, dated 11.07.2025, to attach certain immovable properties of the Company as proceeds of crime; the properties include land parcels of the Company’s residential projects. Search of the petitioner’s residential premises was carried out by the ED on 21.07.2025, leading to seizure of certain documents and freezing of personal accounts and lockers of the petitioner and his wife in exercise of powers under Section 17(1-A) PMLA, vide order dated 21.07.2025, Annexure P-25.

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The petitioner was arrested on the same day, as also the co-accused Sandeep Yadav.

2.3. The arrest was vide impugned arrest order, dated 21.07.2025, and intimation to arrest was given to the petitioner's wife at 12.25 p.m. Arrest memo and personal search memo are also of the same date. The petitioner was handed over 'grounds of arrest' on 21.07.2025, stating that his arrest was by invoking provisions of Section 19 PMLA; it was 'necessary for ascertaining the complete money trail of funds collected from genuine home buyers', and for taking investigation to its logical conclusion. The 'reasons to believe' dated 21.07.2025, Annexure P-31, were also given to the petitioner. He was produced before the Special Court and an application was filed by the ED under Section 187(2) BNSS seeking his custody for fourteen days. The Special Court, however, granted the custody for four days vide impugned order dated 21.07.2025. Extension of his custody was sought by the ED by filing application dated 25.07.2025, and vide the impugned order passed on the same day, he was again remanded to custody for three more days.

2.4. The petitioner was again produced before the Special Court on 28.07.2025, and his further custody was sought vide remand application of the same date, Annexure P-36. The petitioner also moved an application on that day, Annexure P-37, pleading that postulates of Section 19 PMLA had been violated, as also the law laid down by the Supreme Court, in arresting and seeking his custody which should not be granted. The Special Court, however, vide impugned order dated 28.07.2025, again remanded the petitioner to the ED custody. The arguments on his application opposing the

remand were later heard on 30.07.2025 and the order was pronounced on

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31.07.2025, rejecting his application. In these circumstances, the petitioner has approached this Court.

3. Learned senior counsel for the petitioners have raised multiple submissions challenging the petitioners' arrest as illegal. *Firstly*, it has been contended that the arrests have been carried out in complete violation of the provisions of Section 19(1) PMLA, which mandate that the arrest can only be on the basis of 'material in possession' of the authorised officer, who, on that basis has reasons to believe that the accused is guilty of offences punishable under the Act. On the day of petitioners' arrest, 21.07.2025, there was no material with the authorised officer even pointing towards their guilt. As per the ED's own case, on the day of arrest there were three FIRs registered against the petitioners, viz., FIR Nos.428 of 2019, 430 of 2019, and 431 of 2019. The first FIR, 428 of 2019, was registered pursuant to an order passed by the Judicial Magistrate, dated 09.07.2019, on a criminal complaint filed by a home buyer under Section 156(3) Cr.P.C. The order was challenged by the Company/RPDPL before this Court by filing a petition, CRM-M-30609 of 2019, and its operation was stayed vide interim order dated 19.07.2019; the petition is still pending adjudication and the stay continues. The second FIR, 430 of 2019, was lodged on a complaint by a customer who had booked a plot in the Company's project. After registration of the FIR, a settlement was arrived at between the parties on 21.01.2020, and the deposited amount was returned by the Company to the complainant. A cancellation/closure report was filed by the investigating agency in the Court on 03.10.2020, which was accepted by learned Judicial Magistrate 1st Class (JM1C) on 21.08.2024, Annexure P-4. The third FIR, 431 of 2019, was

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Company's project. With him also, a settlement was arrived at on return of the deposited amount on 21.01.2020. Accordingly, cancellation report was filed by the investigating agency in the Court on 04.01.2021, which was accepted vide order dated 12.07.2025. Therefore, it is apparent that on the day of arrest there was no scheduled offence against the petitioners, and there was no basis for their arrest. The 'reasons to believe' as well as the 'grounds of arrest' are completely silent about the fact whether the FIRs were alive and what was the basis of arrest. The authorised officer has neither taken into account the stay order passed by this Court, nor the acceptance of cancellation reports. Relevant facts relating to the scheduled offences were not gathered by him, resulting in the exculpatory material being ignored/not considered which rendered the arrest illegal. In support of the contentions reliance was placed on the law laid down in *Vijay Madanlal Choudhary and others v. Union of India and others*, 2022 SCC Online SC 929.

3.1. Second limb of the first argument is that addendum to the ECIR, dated 11.09.2025, whereby eight more FIRs were added by the ED, cannot remedy the situation for it. This is for the reason the foundational facts necessary for arrest, i.e., existence of a scheduled offence and proceeds of crime arising therefrom, cannot be retrospectively created. In fact, the addendum to ECIR has been created only to cover-up the fatal jurisdictional error in arresting the petitioners which amounts to playing fraud on the petitioners as also the Court. Non-compliance of mandatory provisions of Section 19 PMLA is not a curable defect as held by the Supreme Court in *V. Senthil Balaji v. State represented by Deputy Director and others*, (2024)

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evaluate the material in his possession based upon which he has to record 'reasons to believe' that the person concerned is guilty of an offence punishable under the PMLA. This has to be followed by an information being served on the arrestee of the grounds of arrest.

3.2. Further, under Section 19(2) PMLA the documents, *viz.*, 'material in possession', copy of arrest order, and 'reasons to believe' are required to be forwarded to the Adjudicating Authority in a sealed envelope which has also not been done. This is apparent from the letter, dated 21.07.2025, forwarding the said documents to the Authority which actually has no attachment. The mandatory procedure laid down in sub-section (2) of Section 19 has, therefore, been completely violated in the petitioners' case, and the fact has not been gone into by the Special Court also while rejecting his application against arrest.

3.3. It has been next contended by learned senior counsel for the petitioners that the 'grounds of arrest' as well as 'reasons to believe' recorded by the ED are only empty formality. It is because, as aforementioned, the relevant exculpatory facts were not taken into account or mentioned therein by the arresting officer. And these two documents are identical; in fact, it is a copy-paste job done by the arresting officer, which also shows violation of the mandatory requirements under Section 19 PMLA. The 'reasons to believe' are generic in nature and cannot be identical to the 'grounds of arrest', as an arrest is to be carried out for a specific purpose and cannot be for the purpose of investigation. This shows the petitioners' arrest has been made in haste, on illegal and baseless grounds, in violation of the statutory provisions and the law laid down. Lastly, the

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contention is, once the petitioners' arrest is held illegal, the subsequent remand orders will also fall to ground being unsustainable in law.

4. *Per contra*, learned counsel for the ED has submitted that all relevant facts and material were taken into account while arresting the petitioners, and provisions of Section 19 PMLA have been duly complied with. It is further submitted that non-consideration of a particular material cannot vitiate the arrest. Regarding first FIR, 428 of 2019, he contended that stay of an order passed by the Magistrate on an application under Section 156(3) Cr.P.C. would not automatically amount to stay of the FIR. In this regard he has referred to the judgment passed by this Court in CRM-M-51250-2023 titled *Sikandar Singh v. Directorate of Enforcement and another*, holding that stay of proceedings in FIRs would, at best, mean no further investigation is to be carried out during operation of the interim order, but it cannot be stretched to mean that even an ECIR could not have been recorded. Regarding the second and third FIRs, 430 of 2019 and 431 of 2019, it has been contended that paragraph 3 of the 'grounds of arrest' clearly mentions that settlement deeds were considered by the arresting officer. It is also contended that the petitioners themselves have failed to produce the order dated 12.07.2025, accepting the closure report concerning the third FIR even before this Court. Also, merely because an FIR is quashed or stayed due to compromise having been effected between the parties, it would not result in automatic closure of the PMLA case. In this regard he has placed reliance on the Madras High Court judgment rendered in *Vijayraj Surana v. Enforcement Directorate*, 2024 SCC Online Mad 8404, holding that in case the FIR is quashed on mere technicalities or procedural irregularities, it cannot form a basis to automatically quash the ECIR as well.

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4.1. Learned counsel further contended that the expression ‘material in possession’ has been interpreted by the Supreme Court in *Arvind Kejriwal v. Directorate of Enforcement*, 2024 SCC Online SC 1703, while considering scope of the power to examine legality of arrest under Section 19 PMLA. The power of judicial review is limited to inquiring into correctness or otherwise of the facts found, except where the facts are not supported by any evidence at all or the finding is so perverse that no reasonable man would arrive at it in the existing facts and circumstances. It can also be inquired into whether the circumstances found to have been existing have reasonable nexus with the purpose for which the power was exercised. In fact, the conclusion has to logically flow from the facts, and if it does not, the Courts can interfere treating lack of reasonable nexus as an error of law. The Courts are not to undertake a merits review of ‘material in possession’ as well as ‘reasons to believe’. Regarding exclusion of exculpatory facts from consideration, learned counsel for the ED has relied upon *Arvind Dham v. Union of India*, 2024 SCC Online Del 8490, wherein the Delhi High Court has held that examining the aspect of non-consideration of material which exonerates the arrestee, will be a merits review of the ‘material in possession’ which is not permissible in view of the law laid down in *Arvind Kejriwal* case *ibid*. Also, there is no substance in the arguments raised on behalf of the petitioners that ‘reasons to believe’ and ‘grounds of arrest’ are identical which vitiates the arrest. The same argument raised before the Supreme Court in *Arvind Kejriwal* case was rejected in view of the limited power of judicial review with the Court.

4.2. Still further, learned counsel for the ED has contended that the impugned remand order, dated 21.07.2025, gives detailed reasons and has

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been passed after due application of mind by learned Special Judge. It was after taking into account the relevant facts that the ED's application seeking remand was partially allowed, granting the custody only for four days. And there was a valid justification to arrest the petitioners, that is, to ascertain complete money trail of funds collected from genuine home buyers. Besides, the provisions of Section 19(2) PMLA were also scrupulously followed by the ED and the facts in that regard, as mentioned in the reply, are the following:

- a. The petitioner herein was arrested on 21.07.2025 at 12.15 P.M.
- b. A copy of the reasons to believe, grounds of arrest and other documents related to arrest along with the material in possession were immediately forwarded to the Adjudicating Authority (AA) in Form-I and II as provided by (Forms, the manner of forwarding a copy of order of arrest of a person along with the material to the Adjudicating Authority and its period of retention) Rules, 2005 which were received by the AA on 21.07.2025 at 04:25 PM.
- c. That, along with the hard copies the intimation u/s 19(2) was also sent through an email dated 21.07.2025 at 03:21 PM. In the said email it is clearly mentioned that a hard Copy is being sent.

In the alternative the argument is, it has been held by this Court in *Jaswant Singh v. Union of India*, 2024 SCC Online P&H 4151, that non-compliance of requirements under Section 19(2) PMLA in failing to immediately forward the documents on arrest is a procedural irregularity, and sending the material in possession to the Adjudicating Authority after a day or two would also be a sufficient compliance of the provision.

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5. Submissions made by learned counsel for the parties have been considered.

6. The petitioners are accused of commission of offences under Sections 3 and 4 PMLA as they have statedly diverted huge amount of money collected from home buyers by inducing them to book and pay for residential units in RPDPL projects. The ECIR against them was registered on 09.08.2021, based upon three FIRs relating to the predicate offences, i.e., FIRs No.428 of 2019, 430 of 2019 and 431 of 2019. Pursuant thereto, the petitioners were arrested on 21.07.2025. The contention on their behalf is that it could not have been done as none of these FIRs was alive on that day. And that the authorised officer failed to comply with the mandatory procedure laid down in Section 19(1) PMLA as he did not take into account the relevant material/exculpatory factors, like cancellation reports, and/or passing of interim order of stay in the criminal complaint based upon which one of the FIRs was lodged, and mechanically recorded the 'reasons to believe'. Also, that registration of addendum to ECIR on 11.09.2025, after the arrest and taking other FIRs against the petitioners on record, would not validate the order of arrest. Violation of mandatory requirements under Section 19(2) has also been alleged.

7. As apparent on record, the first FIR, 428 of 2019, was registered pursuant to an order passed by the Magistrate under Section 156(3) Cr.P.C., dated 09.07.2019, on a complaint filed by a home buyer. The order has been stayed by this Court on 19.07.2019 while entertaining a criminal miscellaneous petition against it which is still pending adjudication.

The argument on behalf of the petitioners essentially is, when the very basis

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consequent FIR could not have been registered, nor could it have been taken into account for arresting them. The argument does not cut much ice for the reason, despite the order of stay the aforesaid FIR stands registered on 19.07.2019, and there is no restrain on further proceedings or investigation pursuant thereto by any Court of law. Nor has the registration of FIR been questioned by the petitioners. In these circumstances, non-consideration of interim order, dated 19.07.2019, by the authorised officer cannot be fatal to the impugned order of arrest passed against the petitioners under the PMLA.

8. So far as the second and third FIRs, 430 of 2019 and 431 of 2019, are concerned, there is no denying the fact that despite settlement(s) dated 21.01.2020, having been arrived at between the parties thereto prior to the date of petitioners' arrest, the FIRs had not been cancelled at the time of registering the ECIR and carrying out investigation pursuant thereto. In fact, the allegations contained in these two FIRs concerning the scheduled offences were investigated and chargesheets had also been filed against the petitioners on 03.10.2020 and 04.01.2021, respectively. Nevertheless, the fact of settlement(s) was taken into account by the authorised officer as it finds mention in the relevant documents, including grounds of arrest. Acceptance of cancellation reports in these two FIRs by the Magistrate came much later on 21.08.2024 and 12.07.2025 (as asserted by the petitioners), and by that time eight other FIRs, detailed in paragraph 2.1 above, had been identified and enquired into by the ED, as stated in the reply filed on its behalf. Three of those FIRs, bearing nos.011 dated 13.01.2021, 0167 dated 06.11.2021 and 107 dated 21.03.2024, find mention in the 'grounds of arrest' and 'reasons to believe' also, which were handed over to the petitioners at the time of arrest. Merely because these FIRs were made part

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of the ECIR later, by way of addendum dated 11.09.2025, it would not vitiate the petitioners' arrest prior thereto on 21.07.2025. There is no restrain on the ED to investigate other FIRs noticed by it after registering the ECIR without making the same a part of the ECIR, nor is there any statutory provision creating such a fetter. Also, no procedure has been prescribed for taking on record new FIRs pertaining to scheduled offences that are discovered by the ED after registering the ECIR. Further, the ECIR itself is an internal, non-statutory document created before initiating a penal action, as held in *Vijay Madanlal Choudhary* case (*supra*); the relevant paragraph whereof reads as under:

457. ... There is force in the stand taken by the ED that ECIR is an internal document created by the department before initiating penal action or prosecution against the person involved with process or activity connected with proceeds of crime. Thus, ECIR is not a statutory document, nor there is any provision in 2002 Act requiring Authority referred to in Section 48 to record ECIR or to furnish copy thereof to the accused unlike Section 154 of the 1973 Code. The fact that such ECIR has not been recorded, does not come in the way of the authorities referred to in Section 48 of the 2002 Act to commence inquiry/investigation for initiating civil action of attachment of property being proceeds of crime by following prescribed procedure in that regard.

Resultantly, once the ECIR itself has been termed a document created by the ED for internal administrative purposes, which is not required to be shared with the accused, non-addition of any FIR to such a document prior to arresting the accused, cannot have a bearing on the legality of arrest so as to term it illegal on that account. More so, when the facts concerning the subsequently noticed FIRs of the scheduled offences were investigated and

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the material collected pursuant thereto was taken into account before passing the arrest order. This is the position in the petitioners' case also, as discussed hereinbefore. Therefore, their arrest cannot be termed illegal merely because the subsequently noticed FIRs have been added to the ECIR after the arrest.

9. The next contention is that the petitioners' arrest is vitiated as there is non-application of mind in recording the 'reasons to believe' as well as the 'grounds of arrest'; the assertion is on the basis that both are identical in material particulars. The contention lacks merit as similarity of documents in itself cannot be a ground to conclude non-application of mind on the part of authorised officer in recording the same. A perusal of the documents shows the similarity is primarily in the facts of the case recorded therein. In case the officer has deemed it appropriate to record the material facts pertaining to the case in the 'grounds of arrest' as well as the 'reasons to believe', before arriving at the conclusion and recording his belief regarding the guilt, no exception can be taken to it. It is not stated to be violative of any prescribed procedure. The facts are not irrelevant to the documents; besides, it is not the petitioners' case that the conclusions arrived at by the authorised officer are not germane to the facts mentioned therein, or that there is no reasonable nexus between the two; nor can it be said to be violative of the principles of Wednesbury reasonableness. Additionally, the argument is to be discounted keeping in view the scope of judicial review in examining an order of arrest, as laid down in *Arvind Kejriwal* case (*supra*), which prohibits merits review of such documents. The observations in the judgment to that effect are as under:

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44. We now turn to the scope and ambit of judicial review to be exercised by the court. Judicial review does not amount to a mini-trial or a merit review. The exercise is confined to ascertain whether the “reasons to believe” are based upon material which “establish” that the arrestee is guilty of an offence under the PML Act. The exercise is to ensure that DoE has acted in accordance with the law. The courts scrutinise the validity of the arrest in exercise of power of judicial review. If adequate and due care is taken by DoE to ensure that the “reasons to believe” justify the arrest in terms of Section 19(1) of the PML Act, the exercise of power of judicial review would not be a cause of concern. Doubts will only arise when the reasons recorded by the authority are not clear and lucid, and therefore a deeper and in-depth scrutiny is required. Arrest, after all, cannot be made arbitrarily and on the whims and fancies of the authorities. It is to be made on the basis of the valid “reasons to believe”, meeting the parameters prescribed by the law. In fact, not to undertake judicial scrutiny when justified and necessary, would be an abdication and failure of constitutional and statutory duty placed on the court to ensure that the fundamental right to life and liberty is not violated.

45 and 46 xxx xxx

47. DoE has drawn our attention to the use of the expression “material in possession” in Section 19(1) of the PML Act instead of “evidence in possession”. Though etymologically correct, this argument overlooks the requirement that the designated officer should and must, based on the material, reach and form an opinion that the arrestee is guilty under the PML Act. Guilt can only be established on of the offence admissible evidence to be led before the court, and cannot be based on inadmissible evidence. While there is an element of hypothesis, as oral evidence has not been led and the documents are to be proven, the decision to arrest should be rational, fair and as per law. Power to arrest under Section 19(1) is not for the purpose

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of investigation. Arrest can and should wait, and the power in terms of Section 19(1) of the PML Act can be exercised only when the material with the designated officer enables them to form an opinion, by recording reasons in writing that the arrestee is guilty.

10. Another submission raised by learned senior counsel for the petitioners to challenge the arrest is based on the premise that mandatory procedure laid down under Section 19(2) PMLA has not been followed. There is no substance in the submission since it is a matter of record that on the day the petitioners were arrested, 21.07.2025, all the relevant documents, i.e., the arrest orders along with copies of arrest memos, ground of arrest, intimation of arrest and personal search memos of petitioner-Arvind Walia (running into 39 pages) and that of co-accused Sandeep Yadav (running into 42 pages), as also material in possession based upon which reasons to believe were drawn (running into 232 pages), were forwarded to the Adjudicating Authority in Annexure 'A' with forwarding letter dated 21.07.2025, Annexure R-1. Acknowledgment slip of the sealed envelope containing the aforesaid documents issued by Registrar of the Authority in Form-II, dated 21.07.2025, is also a part of Annexure R-1. Further, the fact of receiving the material and documents aforementioned has been recorded by learned Special Judge also in the impugned order, dated 31.07.2025, which reads as under:

4.5. In the present case, the remand orders have been passed by this Court upon being satisfied with the material then placed before it. At the stage of initial arrest and remand, documents such as reasons to believe, grounds of arrest, arrest memo, and compliance with Section 19(2) and (3) of the PMLA were brought to the Court's notice. The accused was represented by

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counsel on all such occasions, and no prima facie violation of statutory safeguards or constitutional rights was raised at that time.

In view of these facts, there is no reason to believe that the mandatory procedure laid down under sub-section (2) of Section 19 PMLA has not been complied with by the ED. It goes without saying that dispute with regard to these facts, as raised by learned counsel representing the petitioners, cannot be gone into in exercise of power of judicial review.

11. In view of the discussion, there is no merit in the petitions and the same are dismissed.

12. Pending miscellaneous application(s), if any, also stand(s) disposed of.

13. A photocopy of this order be placed on the case file(s) of connected matter(s).

(TRIBHUVAN DAHIYA)
JUDGE

29.01.2026
Maninder

Whether speaking/reasoned : Yes
Whether reportable : Yes